SL.No. 74

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
Original Application No. 154/ 2023/EZ
Old ORIGINAL APPLICATION NO. 110 (Thc) OF 2012

In the matter:
Threat to life arising out of coal mining in South Garo Hills District

.. Applicant

Versus

State of Meghalaya & Others

... Respondents

And

In the matter of:-
Shyam Century Ferrous Ltd

..Applicant/Proposed Respondent

NOTARY
SK. NAZRUL ISLAM
Area Kolkata
Regn.No. 42/17
Expiry Date
15.09.2024
GOVT. OF WEST BENGAL

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Bipasha Jaiswal

Filed by Bipasha Jaiswal, Advocate

Shyam Century Ferrous Limited

Ritu Agarwal

Company Secretary

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
Original Application No. 154/ 2023/EZ
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In the matter:
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AFFIDAVIT-IN-REPLY ON BEHALF OF SHYAM CENTURY FERROUS LTD.

I, Ritu Agarwal, daughter of Sudhir Agarwal, aged 35 years, by occupation-Service, working for gain at Shyam Century Ferrous Ltd, registered office at: Village - Lumshnong, PO Khaliehriat, District - East Jaintia Hills, Meghalaya - 793 210 do hereby solemnly affirm and state as follows :-

1. That the deponent herein. I am the authorized signatory of the Applicant/Proposed respondent herein. I am well conversant with the facts of the accompanying the present Application and is competent to swear the present affidavit. The board resolution has already been filed.

2. The present Affidavit-in-Reply is being filed by M/s Shyam Century Ferrous Ltd. (**"SCFL"**) to the 5th Interim Report of the Committee appointed by the Principal Bench of Hon'ble Tribunal in the present matter. The contents of the 5th Interim Report are denied *in toto* and nothing stated therein may be deemed to be admitted for want of a specific traverse.

3. The present Affidavit-in-Reply is being filed pursuant to the directions of the Hon'ble Supreme Court in the Judgment dated 02.05.2023 passed in "*Star Cement Ltd. v. State of Meghalaya & Ors.*" (CA No. 3280/2020), along with the connected matter of "*Shyam Century Ferrous Ltd. v. State of*

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Meghalaya & Ors." (CA No. 4144/2020), wherein the Hon'ble Supreme Court has directed as follows,

> *"[...]we would have to restore the proceedings in relation to the appellants back to the file of the NGT, at the stage, at which they stood prior to the passing of the impugned judgment dated 17 January 2020. Consequently, and to facilitate the above exercise, we set aside the impugned judgment dated 17 January 2020 in relation to its applicability to the Appellants before this Court and direct that:*
> ***(i) The Appellants shall submit their responses to the interim reports of the Committee appointed by NGT within a period of four weeks;***
> *(ii) NGT shall furnish to the Appellants an opportunity of being heard, after which it shall proceed to pass orders after dealing with the suggestions and objections of the Appellants in accordance with law;*
> *(iii) NGT shall take a final decision in three months; and*
> *(iv) The Appellants would be at liberty to apply to the NGT for inspection of records, including the underlying documents which were submitted by the Committee."*

A Copy of the Order dated 02.05.2023 passed by the Hon'ble Supreme Court in *Star Cement v. State of Meghalaya & Ors.*" (CA No. 3280/2020) is annexed herewith and marked as **ANNEXURE R-1.**

4. The above Civil Appeal(s) were filed by SCFL, along with other power/cement producers operating in the State of Meghalaya. In CA No. 4144/2020, SCFL challenged the Order dated 17.01.2020 passed by this Hon'ble Tribunal, in the captioned application whereby the Principal Bench of this Hon'ble Tribunal, (i) accepted all recommendations made by the Monitoring Committee constituted by this Hon'ble Tribunal ("**Committee**") submitted in its 5th Interim Report dated 02.12.2019 and (ii) consequently directed proceedings to be initiated against the cement and power plants, including SCFL, under the Mines & Minerals (Regulation and Development) Act, 1957 and other Environmental laws.

5. In the 5th Interim Report, the Committee erroneously found SCFL, along with other power/cement plants, to have utilised illegally mined coal and consequently, recommended to this Hon'ble Tribunal to realize royalty, GST/VAT and contribution to MEPRF amounting to Rs. 17.390 crores from the SCFL as per the details given below:

Royalty – Rs. 7.524 crores
MEPRF – Rs. 5.406 crores
GST/VAT – Rs. 4.459 crores
TOTAL - Rs. 17.390 crores

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In addition, the Committee also recommended that an amount of Rs. 400/MT of coal to be utilized by the SCFL (and other plants) on or after the date of the order shall be directed to be deposited in the MEPRF. Accordingly, a demand notice dated 19.02.2020 (along with subsequent notices) were issued to SCFL by the Director of Mineral Resources, Meghalaya, Shillong directing them to make payment of the above amounts within a month of issuance of notice, in furtherance to the Order dated 17.01.2020 passed by the Principal Bench of this Hon'ble Tribunal.

6. In light of the direction of the Hon'ble Supreme Court in its Order dated 02.05.2023, the present Reply is being filed to the 5th Interim Report of the Committee. SCFL humbly craves this Hon'ble Tribunal's leave to file a further detailed Reply and/or additional documents, after inspecting the underlying documents in the present Application, as permitted by the Hon'ble Supreme Court in direction (iv) in the Order dated 02.05.2023.

7. SCFL was incorporated on 24th May, 2000 to set up its Ferro Alloys plant at Byrnihat, Meghalaya and started commercial production with its two nos. 9 MVA (Mega-Volt Ampere) submerged electric arc furnace from December, 2001. (**"Ferro Alloys Plant"**). A 13.8 MW Captive power plant (**"Power Plant"**) was installed in 2006 to meet the demand of the Ferro Alloys Plant. The present case relates to the use of coal in the Power Plant of SCFL.

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Preliminary Submissions

8. The finding of the Committee, in its 5th Interim Report, was that there was a gap of total quantity of 1,11,474 MT of coal between the coal required by the Power Plant as fuel to produce reported quantity of power and that of coal actually procured by legal means. The Committee alleged that this gap in coal requirement has in all probability been met from illegal sources. It is humbly submitted that the 5th Interim Report of the Committee is premised on fundamentally erroneous data and failed to consider the individual technical parameters of SCFL's Power Plant. Hence, the following factual inaccuracies have crept into the Report.

a. **Firstly, the Committee held that:**

> *'During the years 2014-15 to 2018-19 there is a gap of total quantity of 1,11,474 MT of coal as required by appellant plant and the same is obtained from illegal sources.'*

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The above statement is factually erroneous on account of following:

i. The Committee did not consider the actual coal consumption quantity of SCFL during the period 2014-15 to 2018-19, which varies from 0.525- 0.618 kg/kwh. Instead, it used arbitrary data, which was 40% higher than the actual consumption of SCFL, resulting into an inflated gap of 1,11,474 MT of Coal quantity. The following were the relevant findings of the Committee in this regard,

> *"2.13.5* ***The Committee after examination of the Detailed Project Report (DPR) for the said 13.80 MW Captive Power Plant prepared by AKB Power Consultants Private Limited****, a copy of which was provided to the Committee by Shyam Century Limited, observed that the said plant was designed to use both biomass fuel (with estimated calorific value of 3,500 Kcal/kg) and locally sourced Meghalaya coal (with estimated calorific value of 5,500 Kcal/kg). The annual requirement of fuel by the said plant at 100% capacity is 77,616 MT of biomass fuel and 14,256 MT of Meghalaya coal.* ***The specific fuel requirement of the said plant, as per the said report, is thus 0.527 kg/kwh of coal or 0.827 kg/ kwh of biomass****.*
>
> *2.13.6* ***It has also been stated in the documents handed over to the Committee by the Shyam Century Ferrous Limited that specific fuel requirement of their said Captive Thermal Power Plant is 0.50- 0.70 kg*** *of coal per kwh and 1.00 -1.40 kg of alternate fuel such as coke fine, TamilNadu Charcoal fines etc. per kwh.*
>
> *[....]*
>
> *2.13.7 [....] the Committee is of the view that specific coal requirement of the said Captive Thermal Power Plant of the Shyam Century Limited is atleast equal to specific coal requirement of the Thermal Power Plant of much larger capacity of the Star Cement Limited located in Meghalaya* ***(viz. 0.850 kg/kwh of the power produced)***
>
> *2.13.****8 The year-wise gaps in quantity of coal required to produce the reported quantity of the electrical power 0.850 kg/kwh as given in para 2.13.7)*** *and the coal procured by Shyam Century Ferrous Limited from legal sources during the Audit Period are as below:"*

Thus, the reliance on a notional value instead of the actual value is completely baseless and has led to incorrect results. The Committee failed to appreciate that SCFL is running its power plant at coal consumption of around 0.60 kg/KWH which is much lower than the assumed and arbitrary coal requirement of 0.85 Kg/KWH. The Committee also disregarded the actual consumption figures provided by SCFL *vide* its reply dated 24.09.2019. This was done on

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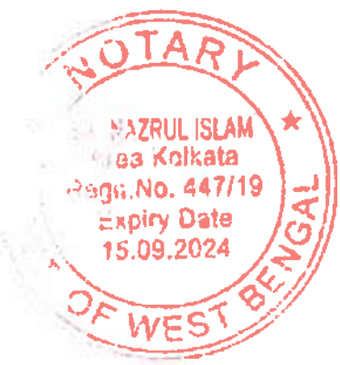
the erroneous comparison made with another Plant, without considering the data or technical parameters of SCFL's Power Plant. This is clearly verifiable from the following documents,

- Technical Expert Report dated December, 2020 for the Power Plant titled "*CPP'S Specific Fuel Consumption Audit Report, Shyam Century Ferrous Ltd. Byrnihat, Meghalaya*" prepared by Zing Enterprises (Certified Energy Auditors of Bureau of Energy Efficiency). As per the said Report, the following were the findings of the specifical fuel consumption for the Power Plant during the following years :-

  2013-14 – 0.582 Kg/KWh
  2014-15 – 0.589 Kg/KWh
  2015-16 – 0.618 Kg/KWh
  2016-17 – 0.525 Kg/KWh
  2017-18 – 0.618 Kg/KWh
  2018-19 – 0.528 Kg/KWh



(Avg. of 0.58 Kg/KWh)

This is within the range of 0.513 to 0.618 Kg/KWh as concluded in page no 21 of the report prepared by Zing Enterprises which reads as

> *" SCFL Turbine is designed to run at a heat rate of 2703.33 Kcal/Kwh and Gross Heat rate of CPP is estimated to be 3240.34 Kcal/Kwh. However +/- variance of 3-5% may be there depending upon the condition it operates, Quality of fuel etc. The GCV of the coal which the company is getting is varying as much as a low of 5500 to a high of 6000 Kcal. Accordingly Specific Fuel requirement can vary from a low of 0.513 to a high of 0.618 kg/KWH. The history of coal consumption from 2013-14 to 2018-19 shows that the coal consumption of the company is within the prescribed norms"*

Further, under the Gazette notification, dated 28.04.2010, of Bureau of Energy Efficiency, every DCs shall have its Plant's Energy Audit conducted by Accredited Energy Auditor within three years from the first Mandatory Energy Audit. Accordingly, M/s Shyam Century Ferrous Ltd, Byrnihat, Meghalaya's Plant got its Mandatory Audit as per following details-

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a. 1st Mandatory Audit conducted by M/s MITCON Consultancy & Engineering Services Ltd , during November 2015, wherein the specific fuel consumption was 0.570 Kg/KWh

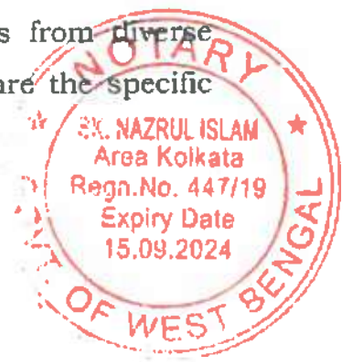
b.2nd Mandatory Audit conducted by M/s MITCON Consultancy & Engineering Services Ltd , during September 2018, wherein the specific fuel consumption was 0.592 Kg/KWh.

After analysing the Fuel Consumption status from diverse sources, it was concluded that the following are the specific fuel consumption figures for SCFL's Plant:-

Average Kg/KWH 0.578

Maximum Kg/KWH 0.624

Minimum Kg/KWH 0.525



- The coal consumption figure of 0.525- 0.618 kg/kwh during the entire period from 2014-15 to 2018-19 is also consistent with coal consumption data of the Power Plant in previous years from 2011-12 to 2013-14, i.e., before the mining ban, as well as during the ban period i.e. 2014-15 to 2018-19, when SCFL had no incentive to project wrongful coal consumption figures. ***(Refer Annexure R-13 of the present Reply)***

- The actual coal consumption quantity can be easily verified from the energy returns filed by SCFL with the State Government Authority. ***(Refer Annexures R-15 to R-22 of the present Reply- Energy Returns and Energy Working submitted to the State Government)***

- Coal consumption is also in line with the technical DPR prepared by technical consultant, AKB Power Consultants Private Limited who are expert in this field. ***(Refer Annexure R-2 of the present Reply)***

- The coal consumption, coal stock (quantity) and coal purchase

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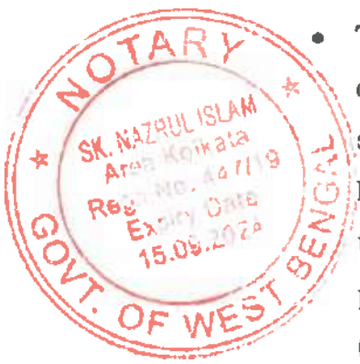
figures for the Power Plant (***Refer Annexure R-13 of the present Reply***) also make it evident that there was no discrepancy/gap in the coal required to produce the reported energy 2014-15 to 2018-19. A summary of the above is as follows,

	2018-19	**2017-18**	**2016-17**	**2015-16**	**2014-15**
Actual power generation during the year (Gross) (MW)	34,702	68,898	1,04,403	55,246	64,117
Qty of coal consumed (MT)	18,310.26	42,595.50	54,825.21	34,143.10	37,335.33
Coal consumed per MW (MT)	0.528	0.618	0.525	0.618	0.582
Coal consumption per MW as per DPR (MT)	0.527	0.527	0.527	0.527	0.527
Coal Consumption difference (Excess)/Short consumed(MT Per MW)	(0.001)	(0.091)	0.002	(0.091)	(0.055)

Note: The above statement shows that the coal consumption has always been in line with, or been more than, the DPR. The statement further goes to depict that the Consumption of Coal varies according to the Ash and moisture present in coal and accordingly the coal GCV also varies. This leads to minor discrepancies in design/actual figures.



- The Committee has assumed coal requirement of 0.85 kg/kwh of coal for gross calorific value of 5,800. The assumption of the said calorific value betrays an understanding of a Power Plant. If this conjecture of the Committee were to be accepted, the thermal power plant's heat rate will be 4,930 Kcal per kwh of power produced as against industry average heat rate of 3,000 (+/- 5%) Kcal/kwh, which is absurd. Thus, the Committee's assumed coal requirement figure of 0.85 kg/kwh is without any

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basis.

ii. The Committee failed to consider the opening stock of 23,849.42 MT of coal in the books of SCFL. This stock pre-dated the Mining Ban, which was enforced from 17.04.2014. If the above had been taken into account, the said gap in total quantity would not have been arrived at. In fact, the above can be verified from the inventory summary and the stock statement submitted by SCFL to the bank for their working capital limit. ***(Refer Stock statement and Inventory Statement- Annexure R-12 and R-14 to present Reply)***

In light of the above, it is amply clear that the findings in the 5th Interim Report of the Committee are patently incorrect and not supported by any original or primary data/figures. In fact, the Committee has failed to place on record any scientific material or primary evidence to substantiate any of their allegations.

b. **Secondly, the Committee in its' Fifth Interim Report held /concluded at heading "Conclusions" para 2.13 sub para 2.13.4:**

'Shyam Century Ferrous Ltd. has informed the Committee that during the Audit period they have also procured and utilised in the said Captive Thermal Power Plant alternate fuel.....Keeping in view the quantity purchased is very low, Committee decided to ignore the same'

However, at para 2.13.8, the Committee went ahead to inaccurately calculate the gap of coal quantity of 1,11,474 MT and in Chapter 3 : (Findings and Recommendations) at para 3.1.6 taken a view that :

"Claim of these Cement Manufacturing Plants and Thermal Power Plants that about two-third of their coal requirement have been met by a non-fuel mineral (i.e. slate) without making any change in the design of these plants is not tenable."

Hence, it can be seen from above that both the conclusions are contradictory to each other as SCFL has only utilised 475 MT of alternate fuel such as charcoal fines/coke fines

In any case, the above statement is factually erroneous as

i. The Committee failed to appreciate that SCFL has used only 475 MT of alternate fuel such as coke fine, Charcoal fines and has never used

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any alternate fuel such as muslate/slate in its plant. Thus, this clearly shows that particular facts of SCFL have not been considered by the Committee and accordingly the same were not placed properly before this Hon'ble Tribunal.

ii. SCFL has purchased all of its Coal by way of cheque payments/bank transfers on which all the applicable taxes have been paid. This was not factored in by the Committee in its 5th Interim Report.. The said payments also point towards the fact that no illegal coal was purchased. SCFL is also annexing an Auditor's Certificate to certify the quantity of coal purchased and payment of Taxes/statutory levies made for such purchases. ***(Refer Annexure A-11 of the present Reply)***. Thus, the findings arrived at by the Committee, are completely baseless and not supported by any data/documents.

iii. Thus, the Committee failed to consider that SCFL procured all the royalty and taxes paid coal which is verifiable from its books of account. Hence, the finding of the Committee that royalty, taxes and any other statutory levies had not been paid to the State of Meghalaya on the illegally mined coal utilized by the Cement Manufacturing Plants and Thermal Power Plants, including that of SCFL is absolutely illegal and without any basis as all the coal/alternate fuels have been purchased by SCFL by paying all the due taxes.

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c. **A Penalty can only be imposed on the "Miner" and not the "User":** The 5th Interim Report seeks to recommend the imposition of levies in spite of the fact that such levies cannot be imposed on the "user" of such a mineral, under the provisions of the Mines and Minerals, Development and Regulation Act, 1957 (**"MMDR Act"**). Even assuming without admitting that illegally sourced mineral is used/transported/stored, the liability to pay royalty for such illegally sourced mineral cannot be imposed on the 'user' of mineral as per the scheme of the MMDR Act. Any levy/penalty is only imposable *qua* the miner. It is no ones case that the Petitioner has mined any coal. Therefore, there is a complete lack of jurisdiction insofar as these levies is concerned. Further,

A plain reading of the Sections 4(1) and 4(1A) of the MMDR Act clearly shows that the same are applicable to the person mining under the MMDR Act, which is not being carried out by SCFL. The show-cause notices issued

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to SCFL do not make any allegation regarding mining operations having been conducted by SCFL. Furthermore, they do not make any allegation against SCFL , that it has transported, stored or caused to be transported or stored coal except in accordance with the provisions of the MMDR Act. In the absence of any such averments in the notice, the proceedings being sought to be conducted against SCFL are without any authority in law, and thus deserve to be set aside.

That no evidence was led before the Committee to show that illegally sourced coal was either transported, stored or used by SCFL and no evidence was led before the Committee to show that SCFL was ever involved in illegal mining of coal. Hence, such a liability cannot be fastened on SCFL on the basis of mere assumptions, apprehensions and surmises.

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Brief Background

By way of background, it is submitted,

9. Shyam Century Ferrous Limited ("**SCFL**") was incorporated on 24th May, 2000 to set up its Ferro Alloys plant at Byrnihat, Meghalaya which produces 1800 MT of Ferro Silicon per month. ("**Ferro Alloys Plant**"). In 2005, the company merged into Century Plyboards (I) Limited.

10. In 2006, due to power shortage in Meghalaya, a 13.8 MW Captive power plant ("**Power Plant**") was installed in 2006 to meet the power demand of the Ferro Alloys Plant. The cement and ferro alloys business of Century Plyboards was demerged w.e.f. 01.04.2012 into Star Ferro and Cement Ltd. (SFCL) and the said ferro alloys business was demerged from Star Ferro and Cement Ltd. w.e.f. 01.04.2014 into Shyam Century Ferrous Ltd. which was formed on 12.04.2011. SCFL sources its power requirement from its Captive Power Plant, Indian Energy Exchange and Meghalaya Power Distribution Company Ltd.

A Copy of the Detailed Project Report (DPR) prepared for SCFL's Power Plant dated 2005-06 is annexed herewith and marked as **ANNEXURE R-2**

11. In response to a news article stating that on 06.07.2012, thirty coal labourers were trapped in a coal mine and fifteen of them died, the Hon'ble Gauhati High Court took *suo moto* cognisance of the matter by registering

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PIL Suo Moto No. (SH) 3 of 2012. *Vide* order dated 10.12.2012 the Hon'ble Gauhati High Court directed the PIL to be transferred to this Hon'ble Tribunal .

12. That on 17.04.2014, the Principal Bench of Hon'ble Tribunal passed an Order in O.A. No. 73 of 2014 ***(All Dimasa Students Union Dima Hasao Dist. Committee vs. State of Meghalaya)*** directing the State of Meghalaya to ensure that rat hole mining is stopped forthwith throughout the State and any illegal transport of coal shall not take place until further orders.

A Copy of the Order dated 17.04.2014 passed by the Principal Bench of Hon'ble Tribunal in O.A. No. 73 of 2014 is annexed herewith and marked as **ANNEXURE R-3.**

13. On 31.08.2018, the Principal Bench of Hon'ble Tribunal directed that rat hole mining shall remain prohibited and so also the transportation of the mined material. In the aforesaid Order, this Hon'ble Tribunal also directed constitution of a Committee to be headed by a former High Court Judge of the Hon'ble Gauhati High Court for restoration of the environment and rehabilitation of the victims. ("**Committee**") and to supervise issues arising out of receivership/custodianship of already extracted coal including environmental issues arising out of storage and remedial steps.

A Copy of the Order dated 31.08.2018 passed by this Hon'ble Tribunal in Original Application No. 110 (Thc)/2012 is annexed herewith and marked as **ANNEXURE R-4**

14. The Hon'ble Supreme Court, vide its final judgement dated 03.07.2019 titled ***State of Meghalaya and Ors. V. All Dimasa Students Union, Dima-Hasao District Committee and Ord., (2019) 8 SCC 177***, was pleased to make the following observations and pass the following Order :

> ***"Conclusions: -***
>
> *195. From the foregoing discussions we arrived at following conclusions:-*
>
> *195.1 The application O.A.No.73 of 2014 has clearly made out allegations which were sufficient for the Tribunal to exercise its jurisdiction as conferred by Section 14 of the National Green Tribunal Act, 2010. Both the component as appearing in sub-section 1 of Section 14 that is (i) substantial question relating to environment and (ii) such question arises out of the implementation of the enactments specified in Schedule I, were present.*

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195.2 The allegations of the applicant of O.A.No.73of 2014 of environmental degradation by illegal and unregulated coal mining were fully proved from materials on the record including the report of the experts, report of the Meghalaya State Pollution Control Board, the report of Katakey committee, which all proved environmental degradation of water, air and surface.

195.3 The stand taken on behalf of the State of Meghalaya before this Court that the Tribunal has no jurisdiction cannot be approved. The State Government is under constitutional obligation to ensure clean environment to all its citizens. In cases pertaining to environmental matter, the State has to act as facilitator and not as obstructionist.

195.4 According to the land tenure system as applicable in the Hills Districts of State of Meghalaya, the most of the lands are either privately or community owned in which State does not claim any right. The private owners of the land as well as community owners have both the surface right as well as sub-soil rights.

195.5 Para 12A sub-clause (b) of Sixth Schedule of the Constitution empowers that the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to an autonomous district or an autonomous region in the State of Meghalaya, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification. No notification has been issued by the President under Section 12A(b). There is nothing in Sixth Schedule of the Constitution which may indicate about the inapplicability of Act, 1957 with regard to the Hills Districts of State of Meghalaya.

195.6 There is nothing in Section 4(1) of 1957 Act to indicate that restriction contained in Section 4(1) does not apply with regard to privately owned/community owned land in Hills Districts of Meghalaya. Further, word 'any area' under Section 4(1) also has significance which does not have any exception. Further phrase "except under and in accordance with terms and condition with a mining lease granted under the Act" are also significant which make the intent and purpose of prohibition clear and loud.

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195.7 The statutory scheme delineated by Section 13(2)(f) and the Minerals (Concession) Rules, 1960 clearly contemplate grant of mining lease, with regard to both the categories of land, i.e., land in which minerals vest in the Government, and the land in which minerals vest in a person other than the Government.

195.8 The Mines Act, 1952 contains various provisions regarding inspection of mining operation and management of mines. The provisions of The Mines Act, 1952 are mandatory to be followed before working a mine. The regulations namely Coal Mines Regulations, 2017 also contains several regulatory provisions which need to be followed while working a mine by a mining lease holder. The enforcement of Mines Act, 1952 and the Regulations, 2017 have to be ensured by the State in the public interest.

195.9 As per statutory regime brought in force by notification dated

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15.01.2016 issued under Environment (Protection) Act, 1986, environmental clearance is required for a project of coal for mining of any extent of area. While implementing statutory regime for carrying mining operations in the Hills Districts of the State of Meghalaya, the State of Meghalaya has to ensure compliance of not only MMDR Act, 1957 but Mines Act, 1952 as well as Environment (Protection)Act, 1986.

195.10 In Hill District of State of Meghalaya for carrying coal mining operations in privately owned/community owned land it is not the State Government which shall grant the mining lease under Chapter V of Rules, 1960, but it is the private owner/community owner of the land, who is also the owner of the mineral, who shall grant lease for mining of coal as per provisions of Chapter V of Rules, 1960 after obtaining previous approval of the Central Government through the State Government.

195.11 The State of Meghalaya has ample power and jurisdiction under the Act, 1957 and Rules, 1960 to check, control and prohibit coal mining operations in Hill Districts of State of Meghalaya.

195.12 The Union having made declaration by Section 2 of 1957 Act taking under its control regulation and development of mineral, the power of Autonomous District Council to legislate on the subject shall also be denuded as that of the State Legislature.

195.13 In event the mining is carried out by a mining lease holder as per the provisions of Act, 1957 and Rules, 1960 with an approved mining plan there can be no objections in carrying of such mining operations under the regulation and control of the State of Meghalaya. We clarify that in event mining operations are undertaken in privately owned/community owned land in Hills Districts of Meghalaya in accordance with mining lease with approved mining plan as per Act, 1957 and Mineral Concessions Rule, 1960, the ban order dated 17.04.2014 of the tribunal of the NGT shall not come in way of carrying mining operations.

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195.14 Under Order 26 Rule 10A of the Civil Procedure Code, a Court can appoint commission for scientific investigation. The power which can be exercised by a Court under Order 26 Rule 10A of CPC can very well be exercised by the NGT also. The NGT while asking expert to give its report is not confined to the four corners of Rule 10A and its jurisdiction is not shackled by strict terms of Order 21 Rule 10A by virtue of 19(1) of the NGT Act.

195.15 Rule 24 of National Green Tribunal (Practice and Procedure) Rules, 2011 empowers the Tribunal to make such orders or give such directions as may be necessary or expedient to give effect to its order or to secure the ends of justice. The power given to the Tribunal is coupled with duty to exercise such powers for achieving the objects. There is no lack of jurisdiction in NGT in directing for appointment of a committee and to obtain a report from a Committee.

195.16 The direction to constitute a fund namely "Meghalaya Environment Protection and Restoration Fund", is also saved under the above power.

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195.17 NGT by directing for constitution of committee has not delegated essential judicial functions. The Tribunal had kept complete control on all steps which were required to be taken by the committees and has issued directions from time to time. The State is always at liberty to obtain appropriate directions if aggrieved by any act of the committee. The matter being pending before the Tribunal all acts of the committee are under direct control of the Tribunal and if the committee oversteps in any direction the same can very well be corrected by the Tribunal on the matter being brought before it.

195.18 NGT by issuing direction to constitute the committee for transportation of the extracting mineral, for preparing time bound action plan to deal with the restoration of environment and to ensure its implementation does not in any manner interfere with the powers of the District or Regional Councils. The District and Regional Councils are free to exercise all their powers and committee constituted by the Tribunal is only concerned with the Environmental degradation and illegal coal mining. The committees report or direction of the Tribunal in no manner encroaches upon the administration of Tribal areas by the District and Regional Councils.

195.19 The amount which has been directed by NGT to be deposited by State of Meghalaya is neither a penalty nor a fine imposed on the State of Meghalaya. We accept the submissions of the learned counsel for State of Meghalaya that State of Meghalaya has very limited source of finances and putting an extra burden on the State of Meghalaya to make payment of Rs. 100 Crores from its own financial resources may cause great hardship to the State of Meghalaya. Ends of justice be served in modifying the direction of NGT dated 04.01.2019 to the extent that State is permitted to transfer an amount of Rs. 100 Crores from the amount lying in the MEPRF to the Central Pollution Control Board. The Central Pollution Control Board as directed by the Tribunal shall utilize the aforesaid amount of Rs.100 Crores only for restoration of the environment in the State of Meghalaya.

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195.20 The coal extracted and lying in open after 15.05.2016 does not automatically vest in the State of Meghalaya and the owner of the coal or the person who has mined the coal shall have the proprietary right in the mineral which shall not be lost.

195.21 The suggestion of learned Amicus Curiae that entire extracted coal lying at various places in hills districts of Meghalaya be directed to be taken over by Coal India Ltd. is accepted. The Coal India Ltd. may dispose of the same as per its normal method of disposal and proceeds be dealt with as per directions issued.

195.22 The State having carried out the assessment of the coal lying in the aforesaid four districts including the details of the quantities and the details of owners being available with it, it may ensure that entire coal is handed over to the Coal India Ltd., as per the mode and manner to be formulated by Katakey Committee in consultation with officers of the Coal India Ltd. and the State of Meghalaya.

195.23 It is for Coal India Ltd. to decide as to venue, where they shall receive the coal, i.e., either at any of its depot or any other place in the

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State of Meghalaya and it is for the Coal India Ltd. to finalise the process of disposal and auction of the coal. It shall be the duty of the State of Meghalaya and its officers especially Deputy Commissioner of the area concerned to enter details of quantity of the coal, name of the owner and place from where it is collected. All concerned shall take steps to ensure weighment of the coal when it is received by Coal India Ltd.

195.24 The expenses of transportation shall be borne by the State of Meghalaya, Coal India Ltd. Or by both, which expenses shall be deductible from the price received of the coal. The State of Meghalaya shall be entitled to royalty and payment towards MERP Fund as well as taxes out of the price of the coal. After deducting its expenses for transportation with 10% of price of the coal, the Coal India Ltd. shall remit the balance amount to the State and it is for the State after deducting the royalty and payment to the MERP Fund and taxes to pay back balance the amount to the owner.

195.25 The coal which has been seized by the State in illegal transportation and illegal mining for which different cases have been registered by the State, is not to be dealt with as directed above. The seized coal shall be dealt by the State in accordance with Section 21 of the Act, 1957 and on being satisfied, the State can take a decision to recover the entire quantity of coal so illegally raised without lawful authority.

196. In view of the foregoing discussions and conclusions, all these appeals are decided in the following manner: -

196.1 Civil Appeal No. 10720 of 2018, Civil Appeal No. 10611 of 2018, Civil Appeal No. 10907 of 2018 and Civil Appeal No.....of 2019 (arising out of Civil Appeal Diary No. 3067 of 2018) are dismissed subject to declaration and clarification of law as made above.
196.2Civil Appeal No. 5272 of 2016 is allowed setting aside the order of NGT dated 31.03.2016 to the extent it declared that all extracted coal after 15.05.2016 shall vest in the State of Meghalaya.
196.3Civil Appeal No. 2968 of 2019 is partly allowed permitting the State of Meghalaya to transfer the amount of Rs.100 Crores to Central Pollution Control Board from the Meghalaya Environment Protection and Restoration Fund which amount shall be used by Central Pollution Control Board only for restoration of Environment.
196.4 All I.As. seeking direction for transportation of coal are disposed of directing:-

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i) All extracted coal as assessed by State of Meghalaya lying in different districts of State of Meghalaya which as per order of NGT is in custody of State of Meghalaya shall be handed over to Coal India Ltd. for proper disposal.

ii) The Katakey Committee after discussion with Coal India Ltd. and State of Meghalaya shall formulate a mechanism for transport, weighment of all assessed coal.

iii) The Coal India Ltd. shall auction the coal so received by it as per its best judgment and remit the proceed to State to the extent as directed above.

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iv) All coal seized by the State for which cases have already been registered shall be dealt by the State in accordance with Section 21 of 1957 Act."

A True Copy of the final Judgment dated 03.07.2019 titled "*State of Meghalaya and Others v. All Dimasa Students Union, Dima-hasao District Committee and Others*" reported at (2019) 8 SCC 177 is annexed herewith marked as **ANNEXURE R-5.**

15. The Committee, in its sitting dated 28.06.2019, directed that the authorized representative(s) of the Plants, including that of SCFL, should be present before the Committee on 23.07.2019 which was intimated to SCFL *vide* letter dated 8.07.2019 and produce details regarding the following :

i. Year-wise details of clinker and/or power produced since imposition of ban on coal mining in the State in April 2014;

ii. Year-wise details of coal and/or any other alternate fuel procured since imposition of ban on coal mining in the State in April 2014;

iii. Year-wise details of the quantity of cement/clinker on which transport subsidy, if any, has been claimed by the plant since imposition of ban on coal mining in the State in April 2014;

iv. A copy of annual report for each of the years since imposition of ban on coal mining in the State;

v. Average estimated quantity of coal and/or any other alternate fuel (s) required to produce one tonne of clinker and/or one unit (kwh) of power; and

vi. A copy of detailed project reports submitted to the Bank(s) / Financial Institution(s) to obtain loan for establishment/expansion/ modernisation of the plant.

SCFL's representative, Mr. S. K. Patra appeared before the Committee on 23.07.2019 and sought two weeks' time for submission of the required data and the Committee accordingly allowed the request.

A Copy of the Letter dated 08.07.2019 issued to SCFL is annexed hereto and marked as **ANNEXURE R-6.**

16. That SCFL *vide* letter dated 14.08.2019 submitted the details as sought by the Monitoring Committee vide their letter dated 08.07.2019

a. Year-wise details of power produced from 2014-15 to 2018-19

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b. Year-wise details of coal and alternate fuel procured from 2014-15 to 2018-19
c. Nil Quantity of power on which transport subsidy was claimed
d. Copy of Annual report from 2014-15 to 2018-19
e. Average estimated quantity of coal required to produce one unit (kwh) of power is 0.50 – 0.70 kg/kwh whereas in case of alternate fuel it varies between 1.00 – 1.40kg/kwh ;
f. Copy of detailed project reports submitted to the Financial Institution(s) to obtain loan for establishment of the power plant.

A Copy of the Letter dated 14.08.2019 sent by SCFL is annexed hereto and marked as **ANNEXURE R-7.**

The 17th sitting of the Committee was held on 14.08.2019 wherein in the minutes of said meeting at Para-45, the details regarding coal used by SCFL Company was dealt with and it was concluded that the said TPP of SCFL is 15 year old and all other TPP's have also reported specific coal requirement around 0.70 kg/kwh of coal. The Committee was of the view that actual specific fuel requirement of the said TPP of SCFL is 0.70 kg/kwh of coal or 1.4 kg/kwh of alternate fuel and accordingly derived a gap of total quantity of 62,132 MT of coal between the coal required by SCFL plant as fuel to produce reported quantity of power and that of coal actually procured during the year 2014-15 to 2018-19 and this gap in coal requirement has in all probability been met from illegal sources.

A Copy of the Minutes of the Meeting of 17th Sitting of the Committee dated 14.08.2019 are annexed hereto and marked as **ANNEXURE R-8.**

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17. On receipt of the minutes of the meeting dated 14.08.2019, SCFL company *vide* letter dated 24.09.2019 submitted that the observations made by the Committee, i.e. that SCFL used illegal coal for power generation, was absurd and not based on the factual information and therefore, requested that the observations of the Committee may be reviewed on the following grounds :

i. DPR is prepared with a view to take a considered decision regarding technical and financial viability of undertaking a project and also is a requirement for funding by financial institutions/banks. The DPR is prepared on the basis of available data and certain assumptions. The

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details given in the DPR and that actual found on the ground at the time of implementation of the project may widely vary. The biomass fuels availability and viability was an issue after few days of project commissioned

ii. Regarding illegal sourced coal issue;

Each and every payment for purchase of coal and alternate fuel has been made by cheque by us. The details of the payments made by us can easily be verified. There is no way we could have made any payment in cheque for purchase of illegal coal and no cash transaction has ever taken place for purchase of coal at all. On examination of our books of accounts and Annual reports, the date-wise details of the payment made by us can be easily be verified.

iii. Regarding the GAP in coal issue

In para 45, page no 38 the tabular format year wise report the gap quantity calculation is based on coal procured is considered as coal consumption during the said five years, but in actual is different, because we have 23849.42 MT of coal in opening stock of FY 2014-15, which we have already submitted to you in other submission of reports.

iv. Regarding the specific coal consumption issue;

First of all we cannot fix all TPPs specific coal consumption is 0.70 kg of coal/kwh without considering the relative factors, which is stated below;

The Specific fuel/coal consumption per unit of power production in TPP is dependent on the following factors;

i. Design of the plant. Type of Boiler, Turbine and other equipments.

ii. Quality of the fuel/coal; Ash% MR%, GCV are varies from trader to traders, mines to mines, rainy to dry seasons etc.

iii. Operation efficiency of the plant. Proper maintenance (Preventive, corrective, breakdown maint.) for availability.

iv. Unburnt Carbon in Fly ash.

v. Size of the fuel/coal(Sometimes -1 mm are getting more which effects the Sp. Fuel consumption)

vi. Plant load Factor(Partial/Full capacity utilization)

vii. Leakages in steam line/any other leakages in the plant.

viii. Condenser efficiency (Vacuum high/low effects Sp. Fuel consumption)

ix. Boiler efficiency, Turbine efficiency effects.

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It is respectfully submitted that the observations made by the Committee that prima facie illegal coal was used for power generation was not based on the factual information. So, it is requested that the observations of the Committee may kindly be reviewed in the light of the factual details as stated above.

SCFL further stated that, in case, any additional information/ details are required in the matter, SCFL may be informed accordingly. It is also pertinent to note that after submission of the representation dated 24.09.2019 by SCFL to the Committee no further information was sought from SCFL herein by the Committee.

A Copy of the Letter dated 24.09.2019 sent by SCFL is annexed herewith and marked as **ANNEXURE R-9.**

18. On 31.08.2019, the 4th Interim Report dated was submitted by the Committee.

19. On 02.12.2019, the Committee submitted its 5th Interim Report submitted to this Hon'ble Tribunal, without even considering the objections made by SCFL, and without even affording a copy of the Report to SCFL. That in the 5th Interim Report dated 02.12.2019, the issues concerning SCFL were dealt with at para 2.13 under the heading "Captive Thermal Power Plant of Shyam Century Ferrous Limited". Shockingly, despite all the material cited above, the Committee in its 5th Interim Report dated 02.12.2019 submitted to this Hon'ble Tribunal concluded that during the 2014-15 to 2018-19 the coal required by SCFL for producing power was 2,78,261 MT whereas the coal procured during this period was 1,66,787 MT and therefore, there was a gap of 1,11,474 MT between the coal required and that procured (the purchase of 475 MT of alternate fuel was disregarded) and that this gap of 1,11,474 MT has been met from the illegally mined local coal. The Committee recommended to this Hon'ble Tribunal to realize royalty, GST/VAT and contribution to MEPRF amounting to Rs. 17.390 crores from SCFL herein as per the details given below:

Royalty – Rs. 7.524 crores
MEPRF – Rs. 5.406 crores
GST/VAT – Rs. 4.459 crores
TOTAL - Rs. 17.390 crores

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The above figure of alleged use of illegal coal has been arrived at by the Committee by considering that coal requirement at the rate of 0.85 kg of coal per KWH produced and that no alternate fuel has actually been used at all. It is pertinent to note that during the **17th Sitting, the Committee have concluded that the coal consumption of SCFL should be 0.70 kg/kwh in line with the other TPP and derived a gap of 62,132 MT but have reversed its own conclusion and abruptly taken a figure of 0.85 kg/kwh which was absurd and** without any basis and without considering the actual consumption figure provided by SCFL vide its reply dated 24.09.2019.

The finding and recommendations of the Committee are stated here-in-below :

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"CHAPTER 3: FINDINGS AND RECOMMENDATIONS

3.1 FINDINGS

3.1.1Except for the clinker manufacturing plant of the Mawmluh Cherra Cement Limited (A State PSU) and Captive Power Plants of the Maithan Alloy Limited and the CMJ Breweries Private Limited, ***there is a huge gap in quantity of coal required to produce reported quantity of clinker and/or power and the coal reported to be purchased from legal sources during the Audit Period by all other Cement Manufacturing Plants and Thermal Power plants in the State of Meghalaya for which resource (coal) audit could be completed by the Committee. "***

With respect to the Plant of SCFL, it was noted that,

Plant	*Items*	*Year*					*Total*
		2014 -15	*2015 -16*	*2016 -17*	*2017 -18*	*2018 -19*	
1	*2*	*3*	*4*	*5*	*6*	*7*	
Captive TPP Of Shyam Century Ferrous Ltd.	*Coal Required*	*54,499*	*46,959*	*88,743*	*58,563*	*29,497*	*2,78,261*
	Coal Procured	*43,576*	*32,461*	*72,086*	*13,704*	*4,960*	*1,66,787*
	Gap	*10,923*	*14,498*	*16,657*	*44,859*	*24,537*	***1,11,474***

With respect to Royalty and taxes on the allegedly illegally mined coal, the Committee found that,

"3.1.4 No royalty, taxes and any other statutory levies has been paid to the State of Meghalaya on the illegally mined coal utilized by these Cement Manufacturing Plants and Thermal

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Power Plants during the Audit Period resulting in a huge loss to the State exchequer"

The liability/penalty on SCFL was thus calculated as follows,

Sl. No.	*Plant*	*Qty. of Illegal Coal Used (MT)*	*Royalty*	*MEPRF*	*GST/ VAT*	*Total*
9.	*Shyam Century Ferrous Ltd.*	*1,11,474*	*7.524*	*5.406*	*4.459*	*17.390*

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The Committee further noted that some cement manufacturing and TPPs have stated that they have used non-fuel minerals like slate as a substitute to their coal requirement and observed that,

"3.1.6 ***Claim of these Cement Manufacturing Plants and Thermal Power Plants that about two-third of their coal requirement have been met by a non-fuel mineral (i.e. slate) without making any change in the design of these plants is not tenable. [...]***

3.1. 7 These Plants have purchased illegally mined local coal in the name of slate to circumvent the ban imposed by this Hon'ble Tribunal *on illegal rat-hole coal mining in the State of Meghalaya and also to evade payment of royalty, GST/ VAT and other statutory levies and contribution to MEPR Fund on the coal utilized by them. "*

In light of the above, it was recommended that,

3.2.1 (2). ***The State of Meghalaya, the Ministry of Environment, Forest and Climate Change, Government of India and the Meghalaya State Pollution Control Board shall initiate proceedings*** *in accordance with the provisions of the Mines and Minerals (Development and Regulation) Act, 1957; the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 the Environment (Protection) Act, 1986 and the rules, regulations & guidelines framed thereunder* ***against each of the Cement Manufacturing Plants and the Thermal Power Plants who has used illegally mined local coal after a ban on the rat-hole coal mining in the State of Meghalaya was imposed by this Tribunal in the month of April, 2014.***

3.2.1(3). ***The State of Meghalaya shall realize royalty, GST/VAT, contribution to the MEPR Fund and any other statutory tax and levy payable on the illegally mined coal utilized by these Cement Manufacturing Plants and the Thermal Power Plants in the State of Meghalaya after the ban on illegal rat-hole mining in the State of Meghalaya was imposed by this Tribunal in April 2014.***

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3.2.1(4). To restore the damage caused to the flora, fauna, rivers, streams, water bodies and the environment in general by illegal rat-hole mining of coal and also to mitigate the suffering caused to the local tribal residents by the illegal rat hole coal mining, ***the State of Meghalaya shall realize from each of the aforementioned Cement Manufacturing Plants and Thermal Power Plants who have used illegally mined local coal after a ban on illegal rat-hole coal mining was imposed by this Tribunal in the month of April 2014, an additional amount of Rs. 400 per tonne of coal to be utilized by each such plants on or after the date of this order and deposit the same in the MEPR Fund."***

A Copy of the 5th Interim Report submitted by the Committee dated 02.12.2019 is annexed hereto and marked as **ANNEXURE R-10.**

A Copy of the Certificate prepared by the Auditors certifying the purchase of coal and Alternate Fuel by SCFL from 2014-15 to 2018-19 is annexed hereto and marked as **ANNEXURE R-11.**

The Stock Statement submitted to Bank for working capital limit with respect to the opening stock of coal for March 2014 of SCFL is annexed herewith and marked as **ANNEXURE R-12.**

The Coal Consumption Statement for SCFL's Plant from 2011-12 to 2018-19 is annexed herewith and marked as **ANNEXURE R-13.**

A Copy of the Inventory Summary of SCFL's Plant for 2013-14 and 2014-15 in respect of opening stock of coal is annexed herewith and marked as **ANNEXURE R-14.**

A Copy of the Energy Return filed by SCFL before the Respondent No.1 for FY 2011-12 is annexed herewith and marked as **ANNEXURE R-15.**

A Copy of the Energy Return filed by SCFL before the Respondent No.1 for FY 2012-13 is annexed herewith and marked as **ANNEXURE R-16.**

A Copy of the Energy Return filed by SCFL before the Respondent No.1 for FY 2013-14 is annexed herewith and marked as **ANNEXURE R-17.**

A Copy of the Energy Return and Working figures filed by SCFL before the Respondent No.1 for FY 2014-15 is annexed herewith and marked as **ANNEXURE R-18.**

A Copy of the Energy Return and Working figures filed by SCFL before the Respondent No.1 for FY 2015-16 is annexed herewith and marked as **ANNEXURE R-19.**

A Copy of the Energy Return and Working figures filed by SCFL before the Respondent No.1 for FY 2016-17 is annexed herewith and marked as **ANNEXURE R-20.**

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A Copy of the Energy Return and Working figures filed by SCFL before the Respondent No.1 for FY 2017-18 is annexed herewith and marked as **ANNEXURE R-21.**

A Copy of the Energy Return and Working figures filed by SCFL before the Respondent No.1 for FY 2018-19 is annexed herewith and marked as **ANNEXURE R-22.**

20. That on 17.01.2020, an Order was passed by the Principal Bench of Hon'ble Tribunal in the captioned application, accepting the recommendations in the 5th Interim Committee Report *in toto* and passed an Order accepting all the three reports. SCFL was not given any notice of hearing and therefore, SCFL could not assist this Hon'ble Tribunal and point out the glaring factual inaccuracies in the 5th Interim Report of the Committee.

21. That in pursuance to the order dated 17.01.2020 accepting the recommendations made by the Committee in the 4th, 5th and 6th Interim Report, a demand notice was issued to SCFL by the Director of Mineral Resources, Meghalaya, Shillong dated 19.02.2020 directing them to make payment of Rs. 17.39 Crores within a month of issuance of notice, without even affording any opportunity of hearing to SCFL.

A Copy of the demand notice dated 19.02.2020 issued by Director of Mineral Resources to SCFL is annexed hereto and marked as **ANNEXURE R-23.**

22. SCFL had challenged the aforesaid notice dated 19.02.2020 issued by the Director of Mineral Resources, Meghalaya, Shillong directing SCFL to make payment of Rs. 17.39 Crores within a period of one month before the Meghalaya High Court in WP(C) No.189 of 2020. However, vide order dated 15.09.2020, the said petition was allowed to be withdrawn by the Hon'ble High Court.

A Copy of the Order dated 15.09.2020 passed by the Meghalaya High Court in WP(C) No.189 of 2020 is annexed hereto and marked as **ANNEXURE R-24.**

23. On 17.09.2020, the Hon'ble Supreme Court issued Notice in a matter titled *"Star Cement Ltd. & Ors. v. State of Meghalaya & Ors."* (CA No. 3280 of 2020) which was filed against the Order of this Hon'ble Tribunal dated

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17.01.2020.

24. On 02.11.2020 , SCFL filed Civil Appeal No. 4144 of 2020 titled *"Shyam Century Ferrous Ltd. v. State of Meghalaya & Ors."*, before the Hon'ble Supreme Court, assailing the Order dated 17.01.2020 passed by this Hon'ble Tribunal in the captioned application. On 16.12.2020, the Hon'ble Supreme Court, issued notice in the Appeal as well as Application for stay filed in the abovementioned Civil Appeal and tagged it with the main matter in case of ***Star Cement (Supra).***

A Copy of the Order dated 16.12.2020 passed by the Hon'ble Supreme Court in Civil Appeal No. 4144 of 2020 titled *"Shyam Century Ferrous Ltd. v. State of Meghalaya & Others."* is annexed hereto and marked as **ANNEXURE R-25.**

25. In December, 2020, a Technical Expert Report dated December, 2020 for the Power Plant titled "*CPP'S Specific Fuel Consumption Audit Report, Shyam Century Ferrous Ltd. Byrnihat, Meghalaya*" was prepared by Zing Enterprises (Certified Energy Auditors of Bureau of Energy Efficiency). As per the said Report, the following were the findings of the specifical fuel consumption for the Power Plant:-

2013-14 – 0.582 Kg/KWh
2014-15 – 0.589 Kg/KWh
2015-16 – 0.618 Kg/KWh
2016-17 – 0.525 Kg/KWh
2017-18 – 0.618 Kg/KWh
2018-19 – 0.528 Kg/KWh

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(Avg. of 0.58 Kg/KWh)

A Copy of the Technical Expert Report dated December, 2020 for the Power Plant titled "*CPP'S Specific Fuel Consumption Audit Report, Shyam Century Ferrous Ltd. Byrnihat, Meghalaya*" is annexed herewith and marked as **ANNEXURE R-26.**

26. On 02.05.2023, the Hon'ble Supreme Court disposed of the abovementioned Appeals filed by SCFL and other Power/Cement Plants in Meghalaya and directed as follows,

Shyam Century Ferrous Limited
Rishi Agarwal
Company Secretary

NOTARY
SK. NAZRUL ISLAM
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13.09.2024
WEST BENGAL

"[....]we would have to restore the proceedings in relation to the appellants back to the file of the NGT, at the stage, at which they stood prior to the passing of the impugned judgment dated 17 January 2020. Consequently, and to facilitate the above exercise, we set aside the impugned judgment dated 17 January 2020 in relation to its applicability to the appellants before this Court and direct that:

(i) The appellants shall submit their responses to the interim reports of the Committee appointed by NGT within a period of four weeks;
(ii) NGT shall furnish to the appellants an opportunity of being heard, after which it shall proceed to pass orders after dealing with the suggestions and objections of the appellants in accordance with law;
(iii) NGT shall take a final decision in three months; and
(iv) The appellants would be at liberty to apply to the NGT for inspection of records, including the underlying documents which were submitted by the Committee."

It is humbly submitted that the findings in the 5th Interim Report are erroneous for the following reasons,

THE COMMITTEE HAS INCORRECTLY RECORDED THE EFFICIENCY PARAMETERS OF SCFL'S POWER PLANT

27. The specific fuel requirement of the SCFL's Plant is 0.527- 0.618 kg of coal per kwh during the period 2014-15 to 2018-19. However, the Committee erroneously and arbitrarily assumed coal consumption of SCFL's Power Plant to be 0.85 kg/kwh. The following observations were made in the 5th Interim Report (para 2.13.7),

> *"Keeping in view the detailed analysis given in para 2.2.33 and also keeping in view that though the said Thermal Power Plant has been designed to use alternate fuels other than coal, the Shyam Century Ferrous Alloy Limited has himself reported that during the entire Audit Period 475 MT alternative fuel has only been used by them, the Committee is of the view* ***that the specific coal requirement of their said Captive Thermal Power Plant of the Shyam Century Limited is atleast equal to specific coal requirement of the a Thermal Power Plant of much larger capacity of the Star Cement Limited located in Meghalaya (viz.0.850 kg/kwh of the power produced.***"
>
> (Emphasis Supplied)

In view of the aforesaid observation, the Committee arrived at an incorrect and exaggerated calculation of the coal requirement for SCFL's Power Plant, only to thereby presume that SCFL has utilised illegally procured coal.

28. As per the verifiable data available with SCFL, the Coal Requirement of SCFL's Power Plant during 2014-15 to 2018-19 has stayed between 0.527 - 0.618. The Committee has assumed coal requirement of 0.85 kg/kwh of

Shyam Century Ferrous Limited
Ritu Agarwal
Company Secretary

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coal for gross calorific value of 5,800. If this conjecture of the Committee were to be accepted, the thermal power plant's heat rate will be 4,930 Kcal per kwh of power produced as against industry average heat rate of 3,000 (+/- 5%) Kcal/kwh, which is absurd. Thus, the g Committee's assumed coal requirement figure of 0.85 kg/kwh is without any basis.

29. Therefore, the Committee has erred in taking the aforesaid figure to be 0.850 kg/kwh. Had the same been calculated on the basis of the actual consumption of SCFL or the industry average and after considering the opening stock figure, there wouldn't be any gap between the coal requirement and coal consumption. It is further submitted that the figures and data relied on by SCFL could be easily verified from the Annual Reports / statutory records and returns submitted by SCFL to various government authorities and documents available in the public domain.

30. The coal consumption, coal stock and coal purchase figures of SCFL also make it evident that there was no discrepancy/gap in the coal required to produce the reported energy 2014-15 to 2018-19. A summary of the above is as follows,

	2018-19	2017-18	2016-17	2015-16	2014-15
Actual power generation during the year (Gross) (MW)	34,702	68,898	1,04,403	55,246	64,117
Qty of coal consumed (MT)	18,310.26	42,595.50	54,825.21	34,143.10	37,335.33
Coal consumed per MW (MT)	0.528	0.618	0.525	0.618	0.582
Coal consumption per MW as per DPR (MT)	0.527	0.527	0.527	0.527	0.527
Coal Consumption difference (Excess)/Short consumed(MT Per MW)	(0.001)	(0.091)	0.002	(0.091)	(0.055)

Shyam Century Ferrous Limited

Ritu Agarwal

Company Secretary

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Note : The above statement shows that the coal consumption has always been in line with, or been more than, the DPR. The statement further goes to depict that the Consumption of Coal varies according to the Ash and moisture present in coal and accordingly the coal GCV also varies. This leads to minor discrepancies in design/actual figures.

In light of the above, it is amply clear that the findings in the 5th Interim Report of the Committee are patently incorrect and not supported by any original or primary data/figures. In fact, the Committee has failed to place on record any scientific material or primary evidence to substantiate any of their allegations.

31. It is pertinent to note that during the 17th Sitting, the Committee concluded, albeit erroneously, that the coal consumption of SCFL should be 0.70 kg/kwh in line with the other Thermal Power Plants and derived a gap of 62,132 MT. However, in the 5th Interim Report, the Committee reversed its own conclusion and abruptly taken a figure of 0.85 kg/kwh which was absurd and without any basis and without considering the actual consumption figure provided by SCFL *vide* its reply dated 24.09.2019.

CONSUMPTION DURING THE PRE-COAL BAN PERIOD WAS ALSO IN LINE WITH THE COAL CONSUMPTION IN THE BAN PERIOD

32. SCFL's Power Plant had a similar Coal Requirement pattern (0.58 - 0.66 kg/kwh) during the period from 2011-12 to 2013-14. It is also pertinent to mention herein that during the past period from 2011-2012 to 2013-14, there was neither any ban on coal mining nor was SCFL under any compulsion to show lesser coal consumption.

THE OPENING BALANCE OF COAL LYING WITH SCFL IN 2014 HAS BEEN DISREGARDED

33. SCFL had 23,849.42 MT of opening coal stock with them before the start of coal mining ban in April, 2014. It was this opening stock of coal which was consumed during the said period from 2014-15 to 2018-19. Therefore, the total consumption of Coal during the period 2014-15 to 2018-19 was 1,87,180 MT. The Committee erroneously considered procurement of coal of 1,66,787 MT during the period 2014-15 to 2018-19 for calculation of gap between coal requirement and coal consumed. This was irrational, since in order to asses the coal consumption per kwh, one should consider the

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consumption quantity and not the procurement quantity.

34. The entire calculation of the gap between the coal required and estimated coal consumed leading to the conclusion of illegally procured coal, was made without taking into consideration the stock of coal available with SCFL prior to the imposition of the ban on coal mining. It is pertinent to note that SCFL always purchased coal through legal means as per its requirement. Further, it also planned its purchases adequately and resultantly, did not face any shortfall in coal stock.

SCFL NEVER USED ALTERNATE FUEL LIKE SLATE/MU-SLATE

35. The Committee in its 5th Interim Report specifically noted that Cement and Thermal Power plants purchased illegally mined local coal in the name of slate (alternate fuel) to circumvent the ban imposed by this Hon'ble Tribunal on illegal rat-hole coal mining in the state of Meghalaya, and also to evade payment of royalty, GST/VAT and other statutory levies and contribution to MEPRF fund on the coal utilized by them. However, SCFL has never used alternate fuel such as muslate/slate and also regularly filed VAT/GST returns etc., which are all available with the authorities.

36. It is crucial to clarify that, SCFL has admittedly only utilised negligible quantities of alternate fuel like coke fine, charcoal fine, etc. SCFL has never used Muslate/Slate and hence the question of payment of royalty, taxes and statutory levies on slate does not arise. The same was also admitted by the Committee in its' Report at para 2.13.4.

37. SCFL has not sought to evade any statutory levy by using alternate fuel like muslate/slate or claiming to use the same in the name of coal. Therefore, SCFL could not be held guilty of using illegally mined coal or for that matter using alternate fuel such as muslate/slate as a fig leaf to mask any illegal coal consumption.

THE COAL PROCURED WAS BY WAY OF LEGITIMATE CHEQUE PAYMENTS AND STATUTORY LEVIES WERE PAID AGAINST THE SAME

38. SCFL has made each and every payment for purchase of coal and negligible quantity of alternate fuel like charcoal fine and coke fines (not muslate/slate) by cheque/bank transfer and the details of the payments made by SCFL could easily be verified and no cash transaction had ever taken place for purchase of coal/alternate fuel at all.

Shyam Century Ferrous Limited

Company S[illegible]

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39. It is pertinent to mention herein that SCFL had been filing with the Senior Electrical Inspector & State Designated Agency on Energy Conservation, Shillong, Meghalaya a report on coal consumption quantity for generation of power every year. The coal consumption quantity was in line with the technical DPR prepared by technical consultants, AKB Power Consultants Private Limited, who are expert in this field. Further, the coal consumption figures are in line with previous coal consumption figures, when there was no ban on coal mining and SCFL was not under any compulsion to show lower consumption

PAYMENT OF ROYALTY/GST/VAT ON ILLEGALLY MINED COAL CANNOT BE LEVIED ON SCFL

40. The Committee in its Report observed that no royalty, taxes and any other statutory levy has been paid to the State of Meghalaya on the illegally mined coal utilized by the Cement Manufacturing Plants and Thermal Power Plants, including SCFL, during the Audit Period (2014-15 to 2018-19) thereby resulting in a huge loss to the State exchequer. It was also observed by the Committee that the erring Power Plants are liable to pay of royalty (at Rs. 675 per MT), contribution to Meghalaya Environment Protection and Restoration Fund (MEPR Fund) at the rate of Rs. 485 per MT and GST/VAT at 5% of the sale value of being approximately Rs. 8,000 per MT amounting to Rs. 400 per MT payable on the illegally mined coal utilized by each of these Cement Manufacturing Plants and Thermal Power Plants during the Audit Period. The liability of the alleged violators came to Rs. 614.123 crores, out of which SCFL was liable to pay Rs. 17.390 crores.

41. SCFL had not purchased any illegal coal nor used any alternate fuel such as muslate/slate and as such question of payment of royalty, taxes and other statutory levies on the same does not arise.

42. The Committee failed to consider that SCFL procured all the royalty and taxes paid coal and the same can be verified from its books of account. All the payments were made through bank to the suppliers and coal was purchased during the period when the transportation was allowed by this Hon'ble Tribunal/ Hon'ble Supreme Court in the intermittent period and hence the finding of the Committee that royalty, taxes and any other statutory levies had not been paid to the State of Meghalaya on the illegally

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mined coal utilized by the Cement Manufacturing Plants and Thermal Power Plants, including that of SCFL is absolutely illegal and without any basis.

43. Even otherwise, and without prejudice to the above, SCFL had not done any coal mining activity, and, hence, the liability of payment of Royalty and statutory dues actually lies on miners of coal. As such question of payment of Royalty/MERPF by SCLF does not arise at all. SCFL procured all the Royalty and taxes paid coal and the same can be verified from the books of accounts.

44. The four components of taxes and other statutory dues are charge, levy, assessment and recovery. The levy of taxes and recovery thereof under different statutes are hedged by various limitations and subject to fulfilment of various pre conditions. Without there being any determination of liability on account of Royalty, taxes etc. and the assessment thereof being completed by competent authority the question of demand and recovery of the same does not arise. The demand and recovery of dues by the recommendations of the Committee is absolutely without jurisdiction as it amounts to entrenchment of power specifically reserved for some of the State authorities under different statutes.

45. The Committee does not have the Jurisdiction to levy royalty/ GST/ VAT without there being any determination of liability and the assessment thereof by a competent authority. Therefore, the question of demand and recovery of the same does not arise. It is respectfully submitted that neither the Committee nor this Hon'ble Tribunal have the power and/ or jurisdiction in so far as imposition and recovery of taxes, royalty and various other statutory dues, if any, payable to the State.

46. Therefore, it is humbly submitted that the recommendations of the 5th Interim Report of the Committee deserve to be rejected.

47. The statements made in paragraphs 1 of the foregoing petition are true to my knowledge and those contained in paragraph nos. 2 to 45 are matters of record and information derived from record, which are believed to be true and correct and the rest thereof including the prayer portion are my respectful submissions before this Hon'ble Tribunal.

Shyam Century Ferrous Limited

Company Secretary

Deponent

Identified by me &
Prepared in my office

Advocate
F/3374/9092

Solemnly Affirmed and
Declared before me U/S 139
CPC, U/S 297 (C) CrPC

Notary
Sk. Nazrul Islam
Notary, Govt. of W.B.
Regn. No. 447/19
City Civil Court, Calcutta

02 NOV 2023

VERIFICATION

Verified at Kolkata by the Deponent named and I do hereby verify that all the facts mentioned in the affidavit are true to my Knowledge and no part thereof is false and nothing material has been concealed there from.

Shyam Century Ferrous Limited

Company Secretary

DEPONENT

Dated: 2/11/2023

Place: Kolkata

ANNEXURE R/1

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No 3280 of 2020

Star Cement Limited & Ors .... Appellant(s)

Versus

State of Meghalaya & Ors ....Respondent(s)

WITH

Civil Appeal No 4144 of 2020

Civil Appeal No 2302 of 2021

Civil Appeal No 2355 of 2021

Civil Appeal Nos 2726-2727 of 2021

Civil Appeal Nos 4991-4992 of 2021

Civil Appeal No 781 of 2022

Civil Appeal No 3528 of 2022

Civil Appeal No 4962 of 2022

Signature Not Verified
Digitally signed by Sanjay Kumar
Date: 2022.05.08 16:52:03 IST
Reason:

O R D E R

1 This batch of appeals arises from a judgment of the National Green Tribunal[1] dated 17 January 2020.

2 In 2012, the Gauhati High Court registered a public interest litigation *suo motu* on the basis of a news item in the month of July, stating that several labourers were trapped inside a coal mine resulting in large scale deaths. The proceedings before the Gauhati High Court were transferred to the NGT and were numbered as Original Application No 110 (THC)/2012.

3 In the meantime, in 2014, All Dimasa Students Union Dima Hasao District Committee instituted Original Application No 73 of 2014 before the Principal Bench of the NGT making serious allegations against 'rat-hole' mining operations which were being carried out in Jaintia Hills of the State of Meghalaya without regulation under the law.

4 The NGT issued an order on 17 April 2014 directing the State of Meghalaya to ensure the cessation of rat-hole mining forthwith and of the illegal transportation of coal.

5 During the pendency of the proceedings, a Committee was constituted on 9 June 2014 to quantify the coal that had already been extracted before the ban and to assess its location and value. The Committee was also to prescribe the mode of transportation. This was followed by subsequent orders of the NGT. On 31 August 2018, the NGT constituted a Committee chaired by a former Judge of the

1 "NGT"

Gauhati High Court to look into the restoration of the environment and rehabilitation of the victims. The Committee was also to supervise issues pertaining to receivership / custodianship of the already extracted coal, including environmental issues arising out of storage and remedial steps. The Committee furnished a report on 2 January 2019, which was considered by the NGT in an order dated 4 January 2019.

6 The order also took note of another tragic incident which had taken place on 13 December 2018, despite the earlier ban by the NGT.

7 From the impugned order of the NGT, it emerges that the Committee had submitted three reports on 2 January 2019, 31 March 2019 and 2 August 2019, which were dealt with by the NGT in its orders dated 4 January 2019, 11 April 2019 and 22 August 2019. The Committee thereafter submitted reports dated 31 August 2019, 2 December 2019 and 3 December 2019. The gist of these reports was set out by the NGT. The Committee, in the course of its fifth interim report dated 2 December 2019, arrived at the conclusion that there was a huge gap in the quantity of coal required to produce the reported quantity of clinker and/or power and the coal reported to have been purchased from legal sources by the cement manufacturing plants and thermal power plants in the State of Meghalaya for which an audit was completed by the Committee. The Committee estimated the year-wise quantity of the coal required to produce the reported quantities of clinker and/or power, the coal actually purchased from legal sources and the gap between them for 2014-15, 2015-16, 2016-17, 2017-18 and 2018-19. Having carried out this exercise, the Committee estimated in the case of nine industrial units:

(i) The quantity of illegal coal used in metric tonnes;

(ii) The royalty payable;

(iii) The contribution required to be made to the Environmental Protection and Restoration Fund; and

(iv) GST/VAT payable.

The Committee submitted its sixth interim report dated 3 December 2019 to deal with the objections raised by the State of Meghalaya.

8 From the impugned order of the NGT, it emerges that the proceedings before the NGT came up for hearing on 9 January 2020 and the impugned order was uploaded on the website on 17 January 2020. After setting out the gist of the reports, the NGT dealt with the objections which were filed by the State of Meghalaya to the reports submitted by the Committee on 31 August 2019 and 3 December 2019. After rejecting the objections of the State of Meghalaya, the NGT proceeded to issue its directions, accepting all the recommendations of the Committee in the fourth interim report dated 31 August 2019, fifth interim report dated 2 December 2019 and sixth interim report dated 3 December 2019. The directions which have been issued by the NGT are summarized thereafter in paragraph 23, which is extracted below:

> "23. Without in any manner meaning to dilute the exhaustive recommendations of the Committee, the substance of the recommendations of the Committee can be summed up to include monitoring of illegal raising and transportation of coal by the Chief Secretary of the State; steps for punitive measures for illegal mining — filling up gaps in the regulatory regime; action for preventing

> minimizing and mitigating environment pollution by acidic water from coal depots; electronic recording of movement of coal including by way of GPS and RFID Tags and having a central server for the purpose; inspection of wings of BSF and vigilance department; establishing and supervising check posts and weigh bridges; utilization of the compensation amount for legitimate purposes in terms of the recommendations in the report; continuing Prof. A.K. Singh, nominee, IIT-ISM, Dhanbad as member of the Committee; monitoring of sourcing of illegally mined coal by cement manufacturing/thermal power plants for enforcement of mining law, including punitive and remedial actions for sourcing of illegally mined material, as found by the Committee; conducting necessary audit; study of land use and land cover analysis; drilling of bore holes in Khlihirt-Sutnga area in East Jaintia Hill District; preparation of geological report and feasibility report for scientific coal mining; compiling information about location of dumps of coal; finalizing mode and manner of handling of coal and its disposal including e-auction; transfer of coal to Coal India Limited; monitoring of illegal export of coal to Bangladesh by an independent agency; adopting satellite surveillance systems; action by the State PCB for enforcement of environmental norms; verification of claims of victims and disbursement of payments to them in the manner suggested by the Committee; implementing action plan prepared by the Committee by the State PCB etc. Compliance of all the recommendations may need to be closely monitored by the Committee."

9 None of the appellants were parties to the proceedings before the NGT. It is common ground that the appellants were called upon to submit information to the Committee appointed by the NGT. According to the appellants, the fifth interim report dated 2 December 2019 was uploaded on 8 January 2020 at 1655 hours, following which a hearing took place on 9 January 2020. Neither were the appellants impleaded as parties to the proceedings nor was any notice issued to them to submit objections to the interim reports which were filed before the NGT. Eventually, the NGT, as noted earlier, accepted the recommendations of the Committee.

10 Section 19(1) of the National Green Tribunal Act 2010 provides that the NGT shall not be bound by the procedure laid down by the Code of Civil Procedure 1908, but shall be guided by the principles of natural justice. The National Green Tribunal (Practices and Procedures) Rules 2011 provide in Rule 15 for service of notice and processes and in Rule 16 for the filing of replies and other documents by respondents.

11 The appellants were not parties before the NGT and did not have the opportunity to deal with the contents of the reports of the Committee appointed by it. The NGT had assigned a fact finding and recommendatory role to the Committee. The ultimate decision on the reports of the Committee had to be taken by the NGT, which could only be arrived at after considering the submissions of the parties, who would be directly affected by the findings of the Committee if they were to be accepted by the NGT.

12 Reading the impugned order of the NGT, we do not find any independent application of mind. The Committee, which was chaired by a former Judge of the High Court, had in the view of the NGT, carried out a copious exercise. But that would not obviate the need for the NGT to arrive at its own independent findings after furnishing the parties, who would be directly affected, an opportunity of being heard. The NGT having not done so, we would have to restore the proceedings in relation to the appellants back to the file of the NGT, at the stage, at which they stood prior to the passing of the impugned judgment dated 17 January 2020. Consequently, and to facilitate the above exercise, we set aside the impugned judgment dated 17 January 2020 in relation to its applicability to the appellants before this Court and direct that:

(i) The appellants shall submit their responses to the interim reports of the Committee appointed by NGT within a period of four weeks;

(ii) NGT shall furnish to the appellants an opportunity of being heard, after which it shall proceed to pass orders after dealing with the suggestions and objections of the appellants in accordance with law;

(iii) NGT shall take a final decision in three months; and

(iv) The appellants would be at liberty to apply to the NGT for inspection of records, including the underlying documents which were submitted by the Committee.

13 The appeals shall accordingly stand disposed of.

14 Pending application, if any, stands disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[J B Pardiwala]

New Delhi;
May 02, 2023
-S-

ITEM NO.11 COURT NO.1 SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s).3280/2020

STAR CEMENT LIMITED & ORS. Appellant(s)

VERSUS

THE STATE OF MEGHALAYA & ORS. Respondent(s)

(WITH IA No. 101983/2020 - APPLICATION FOR PERMISSION, IA No. 119002/2022 – CLARIFICATION/DIRECTION, IA No. 87559/2020 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 101998/2020 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 87560/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 87558/2020 - STAY APPLICATION)

WITH
C.A. No. 4144/2020 (XVII)
(WITH IA No. 120345/2020 - EX-PARTE STAY, IA No. 120344/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

C.A. No. 2302/2021 (XVII)
(WITH IA No. 69802/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 69801/2021 - STAY APPLICATION)

C.A. No. 2355/2021 (XVII)
(WITH IA No. 72268/2021 - EX-PARTE STAY, IA No. 72271/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 72270/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 72274/2021 - PERMISSION TO FILE LENGTHY LIST OF DATES)

C.A. No. 2726-2727/2021 (XVII)
(WITH IA No. 76856/2021 - EX-PARTE STAY, IA No. 76860/2021 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 76858/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

C.A. No. 4991-4992/2021 (XVII)
(WITH IA No.91889/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.91888/2021-EX-PARTE STAY and IA No.91887/2021-PERMISSION TO FILE APPEAL)

C.A. No. 781/2022 (XVII)
(WITH IA No.3537/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.3536/2022-STAY APPLICATION and IA No.3534/2022-

PERMISSION TO FILE APPEAL)

C.A. No. 3528/2022 (XVII)
(WITH IA No.60554/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.60553/2022-EX-PARTE STAY and IA No.60555/2022-EXEMPTION FROM FILING AFFIDAVIT and IA No.60552/2022-PERMISSION TO FILE SLP)
C.A. No. 4962/2022 (XVII)
(WITH IA No. 85588/2022 - STAY APPLICATION)

Special Leave Petition (Civil) Diary No(s). 22753/2022 (XIV)
(FOR ADMISSION and I.R. and IA No.123797/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.123795/2022-PERMISSION TO FILE SLP, IA No. 187837/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 02-05-2023 These matters were called on for hearing today.

CORAM :
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA

For Appellant(s) **Mr. Shyam Divan, Sr. Adv.**
Mr. Udayaditya Banerjee, AOR
Mr. Sudipto Sircar, Adv.
Ms. Shreya Bhojnagarwala, Adv.

Mr. Pinaki Misra, Sr. Adv.
Mrs. Vanita Bhargava, Adv.
Mr. Ajay Bhargava, Adv.
Mr. Shantanu Chaturvedi, Adv.
Ms. Prerna Singh, Adv.
M/S. Khaitan & Co., AOR

Mr. Dhruv Mehta, Sr. Adv.
Mr. Nawneet Vibhaw, Adv.
Mr. Himanshu Pabreja, Adv.
Mr. S. S. Shroff, AOR

Mr. Huzefa A Ahmadi, Sr. Adv.
Mr. E. C. Agrawala, AOR

Dr. Ashok Saraf, Sr. Adv.
Mr. Kaushik Choudhury, AOR

Mr. Manpreet Singh Lamba, Adv.
Mr. Pulkit Agarwal, AOR
Mr. Sanampreet Singh, Adv.

Mr. Shivani Sharma, Adv.
Mr. Ashutosh Kumar, Adv.
Mr. Palav Agarwal, Adv.
Mr. Aditya Mishra, Adv.

For Respondent(s) Mr. Avijit Mani Tripathi, AOR

Mr. Saurabh Mishra, AOR
Mr. Nirbhaya Tewari, Adv.
Mr. Rakesh Chander, Adv.
Mr. Abhishek Pandey, Adv.
Ms. Priya Kaushik, Adv.

Mr. Avneesh Arputham, AOR
Ms. Anuradha Arputham, Adv.

Ms. K. Enatoli Sema, AOR
Mr. Amit Kumar Singh, Adv.
Ms. Chubalemla Chang, Adv.
Mr. Prang Newmai, Adv.

Ms. Richa Kapoor, AOR
Mr. Kunal Anand, Adv.
Ms. Tusharika Sharma, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1 The appeals are disposed of in terms of the signed order.

2 Pending application, if any, stands disposed of.

Special Leave Petition (Civil) Diary No 22753 of 2022

3 In view of the order which has been delivered in the batch of appeals[2] listed together with the Special Leave Petition, Mr Shyam Divan, senior counsel, seeks the permission of the Court to withdraw the Special Leave Petition so as to pursue appropriate remedies before the High Court.

2 Civil Appeal No 3280 of 2020 etc.

4 The application for permission to file the Special Leave Petition and the Special Leave Petition are dismissed as withdrawn.

(SANJAY KUMAR-I) **(SAROJ KUMARI GAUR)**
DEPUTY REGISTRAR **ASSISTANT REGISTRAR**
(Signed order is placed on the file)

ANNEXURE R/2

SHYAM CENTURY FERROUS LIMITED

DETAILED PROJECT REPORT FOR 13.8 MW CAPTIVE POWER PLANT AT BYRNIHAT, MEGHALAYA

Prepared by:
AKB Power Consultants Pvt. Ltd.
KBG Consultants Pvt. Ltd.

ACKNOWLEDGEMENT

M/s AKB Power Consultants Pvt. Ltd. and KBG Consultants Pvt. Ltd. thank Shyam Century Ferrous Ltd. for assigning the job of preparation of detailed Project Report for its proposed Captive Power Plant at Byrnihat, Meghalaya.

M/s AKB Power Consultants Pvt. Ltd. and KBG Consultants Pvt. Ltd. are very grateful for the whole-hearted co-operation and assistance provided by Shyam Century Ferrous Ltd. in carrying out this assignment successfully.

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INSIDE

General Information
Project at a glance

Chapters

Chapter – I:	Introduction
Chapter – II:	Group & Promoters
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GENERAL INFORMATION

Shyam Century Ferrous Ltd. (SCFL) is the leading manufacturer of Ferro Silicon in North Eastern India. SHYAM and CENTURY PLYBOARDS Groups of Kolkata, have jointly promoted SCFL.

SCFL set up its Ferro Alloys plant at Byrnihat, Meghalaya and started commercial production with one 9 MVA furnace from December, 2001. The second 9 MVA furnace was commissioned from June, 2002. The Company earlier anticipated that they will produce Ferro Silicon (FeSi) in one furnace and Silico Manganese (SiMn) in other furnace. However, experiencing good demand for FeSi, the Company is producing FeSi in both the furnaces.

Ferro Alloy units are extensively power intensive. Due to insufficient power generation in the State and mushrooming of industries, the operations of the units in the region have been adversely affected resulting in lower capacity utilization on account of severe load shedding imposed by Meghalaya State Electricity Board (MESEB). MESEB is dependent on the Hydel power and has been suffering from shortage of rainfall resulting in lower generation of power.

In view of above, SCFL decided to install a 13.8 MW Captive Power Plant (CPP) which can keep their Ferro Alloy plant operational at optimum capacity without depending on MESEB.

This study covers the techno-economic analysis for establishing the viability of the proposed Captive Power Plant.

Technical Analysis

SCFL has appointed **M/s AKB Power Consultants Pvt. Ltd. (AKB)** as their Technical Consultants for setting up the proposed CPP. AKB, based at Kolkata, is providing consultancy services in the power sector. The strength of AKB lies in its team of qualified and experienced technical professionals and good contacts with the equipment manufacturers and suppliers. AKB is headed by Mr. A. K. Biswas who is having over 40 years experience in power industry with 36 years experience in executing major projects in Damodar Valley Corporation (DVC).

AKB will support SCFL for all technical aspects involved in the project. AKB will also assist SCFL in finalizing the technical specifications of the equipments and selection of suppliers.

AKB has carried out the technical analysis of SCFL's proposed project. The specifications and capacities of various equipments were worked out and vetted by the technical consultants.

The plant site was visited and the availability of infrastructure facilities and other utilities were analysed. The layout drawings and flow of process was conceptualized. Civil works and plinth areas have been formulated based on the layout and sectional civil drawings. The norms for consumption of fuel for CPP and utilities have been taken as per suggestion of the technical consultants. The work force has been considered based on the requirement for the proposed plant.

Financial Analysis

SCFL has appointed **M/s KBG Consultants Pvt. Ltd. (KBG)** as their Financial Consultants for the proposed CPP. KBG, based at Kolkata, is engaged in providing various financial, management and project consultancy services. KBG is headed by Mr. Kailash B. Goel, a Chartered Accountant with experience of 15 years in financial and management consultancy.

KBG has carried out the financial analysis of SCFL's proposed project. The project cost has been estimated after considering the cost of civil works, plant, machinery and equipments. Pre-operative expenses, provision for contingencies and other capital costs.

Cost of civil works is based on estimates from Technical Consultants. Cost of Plant, machinery and equipments are based on the quotation/estimates provided by manufacturers/suppliers of the respective equipment. Wherever quotation/estimates were not available, estimates given by the technical consultant have been relied upon.

The material and fuel costs have been computed based on standard consumption norms for the industry at existing procurement prices. The manpower cost has been arrived at taking into consideration the estimated manpower requirement and the prevailing wages/salaries including the statutory and other benefits. All the other costs were similarly arrived at taking into consideration the operating capacity, industry norms, statutory charges/levies etc. Since the Ferro Alloy plant is already operating at the existing site, actual expenditure incurred in the last two years have also been considered.

The sales revenue is based on the operating capacity and prevailing average market/procurement price of the products. For analyzing the independent viability of the proposed CPP, the power tariff in terms of agreement of SCFL with MeSEB has been considered.

Applying the standard criteria such as Internal Rate of Return, Debt Service Coverage Ratio, Break Even Point, and Pay Back Period etc., the financial appraisal has been carried out. A sensitivity analysis was also carried out considering various eventualities.

PROJECT AT A GLANCE

Name of the company : **Shyam Century Ferrous Ltd.**

Registered Office & Works : EPIP Area, Rajabagan, Byrnihat, Dist Ri-Bhoi, Meghalaya

Corporate Office : "Satyam Towers" 3 Alipore Road, 1st Floor RN 9B, Kolkata 700 027

Constitution : Public Limited Company

Promoters : CENTURY PLYBOARDS and SHYAM Groups headed by Mr. Sajjan Bhajanka and Mr. B. Bhusan Agarwal

Present activity : Manufacturing of Ferro Silicon

Proposed Project : 13.8 MW Captive Power Plant.

Cost of project :

Particulars	**Rs. lacs**
Civil Works	377.00
Plant & Machinery	2775.00
Pre-Operative Expenses	209.00
Provision for Contingencies	187.00
Margin for Working Capital	52.00
TOTAL	**3600.00**

Means of finance :

Particulars	**Rs. lacs**
Promoters' contribution:	
- Equity Share Capital/ Internal Accruals	900.00
Term Loan	2700.00
TOTAL	**3600.00**

Promoters' contribution (for the project) **25%**

Debt Equity for project **3:1**

Financial Projections and key ratios:

For the Power Division only:

Rs. lacs

Particulars	05-06	06-07	07-08	08-09	09-10	10-11	11-12
Net sales	843	2098	2564	2564	2564	2564	2564
PBIDT	397	1114	1467	1467	1467	1467	1467
Interest	108	208	167	124	81	38	3
Depreciation	238	449	400	365	339	317	297
Profit after Tax	47	422	829	901	965	1025	1075
Cash Accruals	285	870	1229	1266	1304	1342	1373
Debt Equity ratio	2.85	1.78	0.86	0.44	0.20	0.05	0.00
TOL/TNW	2.88	1.80	0.88	0.45	0.21	0.06	0.01
Current Ratio	14.18	27.97	42.95	58.93	76.01	94.20	121.11
DSCR	3.64	2.26	1.97	2.09	2.23	2.39	5.04
Average DSCR	2.45						
Pay back Period (months)	36						
IRR (%)	28%						
BEP Sales (%)	41%						
Cash BEP (%)	14%						

For the company (Ferro Alloys and Power Divisions):

Rs. lacs

Particulars	04-05	05-06	06-07	07-08	08-09	09-10	10-11	11-12
Net sales	3201	4253	4813	5350	5166	5166	5166	5166
PBIDT	596	1089	1750	1930	1716	1716	1716	1717
Interest	97	190	271	220	177	134	91	56
Depreciation	186	412	615	563	525	497	472	451
Profit after Tax	280	433	775	1025	903	969	1031	1084
Cash Accruals	466	846	1391	1589	1429	1466	1504	1535
Debt Equity ratio	0.61	0.63	0.43	0.27	0.17	0.09	0.03	0.00
TOL/TNW	0.82	0.84	0.62	0.44	0.31	0.22	0.14	0.11
Current Ratio	2.18	2.74	3.49	4.08	4.74	5.44	6.16	6.74
DSCR	2.46	2.85	2.33	2.32	2.34	2.49	2.67	5.64
Average DSCR	2.67							

CHAPTER – I
INTRODUCTION

Shyam Century Ferrous Ltd. (SCFL), incorporated on 24th May 2000, is having its registered office at Byrnihat, Meghalaya and Corporate Office at Kolkata. SHYAM and CENTURY PLYBOARDS groups of Kolkata, which are recognized and reputed corporate houses of Kolkata, have jointly promoted SCFL. Within a short span of three years, SCFL has established itself as one of the leading manufacturer of Ferro Silicon in the North Eastern India.

In view of availability of raw materials and cheaper power, SCFL set up its Ferro Alloys plant at Byrnihat, Meghalaya and started commercial production with one 9 MVA Submerged Electric Arc Furnace from December, 2001. The second 9 MVA Submerged Electric Arc Furnace was commissioned from June, 2002.

North Eastern Development Finance Corporation Ltd. (NEDFi) appraised the cost of project at around Rs. 25.00 crore and sanctioned a term Loan of Rs. 15.00 crore. However, due to promoters' experience in setting up similar industries, SCFL could implement the project at capital cost of Rs. 19.30 crore and availing Rs. 11.50 crore only from NEDFi.

The Company earlier anticipated that they will produce Ferro Silicon (FeSi) in one furnace and Silico Manganese (SiMn) in other furnace. However, experiencing good demand for FeSi, the Company is producing FeSi in both the furnaces. SCFL has always strived for quality and enjoys good reputation for its products. SCFL has always worked towards total customer satisfaction and continuous quality improvement. Since its inception, SCFL has established itself as a forerunner in the manufacture of Ferro Silicon.

The financial performance of SCFL for last three years was as under:

(Rs. lacs)

Particulars	2001-02 (part)	2002-03	2003-04 (prov)
Net Sales	399.66	3094.67	3055.85
PAT	7.18	467.41	467.64
Paid up Capital	772.57	780.00	780.00
Net Worth	809.98	1790.91	2607.65
Term Liabilities	1149.16	543.24	601.13
Debt Equity Ratio	1.42	0.30	0.23
TOL/TNW	1.72	0.51	0.47
Current Ratio	2.02	1.92	2.67

BACKGROUND AND JUSTIFICATIONS FOR THE PROJECT

Ferro Alloy units are extensively power intensive. For producing one tonne of Ferro Silicon around 8000 units of power is required. For meeting its power requirement, the Plant is connected to MESEB Grid at 132 KV level through a 132 KV/32 KV outdoor type Switchyard. MESEB is dependent on the Hydel power and has been suffering from shortage of rainfall resulting in lower generation of power. Due to insufficient power generation in the State and mushrooming of industries, MESEB is imposing severe load shedding whereby the operations of the units in the region have been adversely affected. At present, due to unavailability of required power, the Ferro Alloy plant is operating at around 50% capacity utilization. With the installation of the CPP, the Ferro Alloy plant can operate at its optimal capacity.

Besides increase in capacity utilization of the Ferro Alloy plant, other justifications of installing CPP are as under:

- Substantial savings in the losses due to gradual reheating of the furnaces on account of severe load shedding/power tripping.
- Increase in demand for Ferro Silicon and attractive margins. In spite of low capacity utilization, SCFL has achieved handsome profits.
- Easy availability and low cost of inputs (raw material and fuel) for Ferro Silicon as well as proposed CPP.
- Benefits of economies of scale.

In view of above, SCFL decided to install a 13.8 MW Captive Power Plant (CPP) which can keep their Ferro Alloy plant operational at optimum capacity without depending on MESEB.

The Capital cost of the project has been estimated at Rs. 36.00 crore, which is proposed to be financed by way of Equity Share Capital/Internal Accruals of Rs. 9.00 crore and term loan of Rs. 27.00 crore.

This report describes the operational viability and commercial feasibility of the project.

CHAPTER – II
GROUP & PROMOTERS

SHYAM and CENTURY PLYBOARDS Groups of Kolkata, which are well known in the eastern region, have promoted the company. Mr. Sajjan Bhajanka heads the CENTURY PLYBOARDS group whereas Mr. B. Bhushan Agarwal heads the SHYAM group.

Mr. Sajjan Bhajanka, aged 51 years, is a commerce graduate from Dibrugarh University, Assam. He is having business and industrial experience of more than 25 years in the fields of plywood, ferro silicon, tea, export and import. He is the Managing Director of Century Plyboards (I) Ltd., the largest manufacturer of plywood and decorative veneers. He is the executive committee member of Federation of Indian Plywood & Panel Industry and has representation on various other committees. He is having keen interest in various social activities through Maharaja Agarsen Institute of Medical Research & Education, Agroha (Hisar), Vivekananda Kendra, Haryana Seva Sadan, Tinsukia Education Trust and various other institutions/organizations. He is also a trustee of Kalyan Bharti Trust which has set up prestigious institutions like The Heritage School and Heritage Institute of Technology at Kolkata

Mr. B. Bhushan Agarwal, aged 31 years is a commerce graduate. He is the Managing Director of Shyam Sel Ltd, the leading company of the SHYAM Group. Under his leadership the group has achieved many milestones. His dynamic leadership, ability to execute projects, vision, foresight has been instrumental in the group's foray into Ferro Alloys and has made it the second largest producer of ferro alloys in the country. He has built a good reputation in the industry and government circles in eastern India. He is also attached with various social organizations and industrial chambers. He has also carved out expansion plans for the various units of the group and is putting up captive power plants.

Associate Concerns

Century Plyboards (I) Ltd. (CPIL) is the largest producer of plywood and decorative veneer in India. CPIL manufactures the entire range of plywood such as Commercial Plywood, Boiling Water-proof plywood, Decorative Plywood, Shuttering Plywood, Block Board, Film face Plywood etc. CPIL have the distinction of becoming the first ISO 9002 Company in India for Veneer and Plywood. The quality and durability of the product of CPIL sets its range apart from other brands. CPIL products are result of intensive research and development, use of best quality of raw materials, use of most sophisticated processing technologies and equipments and stringent quality control. CPIL sell its products under the well known brand name of **"Century PF"**. Century is having an impressive growth and it has become the top selling brand of plywood in the country. Recently, the company has put up a plant for manufacturing of high pressure laminates.

Shyam Sel Ltd. (SSL) is the largest producer of Sponge Iron in West Bengal with installed capacity of 450 MT per day. SSL, an ISO 9002 company, is having manufacturing facilities at Howrah, Burdwan, Raniganj and Durgapur to produce Ingots/Billets, Rolled products (TMT Bars) and Long products besides Sponge Iron thereby integrating the complete process of making steel.

M/s Shyam Ferro Alloys limited (SFAL) is engaged in manufacturing of Ferro Alloys and today it is one of the largest producer of ferro alloys with two units (Burdwan and Durgapur) with aggregate installed capacity of 86,690 MT from eight furnaces. The company is also setting up manufacturing facilities at its Durgapur unit for production of stainless steel with installed capacity of 97,500 MT.

M/s Cements Manufacturing Company Ltd. (CMCL), another company jointly promoted by SHYAM and CENTURY PLYBOARDS groups, is setting up a 900 TPD cement plant at Lumshnong, Meghalaya with a capital outlay of Rs. 97.50 crore. The commercial production is expected from October, 2004.

The promoters are having wide experience in setting up and operating industries in various sector. The operation of all the units is satisfactory. The company as well as its associate companies have track record of pre-paying their term loan obligations with banks and financial institutions.

CHAPTER – III
PRODUCT & MARKET

While the project is for setting up a Captive Power Plant, it aims to improve the capacity utilization of the Ferro Alloy plant. Therefore, an analysis of market for Ferro Alloys was considered necessary.

Ferro Alloys are some of the main inputs for the production of Stainless Steel. Ferro-Alloys are used in the steel-making for de-oxidation, control of grain size, improvement of mechanical properties, imparting corrosion resistance. Therefore, the requirement of Ferro Alloys production depends upon the production of stainless steel and other related steel products. The foundries, electrode and ceramic industries also consume ferro alloys. Important Ferro-Alloys are Ferro-Manganese, Ferro-Silicon, Silico-Manganese and Ferro-chrome.

Since ferro silicon is one of the essential ingredients in the production of various grades of carbon steel, its marketing prospect is directly linked with the developments in the steel industry (domestic as well as international).

India is the tenth largest producer of steel in the world, but per capita consumption is one of the lowest. India has a per capita consumption of steel of around 30 kgs as against 150 kgs in China and an average of about 450 kgs in the developed countries. Thus, the steel industry has tremendous growth potential considering the low consumption in the country. Being a core sector, steel industry tracks the overall economic growth. Also, steel demand, being derived from other sectors like automobiles, consumer durables and infrastructure, its fortune is dependent on the growth of these user industries. The Indian steel sector enjoys advantages of domestic availability of raw materials and cheap labour. Iron ore is also available in abundant quantities. This provides major cost advantage to the domestic steel industry, with companies like Tisco being one of the lowest cost producers in the world. However, Indian steel companies have to bear additional costs pertaining to capital equipment, power and inefficiencies (low per employee productivity). This has resulted in the erosion of the edge they would have otherwise enjoyed due to availability of cheap labour and raw materials. The basic import duty on steel has been consistently brought down. This has made the industry vulnerable to international competition. On the positive side, domestic prices now track the global prices more closely.

FY03 was an impressive year for the Indian steel industry with domestic consumption increasing by over 5% (to 29 MTPA) and production registering a growth of over 7% (to 33 MTPA). This is a significant improvement over FY02 when consumption grew a modest 2% on the back of a more than 5% production growth. However, the major growth driver for domestic steel companies was the exports market, as steel exports grew by 37% (to 4 MTPA) in FY03 compared to last year. Demand for steel is derived demand, depending on the growth of auto and consumer durables. These core sectors recorded positive

growth in FY03 after a poor FY02 performance. Commercial vehicles sales recovered sharply after a dismal FY02 performance, registering a growth of 24% compared to negative performance last year. However, the passenger cars & multi-utility vehicle sales witnessed only a marginal growth of 1%. Consumer durables sector also showed positive signs of demand recovery. Steel prices have been on a sustained uptrend. China has been the major cause of this phenomenon. In FY03, steel prices on the domestic front saw an increment of nearly Rs 7,000 to 8,000. The combination of increased volume sales and firm prices has turned around the fortunes of steel industry.

Global steel demand is rising on the back of accelerated infrastructure activity in China, CIS and India, housing boom in USA, and white goods resurgence in Europe. During the recent recessionary phase, the industry has consolidated in terms of ownership as well as mothballing of inefficient capacities. Steel prices continue firming up. For the first time in last 20 years, there is demand growth all over the world for steel. In US, the demand is led by the booming housing industry. Additionally the auto industry is showing signs of recovery as auto sales hit their strongest levels for the year in July even as US posted a 2.4% GDP growth. In Europe, there is demand from a buoyant housing and white goods industry according to industry sources. In India, China and other Asian countries the demand is led by emphatic investment activities in infrastructure. Russia and other CIS nations are also witnessing strong internal demand. Iraq reconstruction work is expected to fuel further demand for steel over the next three years. China is consuming steel like never before for its infrastructure with investments such as Three Gorges project on Yangtze as well as part of its build up to the Beijing Olympics in 2008 and the Shanghai Expo in 2010. The demand supply gap is expected to increase and this will drive steel prices northwards, even as the global steel industry is not prepared for this demand onslaught. Thus the Industry is not exposed to threat from imports due to increase in global demand for steel. Also, the domestic companies have improved operating efficiencies and thus bringing down their cost.

In fact, the current market trend indicates that there is sufficient gap between the demand and supply of Ferro Alloys in India which will help the industry to raise their capacity as well as price realization in the near future. Also the demand for steel and steel related products has already gained momentum and it is presumed that such positive trend would continue.

In view of gap between demand and supply, no difficulty is envisaged in marketing of proposed production. Since the start of production the company has been able to sell its production without any difficulty. It is therefore evident that the company has no marketing constraints and will be able to sell its future produce.

The major consumers of ferro silicon in India are as under:

a) Steel Authority of India Ltd. (SAIL)
b) Jindal Stainless Limited, Hissar
c) Ispat Industries Ltd., Mumbai
d) Mahindra Ugine Steel Co Ltd., Mumbai
e) Minex Metallurgical Co. Ltd., Nagpur
f) Essar Steels Ltd., Hazira
g) Bhusan Ltd., Chandigarh
h) Indian Railways (DGS&D)

The company is already supplying ferro silicon to these companies on a regular basis. Most of the companies are expanding their capacities and would need further quantities of ferro silicon from the company. The Company has already employed a marketing team to ensure timely sale of ferro silicon.

CHAPTER – IV
PLANT LOCATION & INFRASTRUCTURE

Plant Location

The proposed Captive Power Plant of 13.8 MW Capacity will be located within the boundary limits of the existing Ferro – Alloy Steel Plant of SCFL located at Byrnihat, Meghalaya.

The Site is well connected with National / State Highway and nearest Railway station is Guwahati at a distance of 33 Km.

Infrastructure Facilities

Land

The area is generally plain but will require some cutting and filling. Total area requirement for the major Plant & Equipment is available within the premises of the Ferro Alloy Plant.

Fuels

Biomass Fuel: -

I

After coal, oil and Natural gas Biomass is the target Primary energy source in the world. Biomass fuel is an organic non fossil fuel containing lignocellulose material. Upon combustion it does not emanate hazardous gases harmful to the environment. Unlike combustion of fossil fuels which releases carbon-di-oxide captured by photosynthesis billions of years ago. Carbon-di-oxide released by biomass is balanced by carbon-di-oxide captured by new plant growth the recent growth of biomass, so there is far less net impact on greenhouse gas levels. The most economic use of Biomass is at the place where it is found naturally or where it is produced from the process of refuse. The use of Biomass Fuels is expected to give a competitive edge for the Power Generation Sector, coupled with the trend of deteriorating Power scenario,
Biomass based Power Generation option becomes the optimum solution.

II

Major Biomass Fuels.

a) Saw Dust
b) Paddy Husk
c) Bamboo dust and Bamboo chips.
d) Pine wood cones
e) Sugarcane Baggasse.
f) Charcoal dust.

III

Availability of Biomass Fuels for the Boiler: -

The design of Boiler selected will be suitable for firing various Agro-Fuels depending on the seasonal availability.
The estimated annual availability of various types of biomass fuels under different combinations are as given below

- Bamboo dust & Bamboo chips – 2,00,000 MT.
- Paddy Husk - 1,000 MT.
- Pine wood cones - 1,000 MT.
- Charcoal dust - 15,000 MT.
- Saw dust - 1,000 MT

TOTAL: 218000 MT.

Bamboo dust is made available from the paper plants located in and around Meghalaya. This dust is a refuse of their input, which cannot be further used in their process. The Bamboo chips are got from bamboo, which is available in plenty in the region

Paddy husk is a seasonal fuel available with rice mills operating in the radius of 100 kms from the Plant.

Pinewood Cones are available in plenty at a distance within 80 kms from the plant. This is basically a dried flower having good calorific value, generated by the pine wood trees. Khasi pines are famous and grow naturally all over the Khasi and other hills in the vicinity. There are large number of pine trees growing very close to the plant.

Charcoal fines eventually get generated from wood charcoal used by the ferroalloy plants located in and around Byrnihat. Wood charcoal is prepared locally to meet the requirement of Ferro Alloy plants.

Saw dust is available from various sawmills located in the state of Meghalaya at the distance of 80kms from the plant.

The fuels required for Operation of the AFBC Boiler of the proposed CPP are as under:

i) BIOMASS viz
   A) Bamboo chips and bamboo dust
   B) Paddy husk
   C) Pine wood cones
   D) Sugarcane bagasse
   E) Charcoal fines

ii) FOSSIL FUELS viz
   A) Meghalaya coal
   B) Coal fines

The annual fuel requirement of the 13.8 MW Capacity AFBC Boiler Unit will be as under

	QTY	CV OF FUEL	ASH CONTENT
A)Biomass fuel	- 77,616 MT	3500KCAL/KG	10%
b)Fossil Fuel	-14,256 MT	5500KCAL/KG	12%

HSD / LDO will be used only during start up of AFBC as secondary fuel and no regular oil firing is required. This fuel oil will be brought from the nearby oil depot.

Water

Cooling water for Condenser Cooling System constitutes the major part of the total water requirement of a Thermal Power Plant. The Cooling Water requirement for Cooling of Condenser and other Auxiliaries is estimated at 4,500 M^3/Hr.

Total requirement of Fresh Water make-up including Drinking, Auxiliary Cooling, DM Plant etc will be 150 M^3/Hr. The source of this make up water will be river close to the Station boundary.

Power Evacuation

The proposed 13.8 MW Turbo-Generators will generate Power at 11 KV which shall be stepped up to 33 KV through one no.16 MVA Step up cum Step down Transformer. Due to space restriction in the existing 132 / 33KV Substation for installing one no. additional 33KV Bay for control, metering and Protection of the 33KV side of aforesaid 16MVA Transformer, it has been decided to Install one no. Panel of 33KV Indoor Metal Clad Switchgear complete with SF6 Circuit Breaker, Metering, Protection, Lightning Arresters etc. This 33KV Indoor Switchgear will be installed in the Ground Floor of TG building.

Output of this 33KV Switchgear will be connected by 33/ 19KV XLPE insulated Aluminium conductor Screened & armoured Cable directly to 33KV Bus of the Substation through outdoor type 33KV Heat Shrinkable Termination.

One no. 11KV Indoor Metal Clad Switchgear complete with 1 no. Incomer + 2 nos. Outgoing SF6 Circuit Breaker feeders along with relevant Metering, Protection etc. as well as one panel for Bus PT with Lightning Arresters. Incomer shall be connected to the Line side of Turbogenerator by 11KV Phase segregated Generator Busduct. One no. Outgoing feeder shall be feeding power to 2MVA, 11/ 0.433KV CPP Auxiliary transformer by 11/11KV XLPE insulated, aluminium conductor, screened and armoured cable. 2nd Outgoing Feeder shall be connected to 11KV side of 16MVA Transformer also by 11/11KV XLPE insulated, aluminium conductor, screened and armoured cables.

The 11KV Switchgear Board has also been envisaged to be installed in the Ground Floor of TG building beside above mentioned 33KV Switchgear.

Low Tension Side of CPP Auxiliary Transformer shall be connected to Low Tension Power Control Centre (LTPCC). CPP auxiliary loads being all under LT category will be fed from this LT PCC. Important and High rated Auxiliaries like Boiler Feed Water Pumps, Induced Draft Fans, Forced Draft Fans , Circulating Water Pumps etc. will be directly fed from LTPCC, whereas smaller loads will be from Motor Control Centres. In the LT system and DC system 1.1KV Grade PVC insulated armoured cables shall be used.

The CPP is proposed to be operated in synchronous mode with Meghalaya State Grid. The generated Electrical Power will be consumed in-house for the existing Ferro Alloy Plant and CPP Auxiliaries Power.

CHAPTER – V
ENVIROMENTAL ASPECTS

General

Normally, a Thermal Power Plant is a potential source of environmental pollution both atmospheric and surface. Being biomass based with limited usage of fossil fuels the environmental pollution both atmospheric and surface will be well under control. Pollutants like biomass fuel and ash dust, SOx, NOx, water and sewage effluents by installation of ESP, treatment of effluents and by neutralization with in the limits and norms provided by the statutory bodies.

Pollution Control Measures

Air Pollution

In order to control air pollution Systems like Fly Ash Control System with ESPs, Dust Suppression Systems with water spraying and Ventilation Systems have been envisaged.

Though the usage of fossil fuels will be restricted to less than 25% adequate care will be taken in degning the height of the chimney to which the AFBC boiler will be connected.the height of the chimney is planned at 55 mtrs in line with the norms stipulated by the central pollution control board.

The following measures will be adopted for the proposed Power Plant to minimize air pollution:

- Particulate emission rate from flue gas at stack outlet will be restricted to a maximum of 150 mg / Nm^3
- Dedusting System will be provided to arrest fugitive emissions in the work zone.
- The dust control System will be installed and Commissioned along with the main Plant. These Systems will be checked and their emission rates will also be monitored
- The stack will be provided with necessary instruments for monitoring of SPM, SO2 and NOx.

Noise Pollution

In general, the following measures will be adopted for noise pollution control:

- Technical Measures
- Administrative Measures
- Personnel Protection Measures

In Thermal Power Plants, the noise sources are mostly high pressure Pumps, Turbines and leaking Steam pipelines.

The following technical measures will be taken to reduce noise:

- Checking leakages in High Pressure pipelines and plugging them, as required.
- Providing enclosures / barriers for turbines and high pressure pumps.
- Providing silencers at inlet / outlet of the Fans.
- Regular checking of vibration level due to high speed machines and taking necessary step to mitigate the same.

In the Boiler Plant there are various noise producing areas such as High Pressure pipelines where technical measures will not be practically effective. In such cases, the following administrative measures are proposed:

- Workers will be put on rotational duties.
- Regular medical check up for all workers

Besides above, the workers exposed to high noise will be provided with personnel protective devices such as ear plugs and ear muffs.

Water Pollution

The Plant is designed for closed re-circulation Cooling Water System. The discharge of waste water from other sources such as DM water Plant, Boilers blow down will not be significant and can be re-used for dust suppression and in plant gardening etc.

The measures envisaged for controlling water pollution will be to contain the water pollution within tolerance limit as specified in MOE & F notifications and other related Statutory norms. The Waste Water generated from the various Plants will be let out after proper treatment in order to reduce pollutants in the Waste Water within the acceptable limits.

Solid Waste Disposal

Solid wastes from Thermal Power Plants generally consist of fly ash and solid waste from faecal sewage. The following measures will be taken to reduce / re-use the solid wastes.

Bottom ash, almost in dry form will be sieved for re-cycling as bed material in the AFBC Boiler. Fly ash, collected in various hoppers of the dust collection Systems provided in the path of the flue gas, will be pneumatically transported to the silos from where the same will be taken out to ash dump area by totally enclosed dumpers. Normally, the dry ash will be utilized for secondary use, land filling, road construction, cement making, etc.

Green belt around ash disposal area will be developed.

Occupational Safety and Health

For occupational safety in the proposed Plant, the following will be provided:

- Electrical interlocking of ESP inspection doors.
- Inspection and Maintenance of Pollution Control Systems only after getting official shut down or with the permission of authorized Officer.
- Immediate cleaning of any fuel dust accumulated on floors, road, roof tops, conveyor galleries and other places.
- Heat insulation of hot surfaces.
- Provision of rubber mats around the electrical panels.
- Fire barriers at appropriate places.
- Provision of all safety measures like use of safety appliances, safety training, safety awards, posters, slogans related to safety etc.
- Training of employees for use of safety appliances and first aid.

CHAPTER – VI
DESCRIPTION OF PLANT & EQUIPMENT

In general, the proposed installation of CPP would involve broadly one Atmospheric Fluidised Bed Combustion Boiler and a Steam Turbo-Generator of 13.8 MW Capacity, with associated Auxiliary Plants & Equipment.

Selection of System Scheme and Unit Size

Selection of the System Scheme has been influenced by following prime considerations :

- Generation of Electrical Energy at Minimum Cost.
- To meet entire Down Stream Process Load and Energy Requirements through Station Generation.
- To harness the advantages of availability of Biomass,Agrowastes and fossil fuels at and around Meghalaya.

Keeping above in view, the Unit Size has been dictated by the following factors :

- Total Down Stream Load Requirement for 2 x 9 MVA, Submerged Electric Arc Furnaces.
- Load requirement of Furnace Auxiliaries.
- Infrastructural Loads like Administrative Building, Colony etc.

It has been envisaged that the Captive Power Plant will operate in synchronous mode with 132 KV Grid of Meghalaya State Electricity Board.

General Design Consideration

The basic function of the Captive Power Plant will be to produce quality Power and ensure availability of adequate Electrical Energy at a rate cheaper than that of the State Electricity Board for Powering the Ferro Alloy Submerged Arc Furnaces.

The Station thermal cycle, layout and rating of various Plant and Equipment have been selected accordingly.

Principal Thermal Scheme

The Power Plant will consist of the following main Units.

- One Atmospheric Fluidised Bed Combustion (AFBC) Boiler.
- One Steam Turbo-Generator of 13.8 MW Capacity.

Brief Description of Major Plant and Equipment

The proposed Plant will comprise of the following major Systems.

- AFBC Boiler and Auxiliaries
- Steam Turbine Generators and Auxiliaries
- Condensate Water System
- Feed Water System

- All Electricals
- Instrumentation and Controls
- Water Supply & Treatment System
- Fuel Handling System
- Ash Handling System
- Compressed Air System
- Handling & Hoisting Facilities
- Plant Illumination System
- Plant Communication System
- Ventilation and Air Conditioning
- Fire Fighting Detection & Alarm System

Brief description of the Plant and Equipment is given in following paragraphs.

Atmospheric Fluidised Bed Combustion Boiler

Fluidised bed combustion is a "Clean Technology for a better tomorrow" where technology and economy have been interwoven harmoniously in quest of a better environment. The environmentally friendly perspectives of this technology are as follows :

- At the low combustion temperature of 850°C / 900°C, no Nitrogen Oxides result from the Nitrogen in the combustion air, with the end result of extremely low NOx emissions even with fuels rich in Nitrogen.
- Formation of SOx is essentially prevented by the addition of limestone. This is mixed into the fuel and blown into the combustion chamber. Due to the favourable conditions in the fluidised bed, about 90% of the resulting Sulphur Oxides can be removed along with the bed Ash.
- Better Plant flexibility at partial loads of about 25% and quick load changes.

The Steam Generator would be semi-outdoor type, natural circulation, balanced Draft, designed for firing different grades of Biomass & fossilfuel. The Boiler shall be of bubbling fluidised bed type to handle even high ash fuels and shall have 54 TPH guaranteed capacity, net of Steam demand for soot blowing, at 67 Ata Pressure and 490° ± 5° C condition at MSSV Outlet.

Capacity of AFBC shall be selected to ensure adequate margin over the requirement of turbine at 100% MCR. AFBC would be designed to operate with "The HP heaters out of service" condition (resulting in lower feed water temperature at Economiser inlet) and deliver Steam to meet the Turbo-Generator requirement at 100% MCR. Economiser section of the Boiler would be non-Steaming type. Super heater sections would be convection type and designed so as to maintain rated Steam temperature of 490°C (± 5°C) at super heater outlet over the control range of 60% to 100%, MCR. Attemperator is provided at the outlet of convection super heater for temperature control at Steam Generator outlet.

The Boiler furnace and flue gas passages would be designed for appropriate low velocities in order to minimise erosion.

Suitable balanced Draft System would be provided for the Steam Generator with two(2) Forced Draft and two(2) Induced Draft Fans. Each of these Fans would be capable of meeting the air requirement at 100% Boiler MCR load.

The Forced Draft Fans would be radial type with inlet vane control for regulation of airflow.

The Induced Draft Fans would be radial type with multi louver damper control the regulation.

Whereas the Forced Draft Fans would control total air flow to Boiler, the Induced Draft Fans would control furnace Draft of the Boiler through automatic control loops.

In addition to the FD Fan, two(2) Primary Air Fan of 100% capacity each shall be provided for transportation of fuel with one working and one standby.

The Boiler would be top supported type and would be provided with all supporting Steel platforms, galleries and stairways for easy approach and Maintenance of the Unit. Adequate weather protection would be provided for instruments and operating personnel. Necessary insulation along with skin casing to limit outside surface temperature to the safe level would be provided.

Capacity	TPH	54
No of Steam Generator	Nos.	1
Superheated Steam pressure	Ata	67
Superheated Steam temperature	°C	490 _+ 5
Feed water temperature	°C	120
Flue gas outlet temperature at AH outlet	°C	140

Fuel used:	
Main fuel	Biomass and fossil fuel with Ash : < 12%, Sulphur : < 3%, CV : > 5500 K.Cal/kg
Performance fuel	As above
Startup fuel	Light Diesel Oil

The AFBC Unit conforms to IBR requirements and shall include but not limited to the following so as to make it a self contained Unit from Operational, safety and Maintenance point of view:

- Supporting Structures, platforms, stairs, grating, hand railings as called for.
- Integral pipings and valves.

- Mountings
- Drains and blow down line with blow down tanks and vent stack up to safe elevation.
- Safety valves exhaust piping and Start Up Vent Valve escape piping with silencers up to safe elevation
- Motorised Main Steam Stop Valve, Start Up Vent Valve and Blow Down Valve.
- Continuous Blow down and Intermittent Blow down drains shall be routed through one master drain.
- Blow down recovery System including flash recovery System shall be provided.
- Associated ducting between Eco outlet – ESP inlet, ESP outlet – ID Fans inlet, ID Fans outlet – Chimney with supports, expansion joints etc. as required in The entire circuit.
- 2x100% MCR capacity ID Fans (one working and one standby) with drives, couplings and regulating type Power cylinder operated Inlet Damper and on/off type outlet dampers.
- 2x100% MCR capacity FD Fans (one working and one standby) with drives and Inlet Guide Vane (IGV) Control.
- 2x100% MCR Primary Fans (one working and one standby) with Drives and Regulating Damper at the Suction Side of the Fan.
- Manhole doors, Inspection doors at necessary places as required.
- Ash collection hoppers with gates having 8 hours holding capacity.
- Insulation and cladding as necessary (Surface temperature not to exceed 15 °C over ambient of 50°C)
- Canopy side sheeting and rainwater down comers from roof with MS gutters as required.
- All special tools and tackles.
- The AFBC shall be able to start-up with cold and undeaerated water.
- Steam Drum shall have adequate storage capacity, minimum storage being of 2 minutes between recommended normal level and permitted low level at MCR.
- The gas velocity, temperature & pressure profiles shall be so chosen so as to take care of problems of Tube erosion and compatibility with furnace back end temperature.
- Flue gas temperature at ESP inlet shall be maintained at 140°C.

Deaerator

The Unit of will have it's own Deaerator. One Deaerator positioned in the Power House Building at around EL 14.0M level will be in service to cater to the requirement of the Unit. The Deaerator shall be of spray and tray type. The Trays and other internals will be of S.S.304 construction. The Storage Tank shall be on saddle support and its holding capacity shall be of 20 minutes. The Deaerator outlet water temperature shall be around 120° C. Location of the Deaerator with reference to the BF pumps has been indicated in the enclosed Plant Arrangement drawings. Condensate discharging to Boiler Feed System is to have oxygen content limited to 7 ppb. Each Deaerator, its storage tank and the

vent condenser shall be properly insulated and cladded. The Deaerator design shall conform to HEI requirement.

Feed Storage Tank (Fst)

The Feed Storage Tank of the Deaerator shall be on saddle supports and its holding capacity shall be commensurate with the Steam Generation capacity of the AFBC Boiler. FST shall have overflow, drain, level control and gauge glass connections.

HP & LP Chemical Dosing System

The Unit will be provided with a Skid mounted positive displacement type HP chemical dosing pump with drive, chemical mixing and metering tank with motorised stirrer and associated pipings and valves, other accessories, MCC/Starters and complete in all respects so as to perform as a self contained Unit. Each Unit will be provided with Skid mounted positive displacement type LP chemical dosing pump with drive, chemical mixing and metering tank with motorised stirrer and associated pipings and valves, other accessories, MCC/Starters and complete in all respects so as to perform as a self contained Unit. Each System will have 2 x 100% pump configuration with one working and one standby.

Boiler Feed Pumps

Pump configuration for the Unit shall be 2x100 % MCR- one working and one standby for supplying Boiler feed water to the AFBC Boiler Economiser Inlet. Each pump shall be of horizontal multistage split casing type designed with a margin of 5% on the calculated capacity and 5% on head. Each pump shall be provided with Mechanical Seal System, balance chamber leak off and Re-circulation line with ARC valve.

Bearing Oil Cooling System.

The drive motor shall be connected through a gear coupling.

Local Control Panel.

Pipings And Valves

Enclosed site plan and Plant arrangement drawings are to be referred for purpose of economic layout of Station Piping Systems.

The Piping System as indicated below will be complete in all respects with supports, hangers, secondary Steel for hanger supports, motor operated/ manual valves, drain valves, flow nozzles as and where applicable, insulation and cladding as required.

- Spray Control valve station (One working and One stand by) with associated piping for Steam Temperature Control.
- Boiler Feed Suction lines.

- Boiler Feed Discharge lines with Feed Control Stations having 2 x 100 % duty Feed Control Valves (One working and one stand by) and 1 x 25% Control Valve with all accessories and mountings for each Unit.
- Boiler initial filling line with pump.
- Deaerator initial filling line.
- Deaerator make up line.
- Deaerator overflow /drain line.
- Steam Blowing piping.
- Alkali Boil out and Acid cleaning piping.
- Temporary flushing line

SWAS Package

The Unit will be provided with online pH & Conductivity measurement complete with coolers, cooling water lines, pH and Conductivity meters and transmitters, recorders for remote indication for the following:

- Feed water
- Saturated Steam
- Superheated Steam
- Condensate
- Blow down water
- On- line Dissolved Oxygen Analyser for feed water at Deaerator outlet.
- On- line Silica Analyser for superheated Steam

Electricals And Instrumentation

- Local Push button stations, Lockout switches for all drives and MCCs.
- All field instruments and accessories, as required.
- All necessary Instrument Tapping points in Pressure Parts, Gas Passages including Performance and Acceptance test points, hydro test connections etc., with root valves and Impulse Pipings, as required, for transmitter mountings/ instrument standpipes.
- All compensatory Cables, signal Cables as required will be laid over Cable tray and are to be terminated in respective local junction boxes. All such Cables laid around hot zones shall be adequately protected.
- All drives, dampers etc. shall have the provision for interfacing with station DCS.
- All local panels, push button station etc. shall have weatherproof enclosure for out door installation.
- All field instruments shall be weather proof and DCS compatible.
- All motors shall be selected such that a margin of at least 15% is provided over the maximum absorbed Power required at the coupling end & duty point.
- LEVCON make Port type Drum Level Gauges.
- "HYDRASTEP" for remote Drum level monitoring & measurement for the Boiler.

Steam Turbine Generators and Auxiliaries

Steam Turbine

The Steam Turbine will be of Condensing, Multistage and Extraction type. The Unit should be essentially provided with Electric Turning Gear System having auto disengagement and hand barring facilities.

The set will be complete with Woodward Electronic Govening System, Turbine Supervisory System for measurement and monitoring of Shaft Vibration and Axial Shift.

The Turbo Generator Unit shall also include but not limited to the following so as to make it a self contained Unit from Operational, safety and Maintenance point of view:

- Lube Oil System consisting of Shaft Driven Main Oil Pump, A.C. Motor Driven Auxiliary Oil Pump, DC Motor Driven Emergency Oil Pump, Duplex type Oil Cooling System, Duplex type Oil Filters separately for Control and Lube Oil System, Oil Heater, Oil Centrifuge and a Oil Reservoir with necessary Vents, Drains and Level Indicators.
- Condensing System comprising of Surface Condenser with Hot Well, 2 x 100% Condensate Extraction Pumps with Drives of vertical configuration, 2 x 100% Steam Jet Air Ejectors and Hogging Ejector with Silencer.
- Depending on the selection of Turbine and Generator, the Unit may need a Gear Box to be positioned between Turbine and Generator. In such an event the Gear Box shall be of double helical type with couplings (for high speed and slow speed ends) and provided with proper covers.

Generator

It will be rated for 13.8 MW with 0.8 lagging Power Factor and delivering Power at 11 KV, 3 Phase, 50 Hz Star connected in IP55 enclosure. The Generator will be provided with brushless excitation. It shall be capable of operating in Isolation or in parallel with Meghalaya State Power Grid, with Voltage Variation of (+) 5% to (-) 5% and Frequency Variation of (+) 3% to (-) 5% with Short Circuit ratio of around 0.7. Each Generator shall have class F insulation and shall be designed for CACW Cooling. All Six Terminals of each Generator shall be brought out and shorted. The neutral point will be grounded through a Resistor. The Generator shall be connected through Isolated Phase Bus duct to the Generator Transformer which will be provided with an "On-Load" Tap Changing Gear of ± 10% range.

The Generator shall be complete in all respect with following sub systems :

Excitation System

The Excitation System envisaged will be either static or brushless type. The Excitation System shall be capable of supplying the Excitation Current of the Generator under all condition of Operation of Load, Voltage and Power.

- Rated current and Voltage of the Exciter shall be atleast 120% of normal Excitation Current and atleast 110% of no Load Excitation Voltage with maximum of 140% ceiling.

The Exciter response ratio shall be greater than 1.5. The Field Breaker and Field Suppression System will also be part of Exciter System.

Automatic high speed Thyristorised, Auto Manual Voltage Regulator, capable of maintaining Steady State Terminal Voltage within ± 0.5% of the preset Value under all Operating Conditions and capable of smooth and continuous running over the Operating Range.

The Generator shall be provided with Temperature Detector embedded at different location, i.e. Stampings, Stator Windings, etc.

- Generator Relay, Metering Control cum Synchronous Panel.
- Neutral Grounding Resistor Cubicle with Motorised Isolator.
- Bus Duct between
  - Generator – Generator Breaker Panel
  - Generator – NGR Panel
  - Tap off for LAVT

  The Bus Duct shall be phase-segregated type with rigid and flexible connectors and space heaters.
- Lightning Arrestor and Surge Protection Cubicle.
- CT & PT for Protection, Metering and Voltage Regulation.
- TG MCC.
- Push Button Stations with Lock-out Switches.

CHAPTER – VII
ELECTRICAL EQUIPMENT/SYSTEM

System Design

Power Supply Voltage

The following Power Supply standard voltage levels will be adopted for the various System.

i)	Evacuation and Transmission	:	33 KV, 3 Phase, 3 Wire 50 Hz, Solidly earthed
ii)	Generator Output	:	11 KV, 3 Phase, 3 Wire 50 Hz, Resistance Earthed
iii)	Station Supply	:	415 V, 3 Phase, 4 Wire Solidly Earthed
iv)	A.C.Drive Motors	:	415 V, 3 Phase, 3 Wire Solidly Earthed
v)	Instrumentation and Control including Protection inter locking System	:	110 V, 1 Phase 2 Wire 50 Hz A.C., (Battery Backed up UPS System)
vi)	Control & Protection of HT and LT Switchgear and D.C. Drives	:	110V, 2 wire Unearthed D.C.
vii)	Panel Lighting and Space Heaters	:	240 V, 1 Phase, 2 Wire 50 Hz, A.C. with one Point Earthed
viii)	DCS/PLC Power supply 50 Hz, A.C. Stablised	:	110 V, 1 Phase, 2 Wire through Battery Backed up UPS System
ix)	Welding Socket Outlets	:	415 V, 3 Phase, 50 Hz. A.C.

Permissible Variations

The System / Unit / Plant / Equipment has been envisaged to be designed suitable for following variation in voltage and frequency:

	VOLTAGE	FREQUENCY
Permissible variation with rated performance and control effectiveness maintained	_+10%	_+5%
Permissible variation for control and regulation Equipment with rated performance and control quality maintained	_+10%	_+5%
Permissible voltage dip at switchgear bus during starting of Motors	(-)15%	

Basic Insulation Levels

The basic insulation levels considered for different Equipment s are :

NOMINAL VOLTAGE (KV)	BIL (KVp)	P.F. Voltage Withstand Level (KV)
33KV	170	70
11KV	75	28
0.415	---	3

Symmetrical Short Circuit Rating

The three phase symmetrical short circuit ratings of the switchgear at different voltage levels will be as follows :

Nominal Voltage	Breaking Capacity	Making Capacity
33 KV	31.5 KA	80 KA
11KV	40 KA	100 KA
415V	50KA	120KA
110V DC	10 KA	---

The rated short circuit withstand duration for 33KV & 11KV switchgear shall be 3 sec. wheras for others 1 sec.

Criteria for Selection of Voltage Levels for Drives

Motors of ratings up to 250 KW will be fed at 415 V, 3 phase 50 Hz, with DOL /Star Delta / Soft start as applicable.

System Earthing

All System excluding 11KV will be solidly earthed at the star point of Wye connected winding of Transformer. 11KV system as well as Generator Neutral shall be earthed through Neutral Grounding Resister only.

Electrical Auxiliary System

The electrical Auxiliary System has been designed considering available short circuit levels, switchgear duties, voltage dips on Auxiliary buses for the various operating conditions. The impedance values of the Transformers have been selected with a view to limit fault level and voltage dips. The selection of tap changing gear for System Transformer and Auxiliary Transformer, is done according to System voltage variation requirements.

The Single Line Diagram Of Power Distribution System interfaced with Proposed CPP unit has been shown in Drawing no. AKB/07-04/11/E-1.

Electrical Control, Annunciation System

The control annunciation and instrument of Electrical Equipment will be provided at the following control stations :

i) Captive Power Plant Control Room
ii) Local Control Station

Captive Power Plant Control Room

All equipment / devices essential for safe and reliable operation of the CPP shall be controlled from the Control room with DCS based interfaced PC and Key Board. Facility shall be provided also for selective Manual Control from Local Control station / Respective Switchgears / MCCs.

Layout of Electrical Plant

The layout of Electrical Equipment will be provided with consideration of safety, ease of movement and with standard clearances stipulated. 16MVA Step up cum Step down Transformer and CPP Auxiliary Transformer will be located within the existing 132/33KV Substation adjacent to TG Building. CPP LTPCC and MCCs shall be suitably located in different locations / floor levels of TG Bulding.

Cables will be routed through RCC trenches in Transformer yard and 33KV Substation areas. As deemed necessary in some places Cables will be laid on over head pipe racks or otherwise supported on Structures.

Electricals

Presently Power is being drawn from Meghalaya State Electricity Board (MESEB) at 132KV. After step down to 33KV through thorugh 16/20MVA , 132/33KV System Transformer. At 33KV there exists 2 x Ferroalloy Plant Aux, Transformer Feeders, 2 x Capacitor Bank Feeders, 2 x 9MVA Ferroalloy Furnace Feeders.

CPP output at 11 KV (12MW / 15MVA) will be connected to 33 KV Bus through dedicated 16MVA step up cum Step down Transformer.

The CPP Auxiliary Transformer will be fed from 11KV System. 33KV Grid source Power shall be stepped down to 11KV by 16MVA proposed transformer to feed 2MVA CPP Auxiliary Transformer for start up Power.

Once CPP is started synchronization will be done at 11KV bus.

In case of non availability of Grid source Power during Start Up of CPP existing 2 x 750KVA DG sets can be paralleled to arrange start up power to the tune of 1000KVA.After start up through DG source the CPP auxiliary loads can be transferred to CPP auxiliary Transformer Source through momentary paralleling.

Islanding Relay comprising of df/dt and dv/dt features will be required to be incorporated in the 132KV Substation Circuit Breaker Control so that CPP can Island along with in-plant load when variations of Frequency and Voltage in grid go beyond acceptable limits of CPP Unit.

The Single Line Representation of Total Power Distribution including existing and proposed new additions has been shown in attached drg. no. AKB/07-04/11/E-1.

The Generator Relay Metering and Protection Circuit shall be as per prudent utility practice and in line with the attached drawing no. AKB/07-04/11/E-2.

13.8 MW, 11KV, 1500 rpm, Power Factor = 0.8, Air Cooled

Generator will be installed for the CPP along with Brushless Excitation System [consisting of Pilot Exciter (PE), Main Exciter (ME), Shaft mounted Rectifier Wheel], air cooling System, other accessories like LASCVT (Lightning Arrestor Surge protection Capacitors and Voltage / Potential Transformers), NG (Neutral Resistor, Neutral Isolator) Cubicle, Automatic Voltage Regulator (in Control Room) Cubicle. Generator shall be connected to 11 KV switch Gear on the line side (having Tapping in between for LASCVT Cubicle) & NG Cubicle on the neutral side by phase segregated Generator Busduct with MS enclosure and E-91 E grade Aluminium Bas bar. Generator Measurement and Protection CTs (Current Transformers) both on line & neutral sides shall be ring core type mounted in side Busduct. The Generator Busduct shall be of 12 KV Class, 1000 A Continuous rating, 40KA for 3 second short time rating. The Temperature rise of Busduct shall be limited to 40°C of Busbar and 10°C for the enclosure.

The Step-up of CPP output at 11 KV upto 33 KV shall be effected by one no. 16 MVA 33 / 11 KV ONAN / ONAF Dyn11 Step-up cum step-down System Transformer with on – load – Tap changer (100% load flow capability on both directions) having variation range of ± 10% @ 1.25%.

The CPP Auxiliary Transformer shall be 2 MVA, 11 / 0.433 KV ONAN Dyn1 Distribution Transformer with Off-circuit Tap changer having variation range of ± 5% @ 2.5%.

415V System

CPP Auxiliary Plants and Systems (covering AFBC Auxiliaries, TG Auxiliaries, Water Treatment & DM Plant, Cooling water System, all Auxiliary services like miscellaneous Pumps , Illumination, Plant communication, Fuel Handling System, Ash Handling System) shall be fed by a 1 No. 2 MVA aforesaid Distribution Transformer.

LTPCC having source from above 2 MVA Transformer shall feed power to the following :

- Boiler MCCs
- Turbo-Generator MCC
- Fuel Handling MCC
- Ash Handling MCC
- Raw Water P/H MCC

- Service MCC
- Compressor MCC
- Boiler Feed Pump Motors
- Induced Draft Fan Motors
- Forced Draft Fan Motors
- Circulating Water Pump Motors
- Power Distribution Board for Electrostatic Precipitator
- Lighting Main Distribution Board
- Main Power Distribution Board for welding sockets

Outgoing Motor Control feeders in LTPCC shall have 415V Air Circuit Breakers & Motor Protection Relays and Star Delta / Soft Starter as applicable.

LTPCC Main PDB and MCCs shall have busbars and associated Equipment suitable for 415V± 10%, 50 Hz ± 5%, 3 Phase, 4wire System with short time rating of 50KA for 1 second. The Busbar shall be Aluminium with temperature rise limit of 40°C.

All other drive motors shall be have starters in relevant designated MCCs relevant for the specific Systems. Water Treatment MCC shall be part of Raw Water P/H MCC/C.W MCC either as part or as separate entity with appropriate LT PVC Cable Connection. Similarly Fire Water Pumps, if any shall have starters in Sub – MCC fed from Raw Water P/H MCC.

415V System is effectively earthed System i.e. solidly earthed System.

One no. CPP Emergency MCC has also been envisaged having normal source from LTPCC and Duplicate source from DG Set Bus. In case of total Power Failure for safe shut down of the Turbine, Emergency Illumination etc. this emergency MCC shall be switched on to DG source automatically.

D.C System

One no. 400AH, 110V, SMF Lead Acid Battery set has been envisaged considering Estimated DC load pattern.

2 x 100% Float cum Boost charger shall be provided based on peak DC load plus Float charge current requirement of battery.

110 V D.C. Distribution Board shall be provided for feeding D.C loads. D.C loads comprise of Emergency loads :

Essential to be maintained for safety of Turbine and AFBC Boiler even when there is total AC Power failure

Emergency Lighting

DC for Control & protection circuits related to circuit breakers.

D.C System is unearthed System.

Illumination System

Illumination System for total Plant and area lighting within the boundary wall shall be provided keeping in view of the Lux levels of various areas as per relevant Indian standards.

Public Address System & Intercom

Comprehensive Public Address & Intercom System shall be provided with facility of P&T interface for different floors of Power Plant Building, other CPP Auxiliary areas.

Cables, Cable Trays & Cable Trenches

Cables for Breaker operated feeders shall be chosen based on :

- Load current with de-rating factor for ambient temperature, mode of laying, grouping factor etc.
- Short time current rating with 0.2 seconds withstand time.

Cables for Switch-fuse controlled feeders shall be chosen based on :

- Load current with de-rating factor for ambient temperature, mode of laying, grouping factor etc.
- 33/19KV, XLPE insulated, Conductor & Insulation screened, Aluminium Conductor , PVC inner and outer sheathed Cable shall be used for 33KV System Power connections. Armour shall be GI for three core Cable and aluminium for single core Cable.
- 1.1KV, Heavy duty PVC insulated, Aluminium Conductor , PVC inner and outer sheathed Cable shall be used for 415V System Power connections. Armour shall be GI for three core Cable and single core Cable shall be un armoured.
- 1.1KV, Heavy duty PVC insulated, Stranded Copper Conductor , PVC inner and outer sheathed Cable shall be used for 415V System control connections. Armour shall be GI.
- 660V, PVC insulated, Stranded Copper Conductor, Screened & armoured Cable shall be used for Signal Cables.
- 660V, pair and/or triad twisted Cable shall be used for thermocouple connections.

Cables shall be generally laid in overhead Cable trays / Cable trays in RCC trenches, Cable trays in pipe trestles. Cable trays inside the Building shall be GI prefabricated trays on fabricated, treated & painted tray MS supports. Cable trays outside Buildings along with supports shall be of fabricated, treated & painted tray MS materials.

Earthing System

As per prudent utility practice Estimated 36 / 40mm dia MS rods have been envisaged for making the underground Earth Mat at excavation level with 36 / 40dia. Earth spikes down under up to minimum water table. From the mat risers , also by 36 / 40mm MS rods shall be brought up to the level of +300mm above finished floor level of Ground Floor. Earthing grids above Ground Floor Level shall be formed by 50 x 6mm GI strips in different areas and floor elevations connected to the earthing risers of 40MM dia. Rod. All Equipment and devices will be connected to the earth grids at least with two connections as per Indian Electricity rules.

Separate duplicate Pit Earthing with Copper perforated pipe shall be made for Electronic earthing. The pit will be constructed according to National Electricity Code.

It will be ensured that Step & Touch Potentials as well as maximum Earth Network resistance shall be kept with in the statutory norms.

Instrumentation & Control Equipment

Instrumentation & control System will be using state-of-the-art microprocessor technology and based on High MTBF, Redundant Functional Distributed Digital Control System. To achieve proper man-machine interface requirement, integration of functions of Plant monitoring, control, data acquisition and information System will be made. The measurement System, alarm System open loop System, closed loop System, sequential event recording System and process information computer System will form part of the comprehensive integrated instrumentation & control.

Digital control Systems will be backed up by limited number hardwired control, annunciations, conventional indicators, meters in case of very essential items of AFBC Boiler and Turbo-Generator functions based on Plant Operation requirement.

Total no. of digital & analog I/Os (Input & Output modules) shall commensurate with the safe, reliable and efficient working of the units.

The System will consist of but not limited to :

- Digital control System(Power Supply, processing, logic input and output modules) cabinets.
- Engineer's console having Control Desk with facility of software for Operational logic & setting adjustments, monitor Unit, dot-matrix printer etc.
- Operator console having Control Desk , monitor, printer etc.

Uninterrupted Power Supply Unit (UPS)

110V AC Single Phase UPS will be required for Instrumentation & Control system in general and DCS cabinet in particular. It is also required for PLC

(Programmable Logic Controllers) pertaining to fuel Handling Plant, Ash Handling Plant, D.M.Plant as well as Soot Blowing System of AFBC.

UPS shall comprise of 2 x 15KVA redundant (i.e. each 100% capacity) Rectifier – Inverter (with common SMF /Ni-Cd battery) Units as well as bypass line with servo-controlled Voltage stabilizer. Facility shall be there for change over among three sources under any condition without any Power interruption.

UPS output shall have harmonics limited to 1% at 100% load and 5% at other Loads.

CHAPTER – VIII
CIVIL AND STRUCTURAL

Civil Works

Topographical Features of Site

The proposed Plant will be located in the premises of the existing Steel Plant Complex at Byrnihat, Meghalaya. It will not require any filling and cutting and the site is graded and leveled.

Soil Characteristics

Soil investigation report is available. The Soil characteristics signify that only pile foundations are to be considered for all Buildings and major Equipments.

General Consideration for Building and Structures

Following major Buildings and Structures for this Project have been envisaged.

Power House Building and Annexure

The main Power House Building will be of Steel construction with brick cladding. Rein Forced concrete foundation will be provided for all Steel structural Building columns, Equipment foundation and other Structures. Operating floor at different levels will be of reinforced concrete slab supported on Steel beams and will be provided with necessary cutouts and inserts to suit technological requirements. The Building will have precast RCC roof slab supported on structural Steel frame work. The precast roof will be made water proof. Heat insulation will be ensured by providing foam concrete with water proofing treatment. All stairs adjacent to TG area will be enclosed to ensure safety against fire hazards.

Deaerator and Control Room bay will be multistoried structural Building with brick cladding and precast roof slab. RCC foundation will be provided for structural columns. RCC floor slabs at different levels will be provided on Steel beams and columns. The foundations for Deaerator will be provided on top slab. The slab will be provided with necessary inserts and cutouts.

The Transformers will be installed in the open area. Foundation for installation of Transformer will be provided along with RCC oil pit and Cable trenches etc.

RCC foundation will be provided for all Equipment , Boiler, Turbo - Generator etc. All vibratory Equipment foundations like Turbo - Generator, Compressor etc will be isolated from the adjacent column foundations.

One RCC Chimney of requisite height in line with Pollution Control Stipulations will be provided having refractory brick and insulation lining and RCC windshield.

Cooling Tower Basin and other Civil Works will be of RCC construction. Basin will be of dense watertight reinforced concrete construction. The Super Structure shall be of treated Wood.

The Compressed Air Station Building will be in Steel construction with filler brick walls. Reinforced concrete foundations will be provided for columns and Equipment . Roof slab will be of precast RCC and will be rendered water proof.

The DM Water Plant Building will be of RCC construction with filler brick walls.

The Circulating Water Pump House in required size will be of RCC construction with filler brick walls. Roof of pump house will be of structural construction. All underground basement, sumps are considered of dense watertight reinforced concrete construction.

Design Features

All Civil Engineering design will be based on the norms laid down in relevant specification on Indian Standards. Where such norms are not available in Indian Standards, the relevant International Standards will be adopted.

The Plant area falls within zone having maximum basis wind speed of 11.8 m/sec. It also falls under seismic zone no. 2. The Building and Structures will be designed for such wind and seismic loads along with technological loading requirements.

Foundations of all Structures have been considered to be either piled / open isolated or mat footings over leveling course, depending on its Nature and Load being transmitted to ground.

Concrete of mark M-25 will generally be used except for RCC chimney, cooling towers, Turbo Generator foundations etc. where higher grade of concrete will be used. Reinforcement will be of high strength deformed bars conforming to IS : 1786-1985.

All foundations and concrete Structures shall be designed to resist full operating dead and live loads, with appropriate combination of wind and seismic forces and with due allowance for impact, vibration etc. as secondary effects of live loads, temperature variation etc. While designing Structures and foundations, either the effect of seismic forces or wind loads, whichever produces the worst effect, shall be considered along with usual load conditions.

Constructional Features

Concrete works shall be generally in caste-in-situ. The precast concrete shall be used in roof of Power Plant, drain covers etc. Ordinary Portland cement will generally be used. All construction shall conform to prevailing standards and practices for quality and safety.

All underground and water retaining Structures shall be of water tight construction. The water proofing, wherever found necessary, shall be done by pressure grouting with non-shrink polymeric water proof grouting compound as per manufacturer's specification.

Locally available good quality bricks having minimum crushing strength 5 N/mm^2 shall be used.

Flooring

Flooring shall be provided to suit the functional requirement of the Buildings. In general all floors on ground shall be of concrete with nominal requirement laid over soling course. Paving shall generally consist of reinforced cement concrete supported on hard core.

Finishing

Granolithic floor finish shall be provided in the Buildings in general. The Control Room, laboratory, turbine hall etc. shall be provided with terrazzo floor finish. For heavy duty floors, Ironite topping shall be provided.

The masonry walls of Buildings shall be plastered with cement mortar. The external surface of all the Buildings shall be painted with two coats of super snowcem paint over a coat of primer and the internal surface shall be given two coats of white wash. Superior finishing shall be given to the walls of laboratory, Control Room etc. as per the requirement.

Roof Treatment

Generally, all RCC roof slab shall be provided with seven courses of water proofing treatment with glass fibre base felt laid on screed concrete. If required from functional point of view, lime concrete roofing with pressed clay tiles will be used.

Doors and Windows

Steel doors and windows, rolling Steel shutter, air tight and fireproof Steel doors with two coats of synthetic enamel paint over two coats of primer shall be provided in the Buildings to suit technological requirements. Special areas like Control Rooms shall be provided with aluminium doors and windows.

Drains

All storm water drains shall be of concrete construction. RCC box culverts/pipe culverts shall be provided at all crossing with roads. All manholes, inspection pits, etc. shall be of reinforced concrete construction with covers.

Structural Works

Structural Steel work will cover Steel construction in Columns, Crane girders, Roof trusses, Bracings, Platforms, Stair cases, Ladders, handrails, Gutters, Down take pipes etc.

Steel Structures are envisaged in the Turbine Hall Bay, Deaerator Bay, Working Platform and in Auxiliary Buildings like Pump House.

Steel Structures will be designed to meet the Technological requirements and general conditions of the Project.

Design of Steel Structures will be carried out as per IS : 800 – 1984 and superimposed loads for design will be according to IS : 875 –1987

All Structural Steel will conform to IS : 2062 – 1992 Grade A or Grade B as per requirements of design.

Steel Structures will generally be of Welded Construction at shop. Site connections and Splice Joints will be made by Bolting followed by Site Welding.

Fabrication of Structure will conform to IS : 800 – 1984 and other relevant standards mentioned therein

All Steel Structures will be subjected to inspection for acceptance by the Purchaser / Purchaser's authorised representative.

Erection of Structures will be carried as per IS : 800 – 1984 and other relevant standards, Drawings and Specifications. The Erection tolerance will be within standard specified limits.

Painting

All fabricated Structures will receive one coat of primer paint at shop after inspection. After Erection the Structures will receive another coat of the same primer and two coats of finishing paint. All paints will be of approved colour and quality.

All surfaces will be thoroughly cleaned of dirt, grease, rust and mill scales before application of paint. Areas which become inaccessible after assembly will be painted before assembly after cleaning of surfaces as described above.

CHAPTER – IX
MANPOWER REQUIREMENT

Man Power requirement has to be assessed on the basis of :

- Arrangement of Plant as conceived.
- Service facilities available.
- Number of Plant operating shift.
- Extent of mechanization.
- Philosophy of control.
- Executive oriented Operational practice.
- Executive oriented Maintenance planning. Condition monitoring and predicative Maintenance practice.
- Preventive and breakdown Maintenance through contracts under supervision of Plant executives.

For the Operational and reliability point of view, the Plant has to be operated on three shifts basis. It would, therefore, be recommended that to handle the Plant and Equipment and to run this smoothly, efficiency and safety, at least the basic Operation and Maintenance staff will be drawn from trained personnel having experience in Operation and Maintenance of the similar Plant and Equipment . The new recruits are to be given requisite training. Imparting of such training will have to be discussed and agreed with the related Plant supplier.

The Operational architecture of the CPP will be such that the Turbo-Generators, AFBC as well as Waste Heat Recovery Boilers and their Auxiliaries will have remote Operation and control facilities, there by reducing manual interference level to minimum.

However, for Station Management, Operation of the outside service facilities like fuel Handling Plant (for AFBC Boiler only), Ash evacuation System from the Ash Silo etc. as well as for day to day preventive Maintenance of the Plant, necessary man power has been considered. The Estimated number of technical personnel required is around 45 comprising 32 executives, 8 skilled workers and 5 semi-skilled and unskilled workers.

CHAPTER – X
SCHEDULE OF IMPLEMENTATION

General

The implementation of a Project depends, to a large extent, upon the method of procurement of Plant and Equipment, methods and materials employed for construction and Erection at site, availability of funds, etc. Therefore, a well defined and elaborate System of Project implementation has to be followed. The implementation plan will involve right from inception to completion and commercial Commissioning.

Implementation Schedule

From the date of ordering for critical equipment like Boiler & Turbine (May/June 2004), total time for completion of the project is estimated to be 15/16 months. The detailed schedule for major activities is given hereunder through Activity Chart.

Activity	Commencement	Completion
Project Conceptualisation, Finalization of consultancy Firm Basic Engg, & System Finalisation	Feb, 04	Sep, 04
Civil Work & Structural Work	Jul, 04	Mar, 05
Plant & Machinery:		
Offers from suppliers	Mar, 04	Oct, 04
Ordering	May, 04	Dec, 04
Delivery	Jan, 05	Jul, 05
Erection	Feb, 05	Aug, 05
Commissioning	Aug, 05	Sep, 05
Electrical, cabling, Lighting	Apr, 05	Aug, 05
Pipeline, Water & Air	Feb, 05	Aug, 05
Commercial Operations	October, 05	

SCFL is already having team of technical personnel who are having experience in setting up similar units. Moreover, the directors are experienced in setting up similar manufacturing units. SCFL has also identified the manufacturers/suppliers for the critical equipments and also placed orders for some of the most critical equipments like Boiler and Turbine. In view of director's experience and capability and arrangements made by the SCFL, no difficulty is envisaged in successful and timely implementation of the project.

CHAPTER – XI
MANAGEMENT & ORGANISATION STRUCTURE

The responsibility of the overall administration of the organisation rests with the Board of Directors. The Board presently comprises as under:

Name of the Director	Position
Mr. Sajjan Bhajanka	Chairman
Mr. B. Bhushan Agarwal	Vice Chairman
Mr. Sanjay Agarwal	Managing Director
Mr. Kiran B. Sapat	Dy. Managing Director
Mr. Hari Prasad Agarwal	Director
Mr. Ajit Jana	Director
Mrs. Plistina Dkhar	Director

The day to day affairs of the company are being managed by Mr. Sanjay Agarwal, Managing Director who is having 5 years experience in ferro alloys and steel industry.

The plant operation and general administration of the plant including liasioning with various govt. departments, is being looked after Mr. Kiran B. Sapat, Dy. Managing Director. Mr. Sapat, a science graduate, is having over 35 years industry experience with last 10 years in Ferro Alloys. Mr. Sapat is also serving as Director of confederation of industries in Meghalaya.

SCFL is having a team of experienced and qualified executives to assist the Board of Directors. Bio data of key executives is given hereunder:

Mr. M. V. K. Nageswar Rao, B.Sc, General Manager (works)
Mr. Rao is responsible for all operational functions of the factory from marketing to manufacturing. Guiding and supervising day to day operation of the factory by interacting with all heads of departments. Mr. Rao is having over 20 years experience in Ferro Alloys industry.

Mr. Suranjan Dasgupta, B.COM, Marketing Manager
Mr. Dasgupta has also done Dip in Marketing Management from IMM. He is responsible for marketing aspects of the company. He is having over 10 years experience in the field of marketing.

Mr. R. Kesavan, Diploma in Mechanical Engg.Boiler operation engg, Project Manager
Mr.R. Kesavan has been appointed as Project Manager for the Captive Power Plant. He is having 17 years experience in erection, commissioning, operation and maintenances of various type of Boilers, Steam Turbine, Cooling Tower, Compressors and D. M. Plant.

In view of experience of the directors in the line of activity and existence of a professionally qualified and experienced team, no difficulty is envisaged in successful operations of the proposed unit.

CHAPTER - XII
COST OF PROJECT AND MEANS OF FINANCE

Cost of Project

The cost of the Project has been estimated at Rs. 36.00 crore under the following heads :-

Particulars	Rs. lacs
Civil Works	377.00
Plant & Machinery	2775.00
Pre-Operative Expenses	209.00
Provision for Contingencies	187.00
Margin for Working Capital	52.00
TOTAL	**3600.00**

The detailed cost of each item under the above mentioned heads has been furnished in **Appendices II to V**.

Means of Finance

The cost of project of Rs. 36.00 crore is proposed to be financed as under :-

Particulars	Rs. lacs
Promoters' contribution:	
- Equity Share Capital/ Internal Accruals	900.00
Term Loan	2700.00
TOTAL	**3600.00**

The promoters are resourceful having strong net worth and support from their associate companies. SCFL is also having sufficient internal accruals to meet the requirement for the project. In view of good track record and prospects of the unit, SCFL has the option to raise the required contribution by way of a public issue of its shares.

In view of excellent track record maintained by SCFL as well as associate companies, no problem is envisaged in tying up the term loan requirement for the project.

CHAPTER – XIII
ASSUMPTIONS UNDERLYING PROFITABILITY PROJECTIONS

The results of evaluation of the project depend upon cost and profitability projections. The objectives in the estimation of cost of production and profitability are primarily to assess the followings:

- Capacity to amortize and service the borrowed funds.
- Earning capacity of the project.
- Capability to service the share capital
- Surplus available to finance future growth

Installed Capacity

The installed capacity of the existing Ferro Silicon plant is assumed at 13,400 MT per annum based on daily production capacity of 40 MT and 335 working days.

The installed capacity of the proposed Captive Power plant is estimated at 13.8 MW.

Capacity Utilisation

The capacity utilization of the Ferro Alloy Plant for year 2004-05 has been considered @ 60% based on existing operation and availability of power from MeSEB. With the commencement of the CPP, it is assumed that the capacity utilization of the Ferro Alloy plant will be increased by 20% in the year 2005-06 and by further 10% each in the year 2006-07 and 2007-08.

The capacity utilization of the CPP for the 1st and 2nd years of operation has been considered @ 80% and 90% respectively. For the 3rd and subsequent years, the same has been considered @ 100%.

Production/Generation

The production/generation based on above mentioned installed capacity and capacity utilization works out as under :

Items	2004-05	2005-06	2006-07	2007-08 onwards
Ferro Silicon (MT)	8040	10720	12060	13400
Power (Thousand units)	0.00	39281.28*	88909.92	98788.80

* Six months operation

Selling/Transfer Price

Based on average realization for the year 2003-04, selling price (inclusive of taxes and duties) of Ferro Silicon has been assumed at Rs. 45,000/- per MT. Details of sales have been furnished in **Annexure – IV**.

The transfer price of power has been assumed based on power tariff in terms of agreement of SCFL with MeSEB.

Duties & Taxes

Excise duty has been considered @ 12.24% (incl of 2% cess) on Ferro Silicon. The company is enjoying refund of excise duty for a period of 10 years. As per the accounting policy of the company, excise duty refund is considered as a capital receipt. Hence, excise duty refund calculated @ 75% of the excise duty on the finished goods, has directly added to the reserves without considering the same in the profitability projections.

Central Sales Tax is 4%. However, the company is enjoying exemption of sales tax for a period of 7 years.

Raw Materials

Cost of raw materials/Fuels has been assumed based on requirement as per industry norms and prevailing market prices for procurement thereof. Details have been furnished in **Annexure – V**.

Others

Cost and expenses towards salaries and wages, repairs and maintenance etc for the Ferro Alloys Plant has been assumed based on existing operation.

For the first year of operation, annual cost of salaries and wages for the CPP have been estimated at Rs. 42.00 lacs. An annual increase of 5% has been considered in the subsequent years. Details have been furnished in **Annexure – VI**.

Estimate of cost towards power & fuel has been furnished in **Annexure – VII**.

Repairs and Maintenance Expenses for the CPP have been considered @ 0.5% & 0.75% on the gross fixed assets for the 1st and 2nd years. For the 3rd and subsequent years, the same has been considered @ 1%.

Selling and marketing expenses for Ferro Silicon have been considered at @ 5% of the gross sales.

Depreciation on fixed assets has been considered on WDV basis at the rates prescribed in Schedule XIV to the Companies Act, 1956. Details are given in **Annexure – IX.**

Liability for income tax has been calculated as per the provisions of the Income Tax Act, 1961. Details are given in **Annexure – X.**

The proposed term loan is proposed to be repaid in 20 quarterly installments commencing from October, 2006. Interest on term loan has been assumed at 8.00% p.a. and detailed calculations have been given in **Annexure – XII.**

CHAPTER – XIV
CAPITAL COST ESTIMATES

Basis of Estimate
The basis adopted for working out the Capital Cost Estimate has been elaborated in following paragraphs :

Civil Works (incl site development works)
The cost for necessary site developments like leveling, cutting, filling etc. has been provided in the Estimate. In addition, necessary internal roads and drainage etc. have also been covered under this head.

The Estimated cost of Buildings has been worked out on the basis of layout and facilities envisaged for the Project as detailed in the preceding chapters. Rates for Building Structures and Civil Works are based on rates prevailing in the region. Buildings included in the Estimates are essentially for factory category. Buildings for main Plant and Auxiliary services have been included under factory Building. Provision for non-factory Buildings like administrative Buildings etc. has not been included in the Estimate.

Plant and Machinery
The cost Estimates for the Plant and Machinery is based on quotations/Orders wherever available. In other cases, the cost is based on estimate from Technical Consultants. The cost of Plant and Machinery includes, besides the basic cost, cost towards spares, inland freight and insurance. Cost of Plant and Equipment is inclusive of Transportation. Central Sales Tax, Insurance has been provided. Provision has also been made in the Estimate for Erection and foundation of Plant and Machinery.

Miscellaneous Fixed Assets include cost towards Transformer, Switchgear, Bus duct, General Auxiliaries, Shop Electrics, DC System and UPS, Illumination, Telecommunication, Fire Detection System, Air Compressors, Air Receivers and Air Dryer, Air Conditioning & Ventilation, Water Supply facilities including DM Plant and Fire Fighting System, Material Handling Equipment and Office Machinery & Furniture. Erection and Foundation charges for these Equipment have also been included under the head.

Pre-operative Expenses
Provision has been made for pre-operative expenses like Traveling expenses, Establishment expenses, Legal expenses, Consultancy Fees, Interest during construction period, Equipment hire charges, Startup expenses, Insurance during construction period and Other miscellaneous expenses.

Provision for contingency
A Provision of 10% on civil works and 5% on all other items of capital cost has been considered towards contingencies.

CHAPTER – XV
FINANCIAL ANALYSIS

Based on profitability projections from operations vis-à-vis the capital cost estimates and the financing pattern thereof, the financial implication of the project on the company have been analysed hereunder:

CASH FLOW STATEMENTS

Cash Flow Statements upto the year of repayment of term loan have been worked out and the same is furnished in **Annexure – II**. It is observed from the Cash Flow Statements that the generation of funds by the project would leave sufficient surplus, after meeting taxation liabilities and term loan repayment obligations to cater to capital expenditure requirements for replacement/renovation and/or expansion activities of the company in future. The liquidity position of the company is also quite healthy and comfortable.

PROJECTED BALANCE SHEETS

The projected balance sheets have been furnished in **Annexure – III**. It is observed that the Debt equity ratio, TOL/TNW and Current Ratio are well within the benchmark levels of 2, 3 and 1.33 respectively.

REQUIREMENT OF WORKING CAPITAL

Requirement of working capital for the project has been calculated and furnished in **Annexure – VIII**.

DEBT SERVICE COVERAGE RATIO

DSCR for the individual years as well for the project has been calculated and furnished in **Annexure – XIII**. It is observed that the DSCR for the project is above 2, which ensures timely repayment of term loan installment as well as interest thereon.

PAY BACK PERIOD

Pay Back Period for the project has been calculated and furnished in **Annexure – XIV**. It is observed that the pay back period is only 36 months which is quite encouraging.

INTERNAL RATE OF RETURN

IRR for the project has been calculated and furnished in Annexure – XV. While calculating the IRR, cash inflows for only 10 years have been considered and no salvage value has been considered. Based on above stringent parameters, IRR of 28% is well above the prevailing interest rates.

BREAK EVEN POINT

Assuming maximum capacity utilization in the third year of operation, the break-even point of the project has been calculated and furnished in **Annexure – XVI**. The BEP and Cash BEP work out at 41% and 14% respectively which indicate that even if the project operates at a lower capacity, the project will generate adequate profit.

SENSITIVITY ANALYSIS

A sensitivity analysis of the project has been carried out and detailed in **Annexure – XVII**. It is observed that even in extreme eventualities, the project will generate adequate surplus to ensure timely repayment of term loan installments and interest thereon.

SCFL's project has a fairly good profitability and satisfactory debt service coverage ratio, and sufficient cash flows to ensure repayment of term loans as per schedule. The break even point is low indicating a low risk factor as regards the profitability. On the basis of the above analysis, the financial feasibility of the proposed plant of SCFL is established as viable.

CHAPTER – XVI
CONCLUSION

The following are the conclusions from the feasibility study:

- Due to increase in demand for Steel, demand for Ferro Alloys including Ferro Silicon is increasing.
- The proposed plant will be equipped with the latest and most sophisticated equipments.
- With the proposed captive power plant, the capacity utilization of the Ferro Alloy plant will increase.
- The profitability projections indicate that the proposed unit will generate adequate surplus to service the debt.
- The break even level is low.
- A sensitivity analysis has been carried out based on various factors like increase in raw material/fuel cost, decrease in selling price, decrease in capacity utilization etc. The result of the analysis indicates adequate surplus to withstand these pressures.

Based on the foregoing, the proposed captive power plant of SCFL has been found to be technically & operationally feasible and economically & commercially viable.

APPENDIX – I
COST OF THE PROJECT AND MEANS OF FINANCE

COST OF PROJECT

PARTICULARS	TOTAL
Civil Works	377.00
Plant, Machinery and Equipments	2775.00
Pre-Operative Expenses	209.00
Provision for Contingencies	187.00
Margin for Working Capital	52.00
TOTAL	3600.00

MEANS OF FINANCE

PARTICULARS	TOTAL
Promoters' contribution:	
- Equity Share Capital/Internal Accruals	900.00
Debt:	
- Term Loan	2700.00
TOTAL	3600.00

Promoters' contribution for the project **25.00%**

Debt Equity for the project **3.00**

APPENDIX – II
DETAILS OF CIVIL WORKS

Rs. Lacs

PARTICULARS	AREA			COST
Site Development works				
Internal Roads for the Factory (L.S.)				5.00
Fencing (L.S.)				0.50
Drains and Sewers including effluent treatment Pit (L.S.)				5.00
Plantation and land scaping (L.S.)				5.00
Gates (L.S.)				5.00
Culverts and drains (750 Cu Mtrs)				42.75
Total (A)				**63.25**
POWER PLANT BUILDING				
Excavation	3500	100.00	Cu. M	3.50
Back filling with approved earth	2700	75.19	Cu. M	2.03
R.C.C.	60		Cu. M	1.08
RCC Grade M20 in upper floor, roof etc.	1000	3000.00	Cu. M	30.00
Reinforcement	100		Cu. M	27.00
Brickwork	600		Cu. M	9.30
Windows, doors etc.	260		Sq. M	4.16
Plastering	6250		Sq. M	3.75
Flooring	1400		Sq. M	4.20
Painting	4200		Sq. M	2.52
Structural Steel	500		T	160.00
Grating	50		Sq. M	0.70
Plumbing			L.S.	2.00
False Flooring	50		Sq. M	1.50
False Ceiling	50		Sq. M	1.00
Roof Treatment (Foam Cone and Tarfelt)	1600		Sq. M	10.40
Rain water, gutter and drain pipes			L.S.	1.00
Works Piling below foundations of the building (500 mm dia)	7600		Mtrs	50.00
TOTAL (B)				**314.14**
TOTAL (A+B)				**377.39**

APPENDIX – III
DETAILS OF PLANT & MACHINERY

Rs. Lacs

PARTICULARS	Total Cost	Supplier/Manufacturer
I. Main Plant & Machinery		
1) Boiler, TG and ESP	1507.87	Greensole Power Systems, Bangalore, M/s Hangzhou Steam Turbine Co Ltd., China, Cethar Vessels, Tiruchirapalli
2) Fuel Handling Plant	55.00	Reputed Supplier
3) Ash Handling Plant	28.00	Mecgale Pneumatics, Nagpur
4) Cooling Tower, CW Pumps & Motors	218.16	Paharpur Cooling Towers, Kolkata, Watertech Engineers, ION Exchange
5) DM Plant	20.00	
6) Stack	22.00	
7) Miscellaneous Pumps	30.00	
8) Compressor with Air Drier	35.00	U D Marketing
9) Power Plant Pipings, valves ets.	90.00	Multitech Engineers
10) Crane Hoists	22.00	W H Brady & Co.
11) A. C. and Ventilation System	5.00	Reputed Supplier
12) Fire Fighting System	15.00	Reputed Supplier
TOTAL (I)	**2048.03**	
II. Foundation for plant & Machinery	**349.95**	
III. Electricals		
1) Switch Gears, Transformers, DC System, LT Switch Board, Cables Tray, Switch Yard with 220KV Trains. Lines	274.38	Usha Martin, Larsen & Toubro etc.
2) Illumination Plant Area (Both normal and emergency)	20.00	Reputed Supplier
3) Plant Communication	2.00	Reputed Supplier
4) Control and Instruments including Control Desk/Panels DCS and Special Cables	80.45	ABB
Total (III)	**376.83**	
GRAND TOTAL (I+II+III)	**2774.82**	

Note: Cost includes excise duty, sales tax, freight, initial spares, erection & commissioning charges.

APPENDIX – IV
DETAILS OF PRE-OPERATIVE EXPENSES

(Rs. in lacs)

Sl. No	Items	Amount
1.	Travelling Expenses	12.00
2.	Establishment Expenses	10.00
3.	Legal Expenses	2.00
4.	Technical Consultancy Fees	12.50
5.	Interest during construction period	120.00
6.	Equipment hire charges	20.00
7.	Startup expenses	10.00
8.	Insurance during construction period	7.00
9.	Training of operating personnel	15.00
	Total :	**208.50**

APPENDIX – V
CONTINGENCY & ESCLATION PROVISION

(Rs. in lacs)

Sl. No.	Items	Total Projected Cost	% of Contingency & Esclation Provision	Amount
1.	Civil Works	377.00	10.0%	37.70
2.	Plant, Machinery & Equipments	2775.00	5.0%	138.75
3.	Pre-Operative Expenses	209.00	5.0%	10.45
	TOTAL	**3361.00**		**186.90**

APPENDIX – VI
ALLOCATION OF CAPITAL EXPENDITURE

(Rs. in lacs)

PARTICULARS	TOTAL	BUILDING	P & M
Civil Works	377.00	377.00	0.00
Plant, Machinery and Equipments	2775.00	0.00	2775.00
Pre-Operative Expenses	209.00	25.00	184.00
Provision for Contingencies	187.00	22.37	164.63
Total	**3548.00**	**424.36**	**3123.64**

Detailed Project Report for Captive Power Plant

ANNEXURE - I

PROFITABILITY PROJECTIONS (for the company as whole)

Rs. Lacs

	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
Installed Capacity:								
Ferro Silicon (MT)	13400	13400	13400	13400	13400	13400	13400	13400
Power (MW)	0.00	13.80	13.80	13.80	13.80	13.80	13.80	13.80
Production:								
Ferro Silicon (MT)	8040	10720	12060	13400	13400	13400	13400	13400
Power (thousand units)	0.00	39281.28	88909.92	98788.80	98788.80	98788.80	98788.80	98788.80
Expenditure:								
Raw Materials	920.52	1601.29	2222.13	2469.04	2469.04	2469.04	2469.04	2469.04
Stores & Packing	26.61	54.68	61.52	68.35	68.35	68.35	68.35	68.35
Wages & Salaries	66.00	90.30	116.87	122.71	122.71	122.71	122.71	122.71
Power & Fuel	1331.11	1086.02	283.63	335.62	335.62	335.62	335.62	335.62
Repairs & Maintenance	30.00	48.87	77.06	87.28	87.28	87.28	87.28	87.28
Factory Overheads	30.00	43.50	58.28	61.19	61.19	61.19	61.19	61.19
Depreciation	185.95	411.68	615.20	562.86	525.38	496.76	472.05	450.72
Cost of Production	2590.2	3336.36	3434.68	3707.05	3669.57	3640.95	3616.24	3594.91
Administrative Overheads	78.00	87.90	98.60	103.52	103.52	103.52	103.52	103.52
Inc/Dec in inventories	-31.86	-37.95	-25.49	-28.12	0.00	0.00	0.00	0.00
Selling Expenses	179.66	238.69	270.09	300.24	301.50	301.50	301.50	301.50
Cost of Sales	2816.00	3625.00	3777.89	4082.70	4074.59	4045.97	4021.26	3999.94
INCOME								
Sales	3593.25	4773.75	5401.88	6004.88	6030.00	6030.00	6030.00	6030.00
Less: Excise Duty	391.85	520.59	589.09	654.84	632.29	632.29	632.29	632.29
: Sales Tax	0.00	0.00	0.00	0.00	231.92	231.92	231.92	231.92
Net Sales	3201.40	4253.16	4812.79	5350.03	5165.78	5165.78	5165.78	5165.78
Miscellaneous Income (incl income from investments)	25.00	50.00	100.00	100.00	100.00	100.00	100.00	100.00
Total	3226.40	4303.16	4912.79	5450.03	5265.78	5265.78	5265.78	5265.78
Profit before Interest & Tax	410.41	678.17	1134.90	1367.33	1191.19	1219.81	1244.52	1265.85
Interest								
-- Term Loan	65.63	148.63	223.53	167.40	124.20	81.00	37.80	2.70
-- Working Capital	31.50	41.63	47.25	52.88	52.88	52.88	52.88	52.88
-- Others	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Prel. Exp Written Off	0.53	0.53	0.53	0.53	0.53	0.53	0.53	0.00
Profit before Tax	312.75	487.39	863.60	1146.53	1013.59	1085.41	1153.32	1210.27
Provision for Tax	33.14	53.96	88.71	121.39	110.97	116.60	121.92	126.39
Profits after Tax	279.61	433.43	774.89	1025.14	902.62	968.81	1031.40	1083.89
Dividend								
Equity -(%)	5.00%	7.50%	10.00%	15.00%	15.00%	15.00%	15.00%	15.00%
- Amount	69.00	126.00	168.00	252.00	252.00	252.00	252.00	252.00
Gross Cash Accruals	466.09	845.64	1390.63	1588.53	1428.53	1466.10	1503.98	1534.61

Detailed Project Report for Captive Power Plant

ANNEXURE - IA
PROFITABILITY PROJECTIONS (FERRO ALLOYS DIVISION)

Rs. Lacs

	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
Installed Capacity (MT)								
Ferro Silicon	13400	13400	13400	13400	13400	13400	13400	13400
Total working days	335	335	335	335	335	335	335	335
Proposed Working	335	335	335	335	335	335	335	335
Capacity Utilisation	60%	80%	90%	100%	100%	100%	100%	100%
Production (MT):								
Ferro Silicon	8040	10720	12060	13400	13400	13400	13400	13400
Expenditure:								
Raw Materials	920.52	1227.36	1380.78	1534.20	1534.20	1534.20	1534.20	1534.20
Stores consumption	26.61	35.48	39.92	44.35	44.35	44.35	44.35	44.35
Wages & Salaries	66.00	69.30	72.77	76.40	76.40	76.40	76.40	76.40
Inter Unit Transfer (power)	0.00	842.58	2097.83	2564.01	2564.01	2564.01	2564.01	2564.01
Power & Fuel	1331.11	1081.52	271.63	320.62	320.62	320.62	320.62	320.62
Repairs & Maintenance	30.00	40.00	50.00	50.00	50.00	50.00	50.00	50.00
Factory Overheads	30.00	31.50	33.08	34.73	34.73	34.73	34.73	34.73
Depreciation	185.95	173.22	166.63	163.16	160.14	157.53	155.25	153.28
Cost of Production	2590.20	3500.97	4112.63	4787.48	4784.46	4781.85	4779.58	4777.60
Administrative Overheads	78.00	81.90	86.00	90.29	90.29	90.29	90.29	90.29
Inc/Dec in inventories	-31.86	-37.95	-25.49	-28.12				
Selling Expenses	179.66	238.69	270.09	300.24	301.50	301.50	301.50	301.50
Cost of Sales	2815.99	3783.61	4443.23	5149.90	5176.26	5173.64	5171.37	5169.40
INCOME								
Sales	3593.25	4773.75	5401.88	6004.88	6030.00	6030.00	6030.00	6030.00
Less : Excise Duty	391.85	520.59	589.09	654.84	632.29	632.29	632.29	632.29
: Sales Tax	0.00	0.00	0.00	0.00	231.92	231.92	231.92	231.92
Net Sales	3201.40	4253.16	4812.79	5350.03	5165.78	5165.78	5165.78	5165.78
Miscellaneous Income (incl income from investments)	25.00	50.00	100.00	100.00	100.00	100.00	100.00	100.00
Total	3226.40	4303.16	4912.79	5450.03	5265.78	5265.78	5265.78	5265.78
Profit before Interest & Tax	410.41	519.56	469.56	300.13	89.53	92.14	94.41	96.39
Interest								
-- Term Loan	65.63	40.63	15.63	0.00	0.00	0.00	0.00	0.00
-- Working Capital	31.50	41.63	47.25	52.88	52.88	52.88	52.88	52.88
Prel. Exp Written Off	0.53	0.53	0.53	0.53	0.53	0.53	0.53	0.00
Profit before Tax	312.75	436.78	406.15	246.73	36.12	38.74	41.01	43.51
Provision for Tax	33.14	49.99	52.84	50.84	34.33	34.54	34.72	34.91
Profits after Tax	279.61	386.78	353.31	195.88	1.79	4.20	6.29	8.60
Cash accruals	466.09	560.53	520.47	359.57	162.46	162.26	162.08	161.88

Detailed Project Report for Captive Power Plant

ANNEXURE - IB

PROFITABILITY PROJECTIONS (POWER DIVISION)

	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
Power Generation Capacity at 91% PLF Level (MW)		13.80	13.80	13.80	13.80	13.80	13.80	13.80
Total Working days		335	335	335	335	335	335	335
Proposed Working		168	335	335	335	335	335	335
No of operating hours per day		24	24	24	24	24	24	24
Annul Gross Generation (thousand units)		55476.00	110952.00	110952.00	110952.00	110952.00	110952.00	110952.00
Annul Energy Consumption by CPP auxiliaries (thousand units)		6374.40	12163.20	12163.20	12163.20	12163.20	12163.20	12163.20
Annual Net Energy Output from CPP (thousand units)		49101.60	98788.80	98788.80	98788.80	98788.80	98788.80	98788.80
Capacity Utilisation		80%	90%	100%	100%	100%	100%	100%
Estimated energy output (thousand units)		39281.28	88909.92	98788.80	98788.80	98788.80	98788.80	98788.80
Expenditure:								
Raw Materials		373.93	841.35	934.84	934.84	934.84	934.84	934.84
Stores Consumption		19.20	21.60	24.00	24.00	24.00	24.00	24.00
Wages & Salaries		21.00	44.10	46.31	46.31	46.31	46.31	46.31
Power & Fuel		4.50	12.00	15.00	15.00	15.00	15.00	15.00
Repairs & Maintenance		8.87	27.06	37.28	37.28	37.28	37.28	37.28
Factory Overheads		12.00	25.20	26.46	26.46	26.46	26.46	26.46
Depreciation		238.47	448.57	399.70	365.24	339.23	316.80	297.44
Cost of Production		677.97	1419.88	1483.58	1449.12	1423.11	1400.68	1381.32
Administrative Overheads		6.00	12.6	13.23	13.23	13.23	13.23	13.23
Inc/Dec in inventories		0.00	0.00	0.00	0.00	0.00	0.00	0.00
Selling Expenses		0.00	0.00	0.00	0.00	0.00	0.00	0.00
Cost of Sales		683.97	1432.48	1496.81	1462.35	1436.34	1413.91	1394.55
INCOME								
Sales (Power)		0.00	0.00	0.00	0.00	0.00	0.00	0.00
Less: Excise Duty		0.00	0.00	0.00	0.00	0.00	0.00	0.00
: Sales Tax		0.00	0.00	0.00	0.00	0.00	0.00	0.00
Net Sales		0.00	0.00	0.00	0.00	0.00	0.00	0.00
Inter Unit Transfer (Ferro Alloys Div)		842.58	2097.83	2564.01	2564.01	2564.01	2564.01	2564.01
Miscellaneous Income		0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total		842.58	2097.83	2564.01	2564.01	2564.01	2564.01	2564.01
Profit before Interest & Tax		158.61	665.35	1067.20	1101.67	1127.67	1150.11	1169.46
Interest								
-- Term Loan		108.00	207.90	167.40	124.20	81.00	37.80	2.70
-- Working Capital		0.00	0.00	0.00	0.00	0.00	0.00	0.00
Prel. Exp Written Off		0.00	0.00	0.00	0.00	0.00	0.00	0.00
Profit before Tax		50.61	457.45	899.80	977.47	1046.67	1112.31	1166.76
Provision for Tax		3.97	35.86	70.54	76.63	82.06	87.20	91.47
Profits after Tax		46.64	421.58	829.25	900.83	964.61	1025.10	1075.29
Cash accruals		285.11	870.15	1228.96	1266.07	1303.84	1341.90	1372.73

Detailed Project Report for Captive Power Plant

ANNEXURE - II

CASH FLOW PROJECTIONS (for the company)

Rs. Lacs

Period	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
SOURCES OF FUND:								
Op. Cash & Bank Balance	189.00	511.15	1131.42	1950.73	2825.28	3543.03	4361.94	5215.86
Issue of Equity shares	600.00	300.00	0.00	0.00	0.00	0.00	0.00	0.00
Secured loans - Term Toan	1800.00	900.00	0.00	0.00	0.00	0.00	0.00	0.00
Bank Borrowings for W/Cap	175.28	180.00	100.00	100.00	0.00	0.00	0.00	0.00
Funds from Operations:								
Net Profit after Tax	279.61	433.43	774.89	1025.14	902.62	968.81	1031.40	1083.89
Add: Depreciation	185.95	411.68	615.20	562.86	525.38	496.76	472.05	450.72
Add: Prel Exp. w/o	0.53	0.53	0.53	0.53	0.53	0.53	0.53	0.00
Excise Duty Refund	293.89	390.44	441.81	491.13	474.22	474.22	474.22	0.00
Inc/dec in trade Creditors	13.05	22.16	5.24	5.24	0.00	0.00	0.00	0.00
Inc/dec in creditors for capex	-10.28	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Inc/dec in other curr liab & prov	0.00	10.00	5.00	0.00	0.00	0.00	0.00	0.00
Total	**3527.03**	**3159.39**	**3074.09**	**4135.63**	**4728.03**	**5483.34**	**6340.14**	**6750.47**
APPLICATION OF FUNDS								
Capital Expenditure	2353.60	1305.00	200.00	260.00	315.00	315.00	315.00	315.00
Increase in current assets:								
Inventories	44.59	166.41	74.85	62.98	0.00	0.00	0.00	0.00
Sundry Debtors	366.81	147.56	78.52	75.38	0.00	0.00	0.00	0.00
Loans, Advances & Deposits	23.09	75.00	125.00	70.00	78.00	14.40	17.28	20.74
Repayment of TL instalments	150.00	200.00	470.00	590.00	540.00	540.00	540.00	270.00
Repayment of oth sec loans	8.79	8.00	7.00	0.00	0.00	0.00	0.00	0.00
Other investments	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Preliminary Expenses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Dividend	69.00	126.00	168.00	252.00	252.00	252.00	252.00	252.00
Closing Cash & Bank Balance	511.15	1131.42	1950.73	2825.28	3543.03	4361.94	5215.86	5892.74
Total	**3527.03**	**3159.39**	**3074.09**	**4135.63**	**4728.03**	**5483.34**	**6340.14**	**6750.47**

Detailed Project Report for Captive Power Plant

ANNEXURE - IIA

CASH FLOW PROJECTIONS (for the Ferro Alloys Division)

Rs. Lacs

Period	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
SOURCES OF FUND:								
Op. Cash & Bank Balance	189.00	459.15	861.05	1167.05	1489.98	1668.66	1913.14	2157.44
Issue of Equity shares	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Secured loans - Term Toan	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Bank Borrowings for W/Cap	175.28	180.00	100.00	100.00	0.00	0.00	0.00	0.00
Funds from Operations:								
Net Profit after Tax	279.61	386.78	353.31	195.88	1.79	4.20	6.29	8.60
Add: Depreciation	185.95	173.22	166.63	163.16	160.14	157.53	155.25	153.28
Add: Prel Exp. w/o	0.53	0.53	0.53	0.53	0.53	0.53	0.53	0.00
Excise Duty Refund	293.89	390.44	441.81	491.13	474.22	474.22	474.22	0.00
Inc/dec in trade Creditors	13.05	6.58	3.29	3.29	0.00	0.00	0.00	0.00
Inc/dec in creditors for capex	-10.28	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Inc/dec in other curr liab & prov	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	**1127.03**	**1596.70**	**1926.62**	**2121.05**	**2126.66**	**2305.14**	**2549.44**	**2319.32**
APPLICATION OF FUNDS								
Capital Expenditure	5.60	105.00	140.00	140.00	140.00	140.00	140.00	140.00
Increase in current assets:								
Inventories	44.59	99.09	66.06	53.69	0.00	0.00	0.00	0.00
Sundry Debtors	366.81	147.56	78.52	75.38	0.00	0.00	0.00	0.00
Loans, Advances & Deposits	23.09	50.00	100.00	60.00	66.00	0.00	0.00	0.00
Repayment of TL instalments	150.00	200.00	200.00	50.00	0.00	0.00	0.00	0.00
Repayment of oth sec loans	8.79	8.00	7.00	0.00	0.00	0.00	0.00	0.00
Inv in Power Division	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Other investments	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Preliminary Expenses etc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Dividend	69.00	126.00	168.00	252.00	252.00	252.00	252.00	252.00
Closing Cash & Bank Balance	459.15	861.05	1167.05	1489.98	1668.66	1913.14	2157.44	1927.32
Total	**1127.03**	**1596.70**	**1926.62**	**2121.05**	**2126.66**	**2305.14**	**2549.44**	**2319.32**

Detailed Project Report for Captive Power Plant

ANNEXURE - IIB

CASH FLOW PROJECTIONS (for the Power Division)

Rs. Lacs

Period	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
SOURCES OF FUND:								
Op. Cash & Bank Balance	0.00	52.00	270.37	783.68	1335.29	1874.36	2448.81	3058.42
Issue of Equity shares/Funds from Ferro Alloys Division	600.00	300.00	0.00	0.00	0.00	0.00	0.00	0.00
Secured loans - Term Toan	1800.00	900.00						
Bank Borrowings for W/Cap	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Funds from Operations:								
Net Profit after Tax	0.00	46.64	421.58	829.25	900.83	964.61	1025.10	1075.29
Add: Depreciation	0.00	238.47	448.57	399.70	365.24	339.23	316.80	297.44
Add: Prel Exp. w/o	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Inc/dec in trade Creditors	0.00	15.58	1.95	1.95	0.00	0.00	0.00	0.00
Inc/dec in creditors for capex	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Inc/dec in other curr liab & prov	0.00	10.00	5.00	0.00	0.00	0.00	0.00	0.00
Total	**2400.00**	**1562.69**	**1147.47**	**2014.58**	**2601.36**	**3178.21**	**3790.70**	**4431.15**
APPLICATION OF FUNDS								
Capital Expenditure	2348.00	1200.00	60.00	120.00	175.00	175.00	175.00	175.00
Increase in current assets:								
Inventories	0.00	67.32	8.79	9.29	0.00	0.00	0.00	0.00
Sundry Debtors	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Loans, Advances & Deposits	0.00	25.00	25.00	10.00	12.00	14.40	17.28	20.74
Repayment of TL instalments		0.00	270.00	540.00	540.00	540.00	540.00	270.00
Preliminary Expenses etc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Dividend	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Closing Cash & Bank Balance	52.00	270.37	783.68	1335.29	1874.36	2448.81	3058.42	3965.41
Total	**2400.00**	**1562.69**	**1147.47**	**2014.58**	**2601.36**	**3178.21**	**3790.70**	**4431.15**

Detailed Project Report for Captive Power Plant

ANNEXURE - III
PROJECTED BALANCE SHEET (FOR THE COMPANY)

Rs. Lacs

Period	31.03.05	31.03.06	31.03.07	31.03.08	31.03.09	31.03.10	31.03.11	31.03.12
ASSETS:								
Fixed Assets:								
Gross Block	2024.33	5677.33	5877.33	6137.33	6452.33	6767.33	7082.33	7397.33
Less: Depreciation	648.23	1059.92	1675.12	2237.98	2763.36	3260.12	3732.17	4182.90
Net Block	1376.10	4617.41	4202.21	3899.35	3688.97	3507.21	3350.16	3214.43
Capital Work in progress	2348.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Net Fixed Assets	3724.10	4617.41	4202.21	3899.35	3688.97	3507.21	3350.16	3214.43
Investments	1307.95	1307.95	1307.95	1307.95	1307.95	1307.95	1307.95	1307.95
Current Assets:								
Inventories	311.34	477.76	552.60	615.58	615.58	615.58	615.58	615.58
Sundry Debtors	449.16	596.72	675.23	750.61	750.61	750.61	750.61	750.61
Loans, Advances & Deposits	450.00	525.00	650.00	720.00	798.00	812.40	829.68	850.42
Cash & Bank Balances	511.15	1131.42	1950.73	2825.28	3543.03	4361.94	5215.86	5892.74
	1721.65	2730.90	3828.56	4911.47	5707.22	6540.53	7411.73	8109.35
Misc. Exp. :								
Preliminary Expenses	3.18	2.65	2.12	1.59	1.06	0.53	0.00	0.00
TOTAL	6756.88	8658.90	9340.84	10120.35	10705.19	11356.23	12069.84	12631.73
LIABILITES								
Equity Share Capital	1380	1680	1680	1680	1680	1680	1680	1680
Reserves & Surplus	2336.1	3033.97	4082.68	5346.95	6471.79	7662.82	8916.44	9748.32
Secured Loans:								
Term Loan	2250	2950	2480	1890	1350	810	270	0
Cash Credit	560	740	840	940	940	940	940	940
other secured loans	15	7	0	0	0	0	0	0
Trade Creditors	19.73	41.89	47.13	52.36	52.36	52.36	52.36	52.36
Creditors for captital exp	0	0	0	0	0	0	0	0
Other current liab & provisions	196.04	206.04	211.04	211.04	211.04	211.04	211.04	211.04
TOTAL	6756.88	8658.90	9340.84	10120.35	10705.19	11356.23	12069.84	12631.73

Detailed Project Report for Captive Power Plant

ANNEXURE - IIIA

PROJECTED BALANCE SHEET (for Ferro Alloys Division)

Rs. Lacs

Period	31.03.05	31.03.06	31.03.07	31.03.08	31.03.09	31.03.10	31.03.11	31.03.12
ASSETS								
Fixed Assets:								
Gross Block	2024.33	2129.33	2269.33	2409.33	2549.33	2689.33	2829.33	2969.33
Less: Depreciation	648.23	821.45	988.09	1151.24	1311.39	1468.91	1624.17	1777.45
Net Block	1376.10	1307.88	1281.24	1258.09	1237.94	1220.42	1205.16	1191.88
Capital Work in progress	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Net Fixed Assets	1376.10	1307.88	1281.24	1258.09	1237.94	1220.42	1205.16	1191.88
Investments	1307.95	1307.95	1307.95	1307.95	1307.95	1307.95	1307.95	1307.95
Current Assets:								
Inventories	311.34	410.43	476.49	530.18	530.18	530.18	530.18	530.18
Sundry Debtors	449.16	596.72	675.23	750.61	750.61	750.61	750.61	750.61
Loans, Advances & Deposits	450.00	500.00	600.00	660.00	726.00	726.00	726.00	726.00
Cash & Bank Balances	459.15	861.05	1167.05	1489.98	1668.66	1913.14	2157.44	1927.32
	1669.65	2368.20	2918.77	3430.77	3675.45	3919.93	4164.23	3934.11
Misc. Exp. :								
Preliminary Expenses	3.18	2.65	2.12	1.59	1.06	0.53	0.00	0.00
TOTAL	4356.88	4986.68	5510.09	5998.40	6222.41	6448.83	6677.34	6433.94
LIABILITES								
Equity Share Capital	780.00	780.00	780.00	780.00	780.00	780.00	780.00	780.00
Reserves & Surplus	2336.10	2987.33	3614.45	4049.47	4273.48	4499.90	4728.41	4485.01
Secured Loans:								
Term Loan	450.00	250.00	50.00	0.00	0.00	0.00	0.00	0.00
Cash Credit	560.00	740.00	840.00	940.00	940.00	940.00	940.00	940.00
other secured loans	15.00	7.00	0.00	0.00	0.00	0.00	0.00	0.00
Trade Creditors	19.73	26.31	29.60	32.89	32.89	32.89	32.89	32.89
Creditors for captital exp	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Other current liab & provisions	196.04	196.04	196.04	196.04	196.04	196.04	196.04	196.04
TOTAL	4356.88	4986.68	5510.09	5998.40	6222.41	6448.83	6677.34	6433.94

Detailed Project Report for Captive Power Plant

ANNEXURE - IIIB

PROJECTED BALANCE SHEET (for power division)

Rs. Lacs

Period	31.03.05	31.03.06	31.03.07	31.03.08	31.03.09	31.03.10	31.03.11	31.03.12
ASSETS								
Fixed Assets:								
Gross Block	0.00	3548.00	3608.00	3728.00	3903.00	4078.00	4253.00	4428.00
Less: Depreciation	0.00	238.47	687.04	1086.74	1451.98	1791.21	2108.00	2405.45
Net Block	0.00	3309.53	2920.96	2641.26	2451.02	2286.79	2145.00	2022.55
Capital Work in progress	2348.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Net Fixed Assets	2348.00	3309.53	2920.96	2641.26	2451.02	2286.79	2145.00	2022.55
Current Assets:								
Inventories	0.00	67.32	76.11	85.40	85.40	85.40	85.40	85.40
Sundry Debtors	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Loans, Advances & Deposits	0.00	25.00	50.00	60.00	72.00	86.40	103.68	124.42
Cash & Bank Balances	52.00	270.37	783.68	1335.29	1874.36	2448.81	3058.42	3965.41
	52.00	362.69	909.79	1480.69	2031.76	2620.61	3247.50	4175.23
Misc. Exp. :								
Preliminary Expenses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL	2400.00	3672.22	3830.75	4121.96	4482.79	4907.40	5392.50	6197.79
LIABILITES								
Equity Share Capital/ contribution from Ferro Alloys	600.00	900.00	900.00	900.00	900.00	900.00	900.00	900.00
Reserves & Surplus	0.00	46.64	468.23	1297.48	2198.31	3162.93	4188.03	5263.31
Secured Loans:								
Term Loan	1800.00	2700.00	2430.00	1890.00	1350.00	810.00	270.00	0.00
Cash Credit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
other secured loans	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Trade Creditors	0.00	15.58	17.53	19.48	19.48	19.48	19.48	19.48
Creditors for captital exp	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Other current liab & provisions	0.00	10.00	15.00	15.00	15.00	15.00	15.00	15.00
TOTAL	2400.00	3672.22	3830.75	4121.96	4482.79	4907.40	5392.50	6197.79

Detailed Project Report for Captive Power Plant

ANNEXURE - IV
ESTIMATION OF SALES

Rs. Lacs

PARTICULARS	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-2011	2011-12
Production (Qty)								
Ferro Silicon (MT)	8040	10720	12060	13400	13400	13400	13400	13400
Power (thousand units)		39281	88910	98789	98789	98789	98789	98789
Sales (Qty)								
Ferro Silicon (MT)	7985	10608	12004	13344	13400	13400	13400	13400
Power (thousand units)	0	0	0	0	0	0	0	0
Inter Unit transfer (Qty)								
Ferro Silicon (MT)	0	0	0	0	0	0	0	0
Power (thousand units)		39281	88910	98789	98789	98789	98789	98789
Selling Prices Per unit								
Ferro Silicon (MT)	45000	45000	45000	45000	45000	45000	45000	45000
Power (thousand units)		2145	2360	2595	2595	2595	2595	2595
Sales (Rs. lacs)								
Ferro Silicon	3593.25	4773.75	5401.88	6004.88	6030.00	6030.00	6030.00	6030.00
Power	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Inter Unit Transfer (Rs.)								
Ferro Silicon	0	0	0	0	0	0	0	0
Power		842.58	2097.83	2564.01	2564.01	2564.01	2564.01	2564.01
Total	**3593.25**	**4773.75**	**5401.88**	**6004.88**	**6030.00**	**6030.00**	**6030.00**	**6030.00**

ANNEXURE - V

REQUIREMENT OF RAW MATERIALS AND STORES

Requirement and cost of raw materials and stores at 100% capacity utilisation:

PARTICULARS	RAW MATERIALS			STOTES		
	Qty. Reqd.	Rate PER UNIT (Rs.)	Value (Rs. lacs)	Qty. Reqd.	Rate PER UNIT (Rs.)	Value (Rs. lacs)
Raw Materials:						
For Ferro Alloys:						
Charcoal	26800	3500	938.00			
Quartz	24120	750	180.90			
Mill Scale	4690	1550	72.70			
Electrode Paste	804	21250	170.85			
Casing Sheet	80	34250	27.54			
M S Rounds	469	24750	116.08			
Lancing Pipe	80	35000	28.14			
			1534.20			
For Power:						
Biomass Fuels	77647	800	621.18			
Fossils Fuels	14300	1500	214.50			
Coal Fines	2932	500	14.66			
Light Fuel Oil	338	25000	84.50			
			934.84			
Stores:						
Oxygen Cylinder				6700	112	7.50
Packing Materials						16.75
Misc Stores						20.10
						44.35
For Power:						
Misc Stores etc.						24.00
						24.00

Rs. Lacs

PARTICULARS	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-2011	2011-12
Capacity Utilisation:								
Ferro Silicon	60%	80%	90%	100%	100%	100%	100%	100%
Power	0%	80%	90%	100%	100%	100%	100%	100%
Value of Raw Material Consumption:								
Ferro Silicon	920.52	1227.36	1380.78	1534.20	1534.20	1534.20	1534.20	1534.20
Power	0.00	373.93	841.35	934.84	934.84	934.84	934.84	934.84
Value - Total	**920.52**	**1601.29**	**2222.13**	**2469.04**	**2469.04**	**2469.04**	**2469.04**	**2469.04**
Value - Stores								
Ferro Silicon	26.61	35.48	39.92	44.35	44.35	44.35	44.35	44.35
Power	0.00	19.20	21.60	24.00	24.00	24.00	24.00	24.00
Value - Total	**26.61**	**54.68**	**61.52**	**68.35**	**68.35**	**68.35**	**68.35**	**68.35**

Detailed Project Report for Captive Power Plant

ANNEXURE - VI
DETAILS OF WAGES AND SALARIES (for the Power Division)

Deptt.	Designation / job	No of Persons	Salary per Month	Total
	General Manager	1	25000	25000
Operations Deptt.				
	Manager (operations)	1	10000	10000
	Shift Engineer	4	7500	30000
	Turbine Engineer	4	7500	30000
	Boiler Engineer	4	7500	30000
	Skilled / Semi-skilled	8	2750	22000
Laboratory & Water Treatment				
	Senior Chemist	1	7500	7500
	Junior Chemist	1	5000	5000
	Assistants	3	4000	12000
	Skilled/ Semi-skilled	2	2750	5500
Maintenance				
	Electrical Engineer	2	7500	15000
	Instrumentation Engineer	2	6000	12000
	Manager (Maintenance)	1	5000	5000
	Assistants	5	4000	20000
	Skilled / Semi-skilled	3	2750	8250
Administration				
	Manager (Commercial)	1	6000	6000
	Accountant	1	4000	4000
	Assistants	1	3000	3000
Total (Rs.)		45		250250
Add: Benefits @ 40%				100100
Total Per Month (Rs.)				350350
Total per annum (Rs. Lacs)				42.00

Detailed Project Report for Captive Power Plant

ANNEXURE - VII
ESTIMATE OF COST OF POWER & FUEL

Rs. Lacs

PARTICULARS/YEAR	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-2011	2011-12
Requirement of power for the Ferro Alloy Plant at 100% capacity utilisation	107200	107200	107200	107200	107200	107200	107200	107200
Capacity Utilisation	60%	80%	90%	100%	100%	100%	100%	100%
Requirement of power (thousand units)	64320	85760	96480	107200	107200	107200	107200	107200
Infrastructural Load (thousand units)	3942	3942	3942	3942	3942	3942	3942	3942
Total Load (thousand units)	68262	89702	100422	111142	111142	111142	111142	111142
Power Generation from CPP(thousand units)	0	39281	88910	98789	98789	98789	98789	98789
Requirement from Grid	68262	50421	11512	12353	12353	12353	12353	12353
Rate per thousand units	1950	2145	2360	2595	2595	2595	2595	2595
Cost of Power & Fuel	1331.11	1081.52	271.63	320.62	320.62	320.62	320.62	320.62

ANNEXURE - VIII
CALCULATION FOR REQUIREMENT OF WORKING CAPITAL

Ferro Alloys Division:

Rs. Lacs

Particulars	Months	Margin	2004-05	2005-06	2006-07	2007-08
Stores	LS	25.00%	50.00	60.00	75.00	75.00
Raw Materials	2.00	25.00%	153.42	204.56	230.13	255.70
Finished Goods	0.50	25.00%	107.92	145.87	171.36	199.48
Receivables	1.50	30.00%	449.16	596.72	675.23	750.61
Total Current assets			760.50	1007.15	1151.72	1280.79
Less - Trade Creditors	0.25	25.00%	19.73	26.31	29.60	32.89
Working Capital Gap			740.77	980.84	1122.13	1247.90
Less: Margin Money			185.19	245.21	280.53	311.98
Maximum Bank Finance			555.58	735.63	841.59	935.93

Power Division:

Rs. Lacs

Particulars	Months	Margin	2004-05	2005-06	2006-07	2007-08
Stores	LS	25.00%	0.00	5.00	6.00	7.50
Raw Materials	1.00	25.00%	0.00	62.32	70.11	77.90
Finished Goods	0.00	25.00%	0.00	0.00	0.00	0.00
Receivables	0.00	30.00%	0.00	0.00	0.00	0.00
Total Current assets			0.00	67.32	76.11	85.40
Less - Trade Creditors	0.25	25.00%	0.00	15.58	17.53	19.48
Working Capital Gap			0.00	51.74	58.58	65.93
Less: Margin Money			0.00	51.74	58.58	65.93
Maximum Bank Finance			0.00	0.00	0.00	0.00

Detailed Project Report for Captive Power Plant

ANNEXURE - IX
DEPRECIATION AS COMPANIES ACT (WDV)

Ferro Alloy Division

Rs. Lacs

PARTICULARS	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-2011	2011-12
LAND :								
Opening Balance	51.05	51.05	51.05	51.05	51.05	51.05	51.05	51.05
Additions during the year	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	51.05	51.05	51.05	51.05	51.05	51.05	51.05	51.05
BUILDING :								
Cost:								
Opening Balance	584.34	604.34	634.34	674.34	714.34	754.34	794.34	834.34
Additions during the year	20.00	30.00	40.00	40.00	40.00	40.00	40.00	40.00
Total	604.34	634.34	674.34	714.34	754.34	794.34	834.34	874.34
Depreciation:								
Opening Balance	99.26	148.77	195.83	241.68	286.94	331.68	375.95	419.79
Additions during the year	49.51	47.06	45.85	45.27	44.74	44.27	43.84	43.46
Total	148.77	195.83	241.68	286.94	331.68	375.95	419.79	463.24
Net Value	455.57	438.51	432.66	427.40	422.66	418.39	414.55	411.10
PLANT & MACHINERY etc								
Cost:								
Opening Balance	1318.94	1368.94	1443.94	1543.94	1643.94	1743.94	1843.94	1943.94
Additions during the year	50.00	75.00	100.00	100.00	100.00	100.00	100.00	100.00
Total	1368.94	1443.94	1543.94	1643.94	1743.94	1843.94	1943.94	2043.94
Depreciation:								
Opening Balance	363.02	499.47	625.63	746.41	864.30	979.70	1092.96	1204.38
Additions during the year	136.45	126.16	120.78	117.89	115.40	113.26	111.42	109.83
Total	499.47	625.63	746.41	864.30	979.70	1092.96	1204.38	1314.21
Net Value	869.47	818.31	797.53	779.64	764.24	750.98	739.56	729.73
TOTAL FIXED ASSETS :								
Cost:								
Opening Balance	1954.33	2024.33	2129.33	2269.33	2409.33	2549.33	2689.33	2829.33
Additions during the year	70.00	105.00	140.00	140.00	140.00	140.00	140.00	140.00
Total	2024.33	2129.33	2269.33	2409.33	2549.33	2689.33	2829.33	2969.33
Depreciation:								
Opening Balance	462.28	648.23	821.45	988.09	1151.24	1311.39	1468.91	1624.17
Additions during the year	185.95	173.22	166.63	163.16	160.14	157.53	155.25	153.28
Total	648.23	821.45	988.09	1151.24	1131.39	1468.91	1624.17	1777.45
Net Value	1376.10	1307.88	1281.24	1258.09	1417.94	1220.42	1205.16	1191.88

Detailed Project Report for Captive Power Plant

ANNEXURE - IX A
DEPRECIATION AS COMPANY ACT (WDV)

Power Division

Rs. Lacs

PARTICULARS	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-2011	2011-12
LAND :								
Opening Balance	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Additions during the year	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
BUILDING :								
Cost:								
Opening Balance	0.00	0.00	424.36	434.36	454.36	479.36	504.36	529.36
Additions during the year	0.00	424.36	10.00	20.00	25.00	25.00	25.00	25.00
Total	0.00	424.36	434.36	454.36	479.36	504.36	529.36	554.36
Depreciation:								
Opening Balance	0.00	0.00	21.22	62.03	100.27	136.93	172.42	206.86
Additions during the year	0.00	21.22	40.81	38.23	36.66	35.49	34.44	33.50
Total	0.00	21.22	62.03	100.27	136.93	172.42	206.86	240.36
Net Value	0.00	403.15	372.33	354.10	342.44	331.94	322.50	314.00
PLANT & MACHINERY etc								
Cost:								
Opening Balance	0.00	0.00	3123.64	3173.64	3273.64	3423.64	3573.64	3723.64
Additions during the year	0.00	3123.64	50.00	100.00	150.00	150.00	150.00	150.00
Total	0.00	3123.64	3173.64	3273.64	3423.64	3573.64	3723.64	3873.64
Depreciation:								
Opening Balance	0.00	0.00	217.25	625.00	986.47	1315.05	1618.79	1901.14
Additions during the year	0.00	217.25	407.76	361.47	328.58	303.74	282.35	263.94
Total	0.00	217.25	625.00	986.47	1315.05	1618.79	1901.14	2165.08
Net Value	0.00	2906.39	2548.63	2287.16	2108.58	1954.85	1822.50	1708.55
TOTAL FIXED ASSETS :								
Cost:								
Opening Balance	0.00	0.00	3548.00	3608.00	3728.00	3903.00	4078.00	4253.00
Additions during the year	0.00	3548.00	60.00	120.00	175.00	175.00	175.00	175.00
Total	0.00	3548.00	3608.00	3728.00	3903.00	4078.00	4253.00	4428.00
Depreciation:								
Opening Balance	0.00	0.00	238.47	687.04	1086.74	1451.98	1791.21	2108.00
Additions during the year	0.00	238.47	448.57	399.70	365.24	339.23	316.80	297.44
Total	0.00	238.47	687.04	1086.74	1451.98	1791.21	2108.00	2405.45
Net Value	0.00	3309.53	2920.96	2641.26	2451.02	2286.79	2145.00	2022.55

ANNEXURE - X
COMPUTATION OF TAX LIABILITY

Rs. Lacs

PARTICULARS	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-2011	2011-12
CALCULATION OF NORMAL TAX								
Net Profit Before Tax	312.75	487.39	863.60	1146.53	1013.59	1085.41	1153.32	1210.27
Depreciation as per P/L.	185.95	411.68	615.20	562.86	525.38	496.76	472.05	450.72
Depreciation as per IT Act.	240.60	825.06	873.58	720.54	618.48	544.91	489.50	447.73
Set off B/F/ unab. dep.	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Income	258.10	74.01	605.23	988.85	920.49	1037.26	1135.87	1213.26
Less: Deduction u/s 80IC	258.10	74.01	605.23	988.85	920.49	1037.26	1135.87	1166.76
Net total computed income	0.00	0.00	0.00	0.00	0.00	0.00	0.00	46.50
A -Tax on total computed income @ 36.58%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	17.01
CALCULATION OF MAT								
Book Profit	312.75	487.39	863.60	1146.53	1013.59	1085.41	1153.32	1210.27
Add: Exemptions	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Add: Inclusions	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Net assumed total imcome	312.75	487.39	863.60	1146.53	1013.59	1085.41	1153.32	1210.27
B-Tax under MAT @7.84%	24.52	38.21	67.71	89.89	79.47	85.10	90.42	94.89
CALCULATION OF TAX ON DIVIDEND								
Dividend distributed during the year	69.00	126.00	168.00	252.00	252.00	252.00	252.00	252.00
C-Tax on distributed dividend @ 12.50%	8.63	15.75	21.00	31.50	31.50	31.50	31.50	31.50
Tax - A or B, whichever is higher plus C	33.14	53.96	88.71	121.39	110.97	116.6	121.92	126.39

ANNEXURE - XI
DEPRECIATION AS PER INCOME TAX ACT

Rs. Lacs

PARTICULARS	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-2011	2011-12
BUILDING - 10%								
Opening WDV	462.37	434.63	811.46	776.56	754.40	739.09	725.31	712.90
Addition during the year	20.00	454.36	50.00	60.00	65.00	65.00	65.00	65.00
Total	482.37	889.00	861.46	836.56	819.40	804.09	790.31	777.90
Depreciation	47.74	77.54	84.90	82.16	80.32	78.78	77.41	76.16
Closing WDV	434.63	811.46	776.56	754.40	739.09	725.31	712.90	701.73
PLANT & MACHINERY -25%								
Opening WDV	733.97	591.10	3042.22	2403.54	1965.15	1676.99	1460.87	1298.78
Addition during the year	50.00	3198.64	150.00	200.00	250.00	250.00	250.00	250.00
Total	783.97	3789.74	3192.22	2603.54	2215.15	1926.99	1710.87	1548.78
Depreciation	192.87	747.52	788.68	638.38	538.16	466.12	412.09	371.57
Closing WDV	591.10	3042.22	2403.54	1965.15	1676.99	1460.87	1298.78	1177.21
TOTAL FOR THE COMPANY								
Opening WDV	1196.34	1025.74	3853.68	3180.10	2719.56	2416.08	2186.17	2011.68
Addition during the year	70.00	3653.00	200.00	260.00	315.00	315.00	315.00	315.00
Total	1266.34	4678.74	4053.68	3440.10	3034.56	2731.08	2501.17	2326.68
Depreciation	240.60	825.06	873.58	720.54	618.48	544.91	489.50	447.73
Closing WDV	1025.74	3853.68	3180.10	2716.56	2416.08	2186.17	2011.68	1878.94

Detailed Project Report for Captive Power Plant

ANNEXURE - XII
DEBT REPAYMENT AND INTEREST SCHEDULE

Ferro Alloys Division: Rs. Lacs

SBI	TL	600.00	8.00%					
PARTICULARS	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-2011	2011-12
OUTSTANDINGS :								
1st Quarter	600.00	400.00	200.00	0.00	0.00	0.00	0.00	0.00
2nd Quarter	550.00	350.00	150.00	0.00	0.00	0.00	0.00	0.00
3rd Quarter	500.00	300.00	100.00	0.00	0.00	0.00	0.00	0.00
4th Qyarter	450.00	250.00	50.00	0.00	0.00	0.00	0.00	0.00
INTEREST:								
1st Quarter	18.75	12.50	6.25	0.00	0.00	0.00	0.00	0.00
2nd Quarter	17.19	10.94	4.69	0.00	0.00	0.00	0.00	0.00
3rd Quarter	15.63	9.38	3.13	0.00	0.00	0.00	0.00	0.00
4th Qyarter	14.06	7.81	1.56	0.00	0.00	0.00	0.00	0.00
GRAND TOTAL	65.63	40.63	15.63	0.00	0.00	0.00	0.00	0.00
O/s at year end	450.00	250.00	50.00	0.00	0.00	0.00	0.00	0.00
Interest for year	65.63	40.63	15.63	0.00	0.00	0.00	0.00	0.00
Repayment during the year	150.00	200.00	200.00	50.00	0.00	0.00	0.00	0.00

Power Division: Rs. Lacs

Fresh	TL	2700.00	8.00%					
PARTICULARS	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-2011	2011-12
OUTSTANDINGS :								
1st Quarter	0.00	2100.00	2700.00	2295.00	1755.00	1215.00	675.00	135.00
2nd Quarter	300.00	2700.00	2700.00	2160.00	1620.00	1080.00	540.00	0.00
3rd Quarter	900.00	2700.00	2565.00	2025.00	1485.00	945.00	405.00	
4th Qyarter	1800.00	2700.00	2430.00	1890.00	1350.00	810.00	270.00	
INTEREST:								
1st Quarter	capex	capex	54.00	45.90	35.10	24.30	13.50	2.70
2nd Quarter	capex	capex	54.00	43.20	32.40	21.60	10.80	0.00
3rd Quarter	capex	54.00	51.30	40.50	29.70	18.90	8.10	0.00
4th Qyarter	capex	54.00	48.60	37.80	27.00	16.20	5.40	0.00
GRAND TOTAL	0.00	108.00	207.90	167.40	124.20	81.00	37.80	2.70
O/s at year end	1800.00	2700.00	2430.00	1890.00	1350.00	810.00	270.00	0.00
Interest for year	0.00	108.00	207.90	167.40	124.20	81.00	37.80	2.70
Repayment during the year	0.00	0.00	270.00	540.00	540.00	540.00	540.00	270.00
Total for all TLs								
O/s at year end	2250.00	2950.00	2480.00	1890.00	1350.00	810.00	270.00	0.00
Interest for year	65.63	148.63	223.53	167.40	124.20	81.00	37.80	2.70
Repayment during the year	150.00	200.00	470.00	590.00	540.00	540.00	540.00	270.00

Detailed Project Report for Captive Power Plant

ANNEXURE - XIII
CALCULATION OF DSCR

For the Company

Rs. Lacs

PARTICULARS	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-2011	2011-12	Total
Net Profit After Tax	279.61	433.43	774.89	1025.14	902.62	968.81	1031.4	1083.89	6499.78
Depreciation	185.95	411.68	615.2	562.86	525.38	496.76	472.05	450.72	3720.62
Interest - Term Loan	65.63	148.63	223.53	167.4	124.2	81	37.8	2.7	850.88
Total (a)	531.19	993.74	1613.62	1755.40	1552.20	1546.57	1541.25	1537.31	11071.27
Term Loan installments	150.00	200.00	470.00	590.00	540.00	540.00	540.00	270.00	3300.00
Interest - Term Loan	65.63	148.63	223.53	167.40	124.20	81.00	37.80	2.70	850.88
Total (b)	215.63	348.63	693.53	757.40	664.20	621.00	577.80	272.70	4150.88
DSCR (A/B)	2.46	2.85	2.33	2.32	2.34	2.49	2.67	5.64	2.67
Average DSCR				**2.67**					
Minimum DSCR				**2.33**					
Maximum DSCR				**5.64**					

For Ferro Alloy Division:

Rs. Lacs

PARTICULARS	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-2011	2011-12	Total
Net Profit After Tax	279.61	386.78	353.31	195.88	1.79	4.20	6.29	8.60	1236.47
Depreciation	185.95	173.22	166.63	163.16	160.14	157.53	155.25	153.28	1315.17
Interest - Term Loan	65.63	40.63	15.63	0.00	0.00	0.00	0.00	0.00	121.88
Total (a)	531.19	600.63	535.57	359.04	161.93	161.73	161.55	161.88	2673.51
Term Loan installments	150.00	200.00	200.00	50.00	0.00	0.00	0.00	0.00	600.00
Interest - Term Loan	65.63	40.63	15.63	0.00	0.00	0.00	0.00	0.00	121.88
Total (b)	215.63	240.63	215.63	50.00	0.00	0.00	0.00	0.00	721.88
DSCR (A/B)	2.46	2.50	2.48	7.18	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	3.70
Average DSCR				**3.70**					
Minimum DSCR				**2.46**					
Maximum DSCR				**7.18**					

For Ferro Alloy Division:

Rs. Lacs

PARTICULARS	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-2011	2011-12	Total
Net Profit After Tax		46.64	421.58	829.25	900.83	964.61	1025.10	1075.29	5263.31
Depreciation		238.47	448.57	399.70	365.24	339.23	316.80	297.44	2405.45
Interest - Term Loan		108.00	207.90	167.40	124.20	81.00	37.80	2.70	729.00
Total (a)		393.11	1078.05	1396.36	1390.27	1384.84	1379.70	1375.43	8397.76
Term Loan installments		0.00	270.00	540.00	540.00	540.00	540.00	270.00	2700.00
Interest - Term Loan		108.00	207.90	167.40	124.20	81.00	37.80	2.70	729.00
Total (b)		108.00	477.90	707.40	664.20	621.00	577.80	272.70	3429.00
DSCR (A/B)		3.64	2.26	1.97	2.09	2.23	2.39	5.04	2.45
Average DSCR				**2.45**					
Minimum DSCR				**1.97**					
Maximum DSCR				**5.04**					

Detailed Project Report for Captive Power Plant

ANNEXURE - XIV

CALCULATION OF PAY BACK PERIOD (for the Power Project)

Rs. in lacs

PARTICULARS	2005-06 (6 Mts)	2006-07	2007-08	2008-09	2009-10	2010-2011	2011-12
Net Profit after tax	46.64	421.58	829.25	900.83	964.61	1025.10	1075.29
Interest	108.00	207.90	167.40	124.20	81.00	37.80	2.70
Depreciation	238.47	448.57	399.70	365.24	339.23	316.80	297.44
Preliminary Expenses	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Cash Inflow for the year	393.11	1078.05	1396.36	1390.27	1384.84	1379.70	1375.43
Cumulative cash flow	393.11	1471.16	2867.52	4257.79	5642.63	7022.33	8397.76

Capital cost of the project 3548.00 (Rs. Lacs)

Pay Back Period **36 Months**

ANNEXURE - XV

CALCULATION OF INTERNAL RATE OF RETURN (for the power project)

Rs. in lacs

Particulars	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
Net Profit after tax	46.64	421.58	829.25	900.83	964.61	1025.10	1075.29	1075.29	1075.29	1075.29
Interest	108.00	207.90	167.40	124.20	81.00	37.80	2.70	0.00	0.00	0.00
Depreciation	238.47	448.57	399.70	365.24	339.23	316.80	297.44	255.80	219.99	189.19
Preliminary Expenses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Cash Inflow for the year	393.11	1078.05	1396.36	1390.27	1384.84	1379.70	1375.43	1331.09	1295.27	1264.48
Discounted @ 27.95%	0.78	0.61	0.48	0.37	0.29	0.23	0.18	0.14	0.11	0.09
Discounted cash flow	307.24	658.51	666.62	518.73	403.83	314.44	244.99	185.30	140.93	107.52

Discounted cash flows (Rs. Lacs) 3548.00

Capital Cost of the Project (Rs. Lacs) 3548.00

Internal Rate of return **28.00%** (approx)

Detailed Project Report for Captive Power Plant

ANNEXURE - XVI
CALCULATION OF BREAK EVEN POINT
(AT OPTIMUM CAPACITY UTILISATION)

Ferro Alloys Plant:

Rs. Lacs

Sales		6004.88
Less: Variable Costs :		
Raw Materials	1534.20	
Stores	44.35	
Excise Duty	654.84	
Sales Tax	0.00	
Wages & Salaries	58.40	
Power & Fuel	2872.64	
Factory Overheads	25.73	
Administrative Exp.	78.29	
Selling Expenses	300.24	
Interest on working capital	52.88	5621.58
Contribution		383.30
Fixed Cost:		
Wages & Salary	18.00	
Power & Fuel	12.00	
Repairs & Maintenance	50.00	
Factory Overheads	9.00	
Administrative Exp.	12.00	
Interest on term loan	0.00	
Depreciation	163.16	264.16

Break Even Point as % of Production

$$\frac{\text{Fixed Cost}}{\text{Contribution}} \times 100$$

$$= \frac{246.16}{383.3} \times 100$$

$$= \mathbf{68.92\%}$$

Cash Break Even Point as Percentage of Production

$$\frac{\text{Cash Fixed Cost}}{\text{Contribution}} \times 100$$

$$= \frac{101.00}{383.30} \times 100$$

$$= \mathbf{26.35\%}$$

Detailed Project Report for Captive Power Plant

ANNEXURE - XVIA
CALCULATION OF BREAK EVEN POINT
(AT OPTIMUM CAPACITY UTILISATION)

Power Plant:

		Rs. Lacs
Sales (incl captive consumption)		2564.01
Less: Variable Costs :		
Raw Materials	934.84	
Stores	24.00	
Excise Duty	0.00	
Sales Tax	0.00	
Wages & Salaries	43.31	
Power & Fuel	13.80	
Factory Overheads	21.96	
Administrative Exp.	11.43	
Selling Expenses	0.00	
Interest on working capital	0.00	1049.33
Contribution		1514.68
Fixed Cost:		
Wages & Salary	3.00	
Power & Fuel	1.20	
Repairs & Maintenance	37.28	
Factory Overheads	4.50	
Administrative Exp.	1.80	
Interest on term loan	167.40	
Depreciation	399.70	614.88

Break Even Point as % of Production

$$\frac{\text{Fixed Cost}}{\text{Contribution}} \times 100$$

$$= \frac{614.88}{1514.68} \times 100$$

$$= \mathbf{40.59\%}$$

Cash Break Even Point as Percentage of Production

$$\frac{\text{Cash Fixed Cost}}{\text{Contribution}} \times 100$$

$$= \frac{215.18}{1514.68} \times 100$$

$$= \mathbf{14.21\%}$$

Detailed Project Report for Captive Power Plant

ANNEXURE - XVII
Sensitivity Analysis

Particulars	Base Case (Optimum capacity)	Decrease in Capacity utilisation by 10% (both Ferro Alloys & CPP)	Decrease in Selling Price by 10% (Ferro Alloys)	Increase in Fuel/ Raw material price by 10% (both Ferro Alloy & CPP)
Operating Income - Company (Rs. Lacs)	5350.03	4812.79	4815.03	5350.03
Operating Income - Only Power Division (Rs. Lacs)	2564.01	2307.61	2564.01	2564.01
Cash accruals - Company (Rs. Lacs)	1588.53	1378.97	1126.25	1360.46
Cash accruals - Only Power Division (Rs. Lacs)	1228.96	1081.02	1228.96	1142.8
Avg. DSCR - Company	2.67	2.32	1.87	2.29
Avg. DSCR - Only Power Division	2.45	2.18	2.45	2.29

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

ANNEXURE R/3

Original Application No. 73/2014
And
M.A. No. 174/2014

All Dimasa Students Union Dima Hasao Dist. Committee
Vs.
State of Meghalaya & Ors.

CORAM: HON'BLE MR. JUSTICE DR. P. JYOTHIMANI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE DR. G.K. PANDEY, EXPERT MEMBER
HON'BLE PROF. (DR.) P.C. MISHRA, EXPERT MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER

Present: Applicant / Appellant : Mr. Arunabh Chowdhury, Mr. Parthiv Goswami and Mr. Karma Dorjee, Advs.

Date and Remarks	Orders of the Tribunal
Item No. 1 **April 17, 2014**	We have heard learned Counsel appearing for the applicant. Considering the seriousness of the issue involved in this case, we are of the view that the Department of Mining represented through the Secretary of the State Government of Meghalaya as well as Ministry of Coal, Government of India, New Delhi to be impleaded as party respondent no. 7 to 8. Accordingly, the said parties are impleaded as party respondent no. 7 to 8. Registry to make necessary amendment in this regard. The applicant to file amended copy of the memo of parties. Admit. Issue Notice to the respondents including newly impleaded parties by registered post/acknowledgment due and Dasti as well. Notice returnable by the next date of hearing. Learned Counsel appearing for the applicant who is representing the All Dimasa Students Union and the Dima Hazao Dist. Committee has contended that this sort of rat-hole mining operations have been in practice in the Jaintia Hills of the State of Meghalaya many years without being regulated by any law and

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extraction of coal has been made by unscrupulous elements in a most illegal and unscientific manner. It is also informed that there are umpteen number of cases where by virtue of rat-hole mining, during the rainy season, water flooded into the mining areas resulting in death of many number of individuals including employees/workers.

One cannot say that an illegal act having been done for many years must be directed and such act is to be perpetuated and illegality cannot give any cause of action or any right to individual. Learned Counsel for the applicant has also brought to the notice of this Tribunal about the detailed report of Dr. O.P. Singh, Professor, Department Environment Studies, North-Eastern Hills University, Shillong, Meghalaya wherein he has discussed about the entire aspect of the coal mining in the State of Meghalaya. The learned Professor has stated while explaining about the coal mining in Jaintia Hills as follows:

*"**4.2.3. Coal Mining in Jaintia Hills***

Extraction of coal has been taking place in all three regions, however major production occurs in Jaintia Hills. The mining activity in Jaintia Hills. The mining activity in Jaintia Hill is a small scale venture controlled by individuals who own the land Primitive mining method commonly known as 'rat-hole' mining is in practice in Meghalaya. In this method the land is first cleared by cutting and removing the ground vegetation and then digging pits ranging from 5 to 100 m^2 into the ground to reach the coal seam. Thereafter, tunnels are made into the seam sideways to extract he coal which is brought into the pit by using a conical basket or a wheel barrow manually. Coal seams are reached by excavating the side edge of the hill slopes and then coal is extracted through a horizontal tunnel. The coal from the tunnel or pit is taken out and dumped on nearby un-mined area, from where it is carried to the larger dumping places near highways for its trade and transportation.

Finally, the coal is carried by trucks to the larger dumping places near highways for its trande and transportation. Entire road sides in and around mining areas are used for piling of coal which is a major source of air, water and soil pollution. Off road movement of trucks and other vehicles in the area causes further damage to the ecology of the area.

Every year new areas are brought under mining and area under coal mining in Jaintia Hills is increasing day-by-day as shown in figure 4.5."

A reading of the said scientific study made by learned Professor on the subject shows an alarming situation existing in the State of Meghalaya especially in the Jaintia Hills wherein the rat-hole mining has been in practice for a long time. We are of the considered view that such illegal and unscientific method can never be allowed in the interest of maintaining ecological balance of the country and safety of the employees. It is also brought to the notice this Tribunal that by such illegal mining of coal neither the Government nor the people of the country are benefitted. It is only the coal mafias who are getting benefit by following this sort of illegal activities.

We are of the considered view that this act should be condemned and in any event such illegal activities are to be put to an end and the State of Meghalaya should come forward with an appropriate scheme and the statutory rules. Even though, in this application the applicant has restricted himself in respect of rat-hole mining operations in Jaintia Hills of the State of Meghalaya, we are of the view that if in the entire State of Meghalaya such illegal and unscientific operations of rat-hole mining are taking place, the same shall also be put to an end in the interest of people of the area and also people working in the mines for their safety as also for the protection of environment.

Accordingly, while admitting the application, we direct the Chief Secretary, Government of Meghalaya and the Director General of Police, State of Meghalaya to ensure that rat-hole mining/illegal mining is stopped forthwith thought-out the State of Meghalaya and any illegal transport of coal shall not take place until further orders passed by this Tribunal. The Director General of Police, State of Meghalaya is also directed to report to this Tribunal about the compliance of the order by the next date of hearing.

Stand over to 19th May, 2014.

Registry to issue copy of this order by Dasti.

....., JM
(Dr. P. Jyothimani)

....., JM
(M.S. Nambiar)

....., EM
(Dr. G.K. Pandey)

....., EM
(Prof. (Dr.) P.C. Mishra)

....., EM
(Ranjan Chatterjee)

NATIONAL GREEN TRIBUNAL, NEW DELHI

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 110(THC)/2012
And
Original Application No. 73/2014
(M.A. No. 655/2016, M.A. No. 963/2016, M.A. No. 1051/2016, M.A. No. 285/2017, M.A. No. 961/2017, M.A. No. 1010/2017, M.A. No. 536/2018, M.A. No. 537/2018,M.A. No. 549/2018, M.A. No. 550/2018, M.A. No. 551/2018, M.A. No. 552/2018, M.A. No. 589/2018, M.A. No. 638/2018, M.A. No. 695/2018, M.A. No. 738/2018, M.A. No. 790/2018, M.A. No. 1006/2018, M.A. No. 1007/2018, M.A. No. 1008/2018 & M.A. No. 1214/2018)
And
Original Application No. 13/2014
And
Original Application No.186/2014
And
Original Application No. 287/2017

IN THE MATTERS OF:

Threat to Life Arising Out of Coal Mining in South Garo Hills District
Vs.
State of Meghalaya &Ors.
And
All Dimasa Students Union Dima Hasao Dist. Committee
Vs.
State of Meghalaya &Ors.
And
Impulse NGO Network Vs. State of Meghalaya &Ors.
And
Thomas Nongtdu & Anr.Vs. State of Meghalaya &Ors.
And
R.K. Momin Vs. State of Meghalaya &Ors.

CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

Original Application No. 110(THC)/2012:

Present:	**Amicus Curie:**	**Mr. Raj Panjwani, Sr. Adv, Mr. Aagney Sail, Adv.**
	Respondent No. 2:	**Mr. B. V. Niren and Mr. K. Mudgal, Advs.**
	MoEF&CC:	**Mr. Rahul Pratap, Adv.**
	Meghalaya State PCB:	**Mr. Tayenjam Momo Singh, Adv.**
	State of Meghalaya:	**Mr. Ranjan Mukherjee, Ms. Aprajita Mukherjee and Mr. Daniel Stone Lyngdon, Advs.**
	CGSC:	**Mr. Ardhendumauli Kr. Prasad, Adv. and Mr. Shashank Saxena, Adv.**
	Respondent nos. 4 & 5	**Mr. P. Yobin and Mr. Saurabh Sharma, Advs.**
		Mr. Shuvodeep Roy and Mr. Vinayak Gupta, Adv. for State of Assam

Original Application No. 73/2014:

Present:	**Amicus Curie:**	**Mr. Raj Panjwani, Sr. Adv, Mr. Aagney Sail, Adv.**
	MoEF&CC:	**Mr. Rahul Pratap, Adv.**
	Meghalaya State PCB:	**Mr. Tayenjam Momo Singh, Adv.**
	State of Meghalaya:	**Mr. Ranjan Mukherjee, Ms. Aprajita Mukherjee and Mr. Daniel Stone Lyngdon, Advs.**
		Mr. Raka Bijoy Phookan, Mr. Neha Tandon, Advs. in M.A. Nos. 1006/2018 to 1008/2018
	CGSC:	**Mr. Ardhendumauli Kr. Prasad, Adv. and Mr. Shashank Saxena, Adv.**
		Mr. Mayank, Adv.
		Mr. H. S. Thangkhiew, Sr. Adv., Mr. Philemn Nongbri and Mr. A. Rohen Singh, Advs.
		Mr. Shuvodeep Roy and Mr. Vinayak Gupta, Adv. for State of Assam

Original Application No. 13/2014:

Present:	**Amicus Curie:**	**Mr. Raj Panjwani, Sr. Adv, Mr. Aagney Sail, Adv.**
	Meghalaya State PCB:	**Mr. Tayenjam Momo Singh, Adv.**
	State of Meghalaya:	**Mr. Ranjan Mukherjee, Ms. Aprajita Mukherjee and Mr. Daniel Stone Lyngdon, Advs.**
	CGSC:	**Mr. Ardhendumauli Kr. Prasad, Adv. and Mr. Shashank Saxena, Adv.**

Original Application No.186/2014:

Present:	**Applicant:**	
	Meghalaya State PCB:	**Mr. Tayenjam Momo Singh, Adv.**
	State of Meghalaya:	**Mr. Ranjan Mukherjee, Ms. Aprajita Mukherjee and Mr. Daniel Stone Lyngdon, Advs.**
	CGSC:	**Mr. Ardhendumauli Kr. Prasad, Adv. and Mr. Shashank Saxena, Adv.**

Original Application No. 287/2017:

Present:	**Applicant:**	**Mr. Yashpal Rangi, Adv. along with Mr. Hariom, Adv.**
	MoEF&CC:	**Mr. Rahul Pratap, Adv.**
	Meghalaya State PCB:	**Mr. Tayenjam Momo Singh, Adv.**
	State of Meghalaya:	**Mr. Ranjan Mukherjee, Ms. Aprajita Mukherjee and Mr. Daniel Stone Lyngdon, Advs.**
	CGSC:	**Mr. Ardhendumauli Kr. Prasad, Adv. and Mr. Shashank Saxena, Adv.**

	Date and Remarks	**Orders of the Tribunal**
	Item Nos. 06 to 10 **August 31, 2018** **R**	1. The proceedings in these matters were initiated initially before the then Bench of Guwahati High Court at Shillong on the basis of news item reports to the effect that on 06.07.2012, 30 coal labourers were trapped inside a coal mine at Nongalbibra in the District of South Garo Hill and 15 of them died inside the coal mine. According to the news item, the incident happened on account of lack of safety norms. Vide order dated 10.12.2012 in *PIL (Suo Moto) Number (SH) 3 of 2012*, the matter was directed to be transferred to this Tribunal. 2. The Tribunal issued notice to the parties on 30.01.2013 and has been, thereafter, dealing with the matter since the last five years. 3. It will be appropriate if reference is made to some of the orders passed. 4. On 17.04.2014, the Tribunal looked into the validity of the rat-hole mining operation in the light of the scientific studies and by way of interim direction, directed as follows:

	Item Nos. 06 to 10 **August 31, 2018** **R**	*"Accordingly, while admitting the application, we direct the Chief Secretary, Government of Meghalaya and the Director General of Police, State of Meghalaya to ensure that rat-hole mining/illegal mining is stopped forthwith thought-out the state of Meghalaya and any illegal transport of coal shall not take place until further orders passed by this Tribunal. The Director General of Police, State of Meghalaya is also directed to report to this Tribunal about the compliance of the order by the next date of hearing."* 5. After the above order was passed, the question was as to what should happen to the already extracted material. The Tribunal, vide order dated 09.06.2014, permitted transportation of already extracted material lying in open near the sites, subject to the supervision and directions of the Committee comprising of Director of Mines, Meghalaya and other officers as per the said order. The Committee was required to quantify the extracted coal and its location and also to assess its value. The Committee was also to prescribe the mode of transportation. The Committee was to fix two check-points *en route* transportation of the extracted coal from the point of loading to the point of destination. The issue of restoration of damage to the area affected by illegal mining was taken up for consideration on 01.08.2014 and the earlier constituted Committee was substituted to ascertain quantum of extracted coal and to carry out other functions. 6. On 07.10.2014, the Tribunal considered the reports of the Committee and directed that check-posts be established apart from setting up of royalty collection counters. It was noted that 6.3 million tonnes of coal of the value of Rs. 3078 crores was lying in the State and the royalty assessed was Rs. 400 crores. The Tribunal

	Item Nos. 06 to 10 **August 31, 2018** **R**	also directed making of a mining plan for scientific mining. Direction was also issued on 26.11.2014 to videograph the operations of the weigh bridges. Since there were disputes about the quantum of coal which could be permitted to be transported, the said issue was directed to be gone into with the assistance of the Committee on several occasions. 7. On 25.03.2015, it was noted that the State has failed to check illegal mining and the violations. There were no proper guidelines to check such illegal mining. Joint reports of the inspection supported the factum of illegal mining. It was also noted that as per Report of Comptroller and Auditor General of India for the period ending 31st March, 2013 under 07.5.18 of Chapter 7, the invoice value of the coal was taken at Rs. 4850/- per metric tonne. 'Meghalaya Environment Protection and Restoration Fund' (MEPRF) was directed to be constituted to credit an amount of royalty in excess of Rs. 1260 per metric tonne to which the amount of penalty recovered from illegal miner at three time the current royalty rate that is @ Rs. 2025/- was to be credited. This was applicable to 308 cases, registered by the State Government. We are informed that a sum of about Rs. 410 crores up to 31.05.2018 has been credited to this account and deposited in a separate account. There was also a direction on 30.03.2015 that the State Government will collect 10% of the market value of coal per metric tonne in addition to the royalty and the said amount was also be credited to the Meghalaya Environment Protection and Restoration Fund.

	Item Nos. 6to 10 **August 31, 2018** **R**	8. On 31.03.2016, the Tribunal directed that except for the coal already transported prior to 2016, the remaining coal shall vest in the State and disposed of in accordance with law and consistent with the norms of environment. The State was to place a plan as to how the coal vested in the State will be dealt with (Order dated 10.05.2016). On 02.01.2018, Restoration Plan filed before this Tribunal on 03.10.2017 by the Ministry of Environment, Forest and Climate Change was noted for consideration. 9. On 18.01.2018, there was again issue on un-assessed coal lying at some places. 10. At this stage, we may note that following issues are pending before the Hon'ble Supreme Court arising out of orders passed by this Tribunal: i) *Civil Appeal No(s). 5272/2016* titled as *Ka Hima Nongstoin Land Owners, Coal Traders and Producers Association Vs. All Dimasa Students Union, Dima Hasao District Committee and Ors.* wherein following order was passed on 21.09.2016: *"Having heard counsel for the parties, it is directed that the petitioners, as well as the respondents, who have mined the coal, are permitted to transport the coal on payment of royalty and other fees as fixed by the National Green Tribunal (for short, 'the Tribunal') and other relevant status. The extracted coal can be transported from 1st October, 2016 till 31st May, 2017. It is further directed that no other extraction shall take place in the meantime.* *The finding of the Tribunal that the coal is vested in the State on the ground that it is illegally extracted coal, shall be adverted to at the time of final hearing. The miners shall keep the accounts and if, ultimately, it is held that the coal belongs to the State, they will refund the amount with interest. The quantum of interest shall be determined at the time of final hearing. Needless to say, these observations have been made*

	Item Nos. 06 to 10 **August 31, 2018** **R**	*without prejudice to the contentions to be raised by the learned counsel for the parties. The tribunal can proceed with regard to the other aspects which are pending before it."* The above order shows that question whether coal is vested in the State is to be gone into before the Hon'ble Supreme Court. Thereafter, on 28.03.2018, by the said order, time for transporting already extracted coal was extended up to 31.05.2018 but it was clear that no further extraction shall be allowed. ii) *Civil Appeal Diary No. 3067/2018* titled as *Lber Laloo Vs. All Dimasa Students Union, Dima Hasao District Committee and Ors.*, raising the question whether ban on mining can be continued. We are informed that in the said matter, the issue of mining plan has also been raised. 11. We have heard learned counsels for the parties present before this Tribunal today. 12. Mr. Raj Panjwani, Senior Advocate, appearing as Amicus Curiae has suggested that in view of the orders already passed from time to time, the issue of banning rat-hole mining can be taken as final as far as this Tribunal is concerned, subject to any orders which may be passed in pending proceedings before the Hon'ble Supreme Court. The issue of rehabilitation of the affected victims and the affected areas can be finalized by issuing an appropriate direction. Irrespective of ownership of the already mined coal, a direction can be issued for appointment of a receiver/custodian as no further transportation is permissible after 31.05.2018 in view of

	Item Nos. 06 to 10 **August 31, 2018** **R**	orders of the Hon'ble Supreme Court. This can be subjected to further orders of the Hon'ble Supreme Court. We do not find any reason why this suggestion be not accepted. 13. Accordingly, we direct that orders of ban of rat-hole mining will continue, subject to further orders of the Hon'ble Supreme Court. Ban of transportation of the already mined material will also continue subject to further orders of the Hon'ble Supreme Court. The State of Meghalaya will be the receiver/custodian of the available extracted coal as on date, subject to further orders of the Hon'ble Supreme Court. If any further coal not so far recorded in the inventory is available, a separate inventory may be made and if it is found that the extraction was illegal, royalty in terms of orders already passed may also be collected. This may be determined by the Secretary of Mining of the State of Meghalaya. While one view is that there is extracted coal and not accounted for, the other view put forward that it is result of illegal mining. This aspect may be gone into by the Secretary of Mining, State of Meghalaya in the first instance. The same be cross-checked by a joint team of representatives of Central Pollution Control Board and Indian School of Mines, Dhanbad. 14. Only last question which remains is of restoration of the environment and rehabilitation of the victims for which funds are available. We are of the view that for this task, it will appropriate that we constitute an independent Committee. This Committee will be headed by Justice B.P. Katoki, Former Judge of the Guwahati

	Item Nos. 06 to 10 **August 31, 2018** **R**	High Court with representatives from Central Pollution Control Board and Indian School of Mines, Dhanbad. 15. The Committee will take the following steps: • Take stock of all actions taken so far in this regard. • Prepare time bound action plan to deal with the issue and ensure its implementation. 16. The Committee may requisition services of such technical experts as may be necessary and may also carry out visits to sites whenever necessary. They will be entitled to all logistic support for performing these functions which shall be provided under the directions of the Chief Secretary, Meghalaya. 17. The Committee may also set up website for receiving and giving information on subject. 18. The Committee may also involve educational institutions for awareness and feedback about results. 19. All authorities concerned in the State of Meghalaya shall cooperate and coordinate with the Committee. The Committee can seek such technical assistance as may be required from any relevant authority. 20. The Chief Secretary, Meghalaya to provide all facilities to said Committee to perform its functions. The Committee may send its periodical reports to the Tribunal by e-mail at filing.ngt@gmail.com. 21. The Committee may assume its charge within two weeks from today. The Committee may prepare Action Plan which shall have targets of ensuring compliance. It may meet at such intervals as considered appropriate but twice in every month and fix targets for compliance. 22. The Committee will be free to take up all incidental

	Item Nos. 06 to 10 **August 31, 2018** **R**	issues. The Committee will be free to seek any further directions from this Tribunal by e-mail. 23. The Chief Secretary of State of Meghalaya may determine remuneration of the Chairman in consultation with him and the Chief Secretary of the State of Meghalaya will also provide all logistic support including security if needed for their proper functioning. 25. The Committee will be entitled to take the help of the technical experts in execution of this order. The Committee may frame its action plan for implementation within one month from today and implementation may be completed within six months as far as possible. The timelines may be laid down. A copy of the action plan may be sent to this Tribunal by e-mail at filing.ngt@gmail.com. Thereafter, reports may be sent at least once in two months. The Committee may also assess the damage to the environment as well as to the individuals as already suggested in the Report. 27. The State of Meghalaya will make available all the relevant records to the Committee for the purpose. The State will also determine the remuneration to be paid to the Chairman of the Committee in consultation with him within one month from today. 28. The Committee will be at liberty to take technical assistance from any quarter which may be facilitated by the State of Meghalaya. The Committee may also supervise any issue arising out of receivership/custodianship of the already extracted coal, including any environmental issues which any arise out of storage of the extracted material and the steps required

	Item Nos. 06 to 10 **August 31, 2018** **R**	to be taken for the purpose. The Report of the Committee may be furnished to this Tribunal by e-mail at filing.ngt@gmail.com. A copy of this order may be sent to all the concerned authorities by e-mail for compliance. All pending matters will stand disposed of in above terms. List for consideration of the Report on 06th March, 2019. .....,CP (Adarsh Kumar Goel) .....,JM (Dr.Jawad Rahim) .....,JM (S.P. Wangdi) .....,EM (Dr.Nagin Nanda) 31.08.2018

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ANNEXURE R/5

(2019) 8 Supreme Court Cases 177

(BEFORE ASHOK BHUSHAN AND K.M. JOSEPH, JJ.)

Civil Appeal No. 10720 of 2018†

STATE OF MEGHALAYA .. Appellant;

Versus

ALL DIMASA STUDENTS UNION, DIMA-HASAO DISTRICT COMMITTEE AND OTHERS .. Respondents.

With

Civil Appeal No. 10611 of 2018

STATE COORDINATION COMMITTEE OF COAL OWNERS, MINERS AND DEALERS FORUM .. Appellant;

Versus

ALL DIMASA STUDENTS UNION, DIMA HASAO DISTRICT COMMITTEE AND OTHERS .. Respondents.

With

Civil Appeal No. 10907 of 2018

GARO HILLS AUTONOMOUS DISTRICT COUNCIL .. Appellant;

Versus

ALL DIMASA STUDENTS UNION, DIMA HASAO DISTRICT COMMITTEE AND OTHERS .. Respondents.

With

Civil Appeal No. 5272 of 2016‡

KA HIMA NONGSTOIN LAND OWNERS, COAL TRADERS AND PRODUCERS ASSOCIATION .. Appellant;

Versus

ALL DIMASA STUDENTS UNION, DIMA HASAO DISTRICT COMMITTEE AND OTHERS .. Respondents.

With

Civil Appeal No. ... of 2019††

LBER LALOO .. Appellant;

Versus

ALL DIMASA STUDENTS UNION, HASAO DISTRICT COMMITTEE AND OTHERS .. Respondents.

† Arising from the Judgment and Order in *Threat to Life Arising Out of Coal Mining in South Garo Hills District* v. *State of Meghalaya*, 2018 SCC OnLine NGT 1241 (National Green Tribunal, Original Application No. 110 of 2012, dt. 31-8-2018)

‡ Arising from the Judgment and Order in *All Dimasa Students Union* v. *State of Meghalaya*, 2016 SCC OnLine NGT 174 (National Green Tribunal, Original Application No. 73 of 2014, dt. 10-5-2016)

†† Arising out of CA Diary No. 3067 of 2018. Arising from the Judgment and Order in *All Dimasa Students Union* v. *State of Meghalaya*, 2015 SCC OnLine NGT 697 (National Green Tribunal, MA No. 92 of 2015 in Original Application No. 73 of 2014, dt. 25-3-2015)

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With

Civil Appeal No. 2968 of 2019[†‡]

STATE OF MEGHALAYA .. Appellant;

Versus

ALL DIMASA STUDENTS UNION, DIMA HASAO DISTRICT COMMITTEE AND OTHERS .. Respondents.

Civil Appeals No. 10720 of 2018 with Nos. 10611, 10907 of 2018, 5272 of 2016, ... of 2019 and 2968 of 2019, decided on July 3, 2019

A. **Constitution of India — Art. 244(2) r/w Sch. VI Para 12-A(b) and Sch. VII List II Entry 23 and List I Entry 54 — Autonomous district or region in State of Meghalaya — Privately owned/community owned land in Hills Districts — Nature of rights, including subsoil/mineral rights, of such private owners/community, applicable law and approval procedure for mining/grant of mining leases in respect of such land**

Held, (a) private owners/community of such land have both surface right as well as subsoil rights, that is, right over minerals, (b) and therefore, NGT was not correct in declaring that all extracted coal lying in open after 15-5-2016, that is, after lapse of interim order, would vest with State of Meghalaya, (c) both MMDR Act and Rules are applicable to such private community lands and mining lease contemplated under MMDR Act is mandatory without which no mining operations can be conducted even in these private lands, (d) if scientific mining is carried on under regulated conditions as per law, ban order of NGT would not operate against such mining and said ban order applies only to illegal coal mining which was rampant, (e) in view of S. 2, MMDR Act, Central Government has power of control, regulation and development of minerals and District Council or Regional Council cannot make any law which is repugnant to law made by Parliament, and (f) State of Meghalaya has ample power to ensure compliance with statutory scheme

Application of MMDR Act and Rules has not been barred/regulated by any Presidential Notification under Sch. VI Para 12-A(b) There is nothing in S. 4(1), MMDR Act to indicate that restriction contained therein does not apply to privately owned/community owned land Statutory scheme delineated by S. 13(2)(f), MMDR Act and Mineral Concession Rules, 1960 clearly contemplates grant of mining lease with regard to both categories of land: land in which minerals vest in Government and land in which minerals vest in person(s) other than Government

— It cannot be said that no mining lease is contemplated in respect of land where mineral vests exclusively with private persons Words "mining lease" specified in MMDR Act have to be interpreted in a manner which will advance object of legislation — Essential characteristics of mining lease, under MMDR Act are that it is granted for purpose of undertaking "mining operations"; and "mining operations" means any operation undertaken for purpose of winning mineral

[†‡] Arising from the Judgment and Order in *Threat to Life Arising Out of Coal Mining in South Garo Hills District* v. *State of Meghalaya*, 2019 SCC OnLine NGT 105 (National Green Tribunal, Original Application No. 110 of 2012, dt. 4-1-2019)

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Therefore, for coal mining in said Hills Districts of State of Meghalaya, it is private owner/community owner of land who is also owner of mineral, who shall grant lease for mining of coal as per provisions of Ch. V, Mineral Concession Rules, 1960 after obtaining previous approval of Central Government through State Government — If mining is done after proper approval of mining plans, ban order of Tribunal dt. 17-4-2014 shall not operate against such mines State of Meghalaya, which has ample power to implement statutory scheme, has to ensure compliance with MMDR Act, 1957, Mines Act, 1952 as well as Environment (Protection) Act, 1986 and all other applicable laws, including all environmental laws — However, power to legislate with regard to mines and minerals throughout India is vested with Central Government in view of declaration in public interest under S. 2, MMDR Act that Union has taken under its control, regulation and development of mineral — District Council or Regional Council cannot make any law which is repugnant to law made by Parliament

Mines and Minerals (Development and Regulation) Act, 1957 Ss. 4, 5, 13 and 2 — Mineral Concession Rules, 1960 — Ch. V — Transfer of Property Act, 1882 Ss. 3 and 105 Subsoil rights/ mineral rights in privately owned/community owned land — Exploitation of — Held, has to be in compliance with scheme of MMDR Act/Mineral Concession Rules and all applicable environmental laws — Mines Act, 1952 — Ss. 5, 75 and 57 — Powers of Magistrate — Scope of — Restrictions that may be placed upon — Coal Mines Regulations, 2017, Chs. II and IV (Paras 195.4 to 195.13, 74 to 154 and 183 to 186)

B. **Mines and Minerals — Mines and Minerals (Development and Regulation) Act, 1957 — Ss. 4, 5, 3(c) & (d) and 13 — Exploitation of mineral wealth by owner of land himself — Mandatory necessity of compliance with MMDR Act and Mineral Concession Rules and Environmental Laws — "Mining lease" under MMDR Act vis-à-vis "lease" under TPA — Compared**

— Held, even where land is privately owned and thus private owner owns subsoil/mineral rights therein, even then such owner has to comply with requirements of MMDR Act and Mineral Concession Rules and Environmental Laws, to exploit the subsoil/mineral rights Property Law Transfer of Property Act, 1882 — Ss. 3 and 105 — Words and Phrases — "Mining lease", "lease" Mineral Concession Rules, 1960, Ch. V

C. **Constitution of India — Art. 244(2) r/w Sch. VI Para 12-A(b) and Sch. VII List II Entry 23, List I Entry 54 and Pt. X — Autonomous district or region in State of Meghalaya — Lands in Hills Districts of Meghalaya — Land revenue system during colonial times and present day and different types of lands in Khasi Hills and Jaintia Hills, discussed**

Concluded, that, most of the lands in said Hills Districts are either privately or community owned in which State does not claim any right — Tribals owned the land as well as subsoil and mineral rights therein, which is an inescapable conclusion — Tenancy and Land Laws — Mineral/Subsoil rights (Paras 74 to 93)

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D. **Constitution of India — Art. 244(2) r/w Sch. VI Para 12-A(b) and Sch. VII List II Entry 23 and List I Entry 54 — Autonomous district or region in State of Meghalaya — Privately owned/community owned land in Hills Districts — Unscientific and unregulated mining — Reversal of incorrect decision of Tribunal by which Tribunal had vested all extracted coal lying in open as on 15-5-2016 with State of Meghalaya — Proper disposal of such coal — Directions issued**

— On suggestion of Amicus Curiae, entire extracted coal as mentioned above directed to be handed over to Coal India Ltd., for proper disposal by way of auction — State Government directed to bear transportation expenses which could be deducted from price of coal received in auction Thus proceeds of auction to be paid back to the private owners/community owners after deducting: (a) transportation expenses, (b) royalty, (c) taxes payable, and (d) payment towards MEPR Fund

— But clarified that above order would not be applicable to coal seized due to illegal transportation and illegal mining These have to be dealt with in accordance with S. 21, MMDR Act — Mines and Minerals Mines and Minerals (Development and Regulation) Act, 1957, S. 21 (Paras 195.20 to 195.25, 196 and 149 to 154)

E. **Constitution of India — Art. 244(2) r/w Sch. VI Para 12-A(b) and Sch. VII List II Entry 23, List I Entry 54 — Autonomous district or region in State of Meghalaya — Privately owned/community owned land in Hills Districts — Environmental degradation resulting from coal mining — Restoration of environment — Liability of State Government**

— Tribunal directing State Government to pay Rs 100 crores to Central Pollution Control Board, held, neither can be regarded as a penalty nor a fine Modification of Tribunal's order Tribunal's order modified to extent that said amount shall be paid to Central Pollution Control Board from MEPR Fund, and aforesaid amount should be utilised only for restoration of environment in State of Meghalaya — Mines and Minerals — Mines and Minerals (Development and Regulation) Act, 1957 — S. 21 — Environment Law General Principles of Environmental Law Polluter Pays Principle and Remedial/Compensatory/Punitive Measures — Remedial action/Reclamation/Rehabilitation measures/Compensation/Disgorgement of gains of wrongdoer (Paras 195.19 and 196, 172, 182 and 187 to 194)

F. **Environment Law — National Green Tribunal Act, 2010 — Ss. 14 to 16, 19(1) and Sch. I — Illegal, unscientific and unregulated coal mining — Environmental degradation of water, air and surface — Jurisdiction and extensive powers of NGT — Wider jurisdiction of NGT under S. 19 of 2010 Act vis-à-vis power of court under Or. 26 R. 10-A CPC — Wide discretion conferred upon NGT by enabling provision of R. 24 of 2011 Rules — Explained**

— NGT, held, did not exceed its jurisdiction under Ss. 14(1)(i) & (ii) and S. 15 of NGT Act, 2010 in entertaining original applications as well as matters transferred from High Court and issuing appropriate directions — Expert reports proved that there was environmental degradation of water,

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air and surface — Tribunal also did not exceed its jurisdiction in directing appointment of committee to secure ends of justice, to implement its directions for restoration of environment in view of S. 19(1) of NGT Act, 2010 and Or. 26 R. 10-A CPC — Tribunal also did not exceed its jurisdiction in directing constitution of a fund for implementing its directions

— Tribunal has wider jurisdiction under S. 19(1) of NGT Act, 2010 than under Or. 26 R. 10-A CPC to appoint commission for scientific investigation and call for its reports and to pass such other orders to give effect to its orders and secure ends of justice, like constituting a fund as in present case

This does not take away essential judicial function, not delegated to such commission — Tribunal is in complete control as matter is pending before it

And State Government is at liberty to obtain appropriate direction, if it is aggrieved by any act of Committee — Committee appointed in present case is concerned only with environmental degradation and illegal coal mining It does not affect powers of District/Regional Councils (Paras 195.14 to 195.19)

Object of NGT Act, 2010 is to provide effective and expeditious relief, compensation for damages, etc. and dispose of cases relating to protection of environment and forests and conservation of natural resources

Alleged pleading as well as materials before Tribunal were with regard to environmental degradation and pollution due to illegal and unregulated mining of coal (Paras 56 to 73)

— State Government disputing jurisdiction of Tribunal to entertain such cases, disapproved State has a constitutional obligation to ensure clean environment to its citizens, and, therefore, should have acted as a facilitator and not as obstructionist Civil Procedure Code, 1908 Or. 26 R. 10-A — Wider jurisdiction of NGT under S. 19 of 2010 Act vis-à-vis power of court under Or. 26 R. 10-A CPC, explained — Constitution of India — Art. 48 and Art. 244(2) r/w Sch. VI Para 12-A(b) and Sch. VII List II Entry 23, List I Entry 54 — National Green Tribunal (Practice and Procedure) Rules, 2011 — R. 24 — Interpretation of Statutes — Internal Aids — Enabling provisions Use of words "may", "such orders", "gives such directions", "as may be necessary or expedient", "to give effect to its orders", "order to prevent abuse of process", in R. 24 of the NGT Rules, 2011, are words which enable the Tribunal to pass orders and the above words confer wide discretion — General Principles of Environmental Law — Environment Protection, Restoration, Rehabilitation Funds Power of NGT to set up — Regulatory Framework, Bodies and Judicial Intervention — Court appointed Committees/CEC/Monitoring Committee Powers of NGT to set up (Paras 56 to 73, 195.2, 195.3 and 157 to 171)

Points for consideration

From the submissions of the parties as noted and the materials on record in these appeals, the following points arose for consideration:

(*1*) Whether orders passed by the National Green Tribunal are without jurisdiction being beyond the purview of Sections 14, 15 and 16 of the National Green Tribunal Act, 2010 (NGT Act, 2010)?

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(2) Whether provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act, 1957) are applicable in tribal areas within the State of Meghalaya, included in the Sixth Schedule of the Constitution?

(3) Whether for mining the minerals from privately owned/community owned land in Hills Districts of Meghalaya, obtaining a mining lease is a statutory requirement under the MMDR Act, 1957 and the Mineral Concession Rules, 1960 (the 1960 Rules)?

(4) Whether under the MMDR Act, 1957 and the Mineral Concession Rules, 1960, it is the State Government, who is to grant lease for mining of minerals in privately owned/community owned land or it is the owner of the minerals, who is to grant lease for carrying out mining operations?

(5) Whether the State of Meghalaya has any statutory control over the mining of coal from privately owned/community owned land in Hills Districts of the State of Meghalaya?

(6) Whether the power to allot land for mining purposes is vested in Autonomous District Councils?

(7) Whether the order of the National Green Tribunal dated 17-4-2014 directing for complete ban on mining is unsustainable?

(8) Whether the complete ban on mining of coal in the State of Meghalaya as directed by NGT deserved to be vacated/modified in the interest of the State and tribals?

(9) Whether NGT had any jurisdiction to constitute committees to submit reports, to implement the orders of NGT, to monitor storage/transportation of minerals and to prepare action plan for restoration of environment?

(10) Whether NGT committed error in directing for constitution of fund, namely, Meghalaya Environment Protection and Restoration Fund (MEPR Fund)?

(11) Whether NGT by constituting committees has delegated essential judicial powers to the committees and has further encroached the constitutional scheme of administration of tribal areas under Article 244(2) and Article 275(1) and Schedule VI of the Constitution?

(12) Whether direction to deposit Rs 100 crores by the State of Meghalaya by order dated 4-1-2019 of NGT impugned in CA No. 2968 of 2019 is sustainable?

(13) Whether NGT's order dated 31-3-2016 that after 15-5-2016 all remaining coal shall vest in the State of Meghalaya is sustainable?

(14) Whether assessed and unassessed coal which has already been extracted and lying in different districts of Meghalaya be permitted to be transported and what mechanism be adopted for disposal of such coal?

Partly allowing the appeals and disposing of the IAs, the Supreme Court

Held :

Point 1

The National Green Tribunal Act, 2010 was enacted to provide for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for

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damages to persons and property and for matters connected therewith or incidental thereto. (Para 56)

It is relevant to notice that before NGT no such plea was taken by the State of Meghalaya or any of the parties questioning the jurisdiction of NGT. However, the issue being a jurisdictional issue, the appellants were permitted to raise the issue. (Para 60)

All Dimasa Students Union v. *State of Meghalaya*, 2014 SCC OnLine NGT 2307, *approved*

The pleadings in OA No. 73 of 2014 clearly and categorically alleged environmental degradation consequent to illegal coal mining. Inaction of respondent authorities has resulted in violation of various enactments. (Paras 66 and 67)

The present is not a case of mere allegation of environmental degradation by illegal and unregulated coal mining rather there were materials on the record where environmental degradation of water, air and surface of the land was proved. (Para 68)

Thus the Tribunal had jurisdiction to entertain the case and pass orders. The submission that the Tribunal has no jurisdiction is not expected from the State Government who is under constitutional obligation to ensure clean environment to all its citizens. In cases pertaining to environmental matters the State has to act as facilitator and not as obstructionist. (Para 69)

Techi Tagi Tara v. *Rajendra Singh Bhandari*, (2018) 11 SCC 734, *distinguished*

Rajendra Singh Bhandari v. *State of Uttarakhand*, 2016 SCC OnLine NGT 456, *held, reversed*

The Tribunal did not exceed its jurisdiction under Sections 14 and 15 in entertaining the application OA No. 73 of 2014. (Para 73)

Point 2

Insofar as the land tenure in the Hills Districts of Meghalaya, there is no substantial change after the advent of the Constitution. There was no payment system of land revenue before the advent of the Constitution in the Hills Districts of Meghalaya. The lands in the Khasi Hills District of Meghalaya come under two divisions Ri Raid and Ri Kynti. Ri Raid lands are community lands which are set apart for the benefit and use of entire community. Ri Kynti lands are privately owned lands which were also owned by community as well as by individuals. The owner of the Ri Kynti land is an absolute proprietor. The tenure system in Jaintia Hills is classified into two types of lands, namely, hali/irrigated land and highland. Hali lands are further categorised in raj land, service land, village puja land and private land. Proprietary right does not vest in the State in respect to majority of lands which are either privately owned or owned by the tribal community. No system of payment of land revenue is prevalent in the Hills Districts of Meghalaya except lands which belong to the State. For the purposes of the present case where the submission of the appellant is that land in which mining operations of coal is being done are lands belonging to tribals who are owners of the land as well as of the subsoil, it may be assumed that tribal is the owner of the land. It is further the case of the appellant that in Hills Districts of the State of Meghalaya in land which is privately owned by the tribal or community owned, the tribals or the community or the clan are owners of both surface right and subsoil. It is the case of the appellant that the State does not have any right in subsoil or minerals. (Para 74)

Thressiamma Jacob v. *Deptt. of Mining & Geology*, (2013) 9 SCC 725 : (2013) 4 SCC (Civ) 559; *Anand Brahma Shah* v. *State of U.P.*, AIR 1967 SC 1081, *applied*

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Mitchell v. *Mosley*, (1914) 1 Ch 438 (CA), *cited*

Halsbury's Laws of England, 3rd Edn., Vol. 26, p. 325, *referred to*

Thus, looking to the nature of the land tenure as applicable in the Hills Districts of the State of Meghalaya, most of the lands are either privately or community owned in which the State does not claim any right. Thus, private owners of the land as well as community owners have both the surface right as well as subsoil right. Thus the tribals owned the land and also owned the minerals, which is an inescapable conclusion. (Para 76)

Part X of the Constitution separately deals with scheduled and tribal areas. Hills Districts of the State of Meghalaya were treated to be tribal area and were to be governed by Article 244(2) read with Schedule VI. (Para 77)

No notification has been issued by the President under Para 12-A(*b*) of Schedule VI of the Constitution, although, the said Para 12-A(*b*) is in the Constitution with effect from 21-1-1972. Thus, there is nothing in the Sixth Schedule of the Constitution which may indicate about the inapplicability of the MMDR Act, 1957 with regard to the Hills Districts of the State of Meghalaya. (Para 83)

The Comptroller and Auditor General has clearly stated that the MMDR Act, 1957 is fully applicable for regulation of mines and regulation of minerals in the State of Meghalaya. (Para 84)

The Meghalaya Mines and Minerals Policy, 2012 issued by the Government of Meghalaya as well as draft guidelines of coal mining activities in the State prepared in the year 2015 have been brought on the record. The above guidelines were prepared after/in consultation with the Central Government. The above draft guidelines prepared by the State clearly mention about the unregulated and unscientific mining being carried out in the State of Meghalaya. (Paras 85 to 88)

There can be no dispute to the proposition that in view of the MMDR Act, 1957, the legislative competence of the State of Meghalaya under List II Entry 23 stands denuded. However, under the MMDR Act, 1957 as well as the Mineral Concession Rules, 1960, several statutory obligations/jurisdictions have been conferred on the State of Meghalaya, which shall be referred to later in this judgment. (Para 90)

When under a parliamentary enactment, the State has been given some statutory obligations, there is no lack of jurisdiction in the State to frame policy to give effect to or implement the jurisdictions conferred on the State by parliamentary enactments. It is true that Mining Policy to be framed by the State has to confine to the jurisdiction conferred on it as per the MMDR Act, 1957 and the Rules framed thereunder. There are other related issues concerning mining like protection of environment and forests for which the State has to declare its policy for implementation of its objective. Several other aspects relating to mining, like rehabilitation, reclamation and restoration have to be effectively implemented by the State for which also, it may be required to frame a policy. The Meghalaya Mines and Minerals Policy, 2012 was already framed by the State of Meghalaya, even before directions were issued by NGT. In pursuance of the NGT directions, it was draft guidelines of 2015, which were prepared by the State of Meghalaya. Thus the direction of NGT to declare Mining Policy by the State of Meghalaya cannot be said to be without jurisdiction. However, the State in its Mining Policy can only include those areas where it has jurisdiction under the MMDR Act, 1957 and the Rules framed thereunder. (Para 91)

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The request of the State of Meghalaya that exemption be granted by presidential notification under Para 12-A(*b*) has not been acceded to and this itself expresses recognition of the State of Meghalaya that the MMDR Act is applicable. There is nothing in the Sixth Schedule of the Constitution which in any manner excludes the applicability of the MMDR Act, 1957 in the tribal areas of Hills Districts of the State of Meghalaya. (Para 93)

Point 3

The legislative power under List II Entry 23 is subject to the provision of List I with respect to regulation and development under the control of the Union. When the Union has declared to have taken under its control the regulation of mines and development of minerals to the extent provided in the Act, the legislative power of the State to the above extent is denuded. (Para 98)

The use of words "no person" in Section 4(1) of the MMDR Act, 1957 is without an exception. There is nothing in Section 4(1) to indicate that restriction contained in Section 4(1) does not apply with regard to a person who is owner of the mine. Further, words "any area" under Section 4(1) also have significance which does not have any exception. Further phrase "except under and in accordance with terms and conditions with a mining lease granted under the Act" are also significant which make the intent and purpose of prohibition clear and loud. (Para 101)

The Section 5(1) proviso of the MMDR Act, 1957 is relevant since it contains a further restriction that no mining lease shall be granted with regard to any minerals specified in Para A of the First Schedule except with the previous approval of the Central Government. The present case is concerned with coal which is in Para A of First Schedule. (Para 102)

Sections 13(2)(*a*) and (*f*) of the MMDR Act, 1957 make it clear that the Rules can be made for grant of mining lease in respect of land in which minerals vest in the Government as well as in respect of any land in which minerals vest in person other than the Government. The statutory scheme, in Sections 13(2)(*a*) and (*f*) of the MMDR Act and the Mineral Concession Rules, 1960 is clear that lease can be granted with regard to both the categories of land, land in which the Government is owner of minerals and land in which minerals vest in person other than the Government. The tribals, owners of the minerals shall expressly fall in rule-making power of the Government under Section 13(*f*). (Paras 104 to 106)

In statutory provisions there is no kind of exception as contended by the appellant that when owner himself wants to win the minerals he does not require any mining lease. The submission is contrary to the express statutory scheme, in the event the submission of the appellant is accepted that with regard to minerals which vest in a private person no mining lease is required, the whole object of the Union by which it declared to have taken under its control regulation of mines and development of minerals shall be frustrated. (Para 106)

The term "lease" occurring in Section 3(c) of the MMDR Act does not appear to have been used in the narrow technical sense in which it is defined in Section 105 of the Transfer of Property Act, 1882 but it has all the characteristics of a lease as defined in the Transfer of Property Act. A mining lease, therefore, may not meticulously and strictly satisfy in all cases, all the characteristics of a "lease" as defined in the Transfer of Property Act. Nevertheless, in the legally accepted sense, it has always been regarded as a lease in this country. (Paras 106 to 112)

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Tarkeshwar Sio Thakur Jiu v. *Dar Dass Dey & Co.*, (1979) 3 SCC 106; *Nageshwar Bux Roy* v. *Bengal Coal Co. Ltd.*, 1930 SCC OnLine PC 83 : (1930-31) 58 IA 29; *State of Karnataka* v. *Subhash Rukmayya Guttedar*, 1993 Supp (3) SCC 290, *relied on*

Falakrishna Pal v. *Jagannath Marwari*, 1932 SCC OnLine Cal 80 : AIR 1932 Cal 775, *held, approved*

The words "mining lease" have been given specific meaning under the MMDR Act, 1957. The provisions of an Act including definition of a term are to be interpreted in a manner which may advance the object of the legislation. The essential characteristic of mining lease is that it is granted *for the purpose of undertaking mining operation* and mining operation means any operation undertaken for the purpose of winning the mineral. Applying the aforesaid definition in the Mineral Concession Rules, 1960 under Chapter V it cannot be said that no mining lease is contemplated with respect to land where mineral vests exclusively in a private person. (Para 112)

[**Ed.**: The exploitation of the mineral wealth underlying his land by an owner appears to be conceptually no different from the raising of a building by an owner on his land. In the former case, he must comply with the law applicable to mining. In the latter case he must comply with building and planning laws. Moreover, when an owner himself mines his land, the "mining lease" contemplated by S. 4 of the MMDR Act, 1957 would probably take the form of a permit, and would not require a conveyance of the land in terms of a "lease" proper. As clarified herein, though a mining lease is often a lease proper, it need not necessarily be so always.]

Section 5(3), Mines Act, 1952 clearly empowers the District Magistrate to exercise the powers and perform the duties of an Inspector but subject to general and special orders of the Central Government, which means that there may be some restriction on the power of the District Magistrate as directed by the Central Government. (Para 116)

In this context, a Notification dated 18-9-1953 issued under Section 5(3) of the Mines Act, 1952 may be referred to. (Para 116)

The restriction as is apparent from the above notification is with regard to matters solely connected with the technical direction, management or supervision of any mine. The above notification does not take away all the functions of the District Magistrate but restriction is with regard to area mentioned therein. (Para 117)

Thus it cannot be accepted that the District Magistrate has no jurisdiction under the Mines Act, 1952 to take any action. (Para 118)

As per statutory regime brought in force by the Notification dated 15-1-2016 environmental clearance is required for a project of coal for mining of any extent of area. The Notification dated 15-1-2016 being a statutory provision shall operate on its own force and no order of any court is required for enforcement of Notification dated 15-1-2016. (Para 121)

While implementing statutory regime for carrying on mining operations in the Hills Districts of the State of Meghalaya, the State of Meghalaya has to ensure compliance of not only the MMDR Act, 1957 but the Mines Act, 1952 as well as the Environment (Protection) Act, 1986. (Para 122)

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Point 4

a There is a marked difference between the rules contained in Chapter IV and rules contained in Chapter V of the Mineral Concession Rules, 1960. (Para 125)

The earlier statutory regime, which was enforced as per the Mineral Concession Rules, 1949 made it amply clear that mineral concessions are to be granted by private persons also, which is in substance retained in Chapter V of the 1960 Rules. Thus, mining lease to be granted as per Chapter V of the 1960 Rules is mining lease by the owner of mineral. Thus, the lessor being the private b persons and not the State Government, clearly indicates that the State Government is not to grant the lease in respect of land of privately owned/community owned owners. (Paras 124 to 129)

The reason for not providing any application to the State Government for grant of mining lease in respect of minerals, which vests in the private owners and community owners is that without consent or willingness of private owners/ c community owners of minerals, no authority is empowered to grant any mining lease with regard to minerals, of which he is the owner, it is the owner of the minerals, may be private persons or community owners, who is entitled to grant lease of minerals as per the provisions of Chapter V of the 1960 Rules. (Para 130)

As per the statutory provisions contained in the 1960 Rules especially Chapter V, a mining lease for minerals, which belongs to a private owner or a community owner, it is not the State Government, which is entitled to receive any application d or grant any mining lease, but it is the private owner or community owner, who is entitled to grant a lease for mining minerals owned by them. Issue 4 is answered accordingly. (Para 131)

Point 5

The State Government cannot say that it has no role to play with regard to mining of coal. All applications for previous approval of the Central Government e have to be routed through the State Government. (Para 134)

When mining operations of coal are being conducted without prior approval of the Central Government, the State has power under Rule 50 of the Mineral Concession Rules, 1960 to direct the parties not to undertake any prospective mining operations in the area. The power given under Rule 50 is not only enabling power, but is a statutory obligation on the State to exercise the power in the public f interest. (Para 135)

Thus the State of Meghalaya has jurisdiction and power to ensure that no mining of coal should take place except when a mining lease granted under the Mineral Concession Rules, 1960, Chapter V. (Para 139)

Point 6

It is submitted that Autonomous District Council being constitutional authority g constituted under Schedule VI of the Constitution has legislative and administrative power. (Para 141)

The power to make law entrusted to Autonomous District Council under Para 3 of Schedule VI is power to make law referable to List 2 and List 3 of the Seventh Schedule. However, with regard to regulation and development of mineral, the Union has made declaration by Section 2 of the MMDR Act, 1957 and the power h of the State Legislature is denuded in that respect. The logical corollary of the above principle is that power of Autonomous District Council shall also be denuded

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insofar as regulation and development of minerals to the extent which is covered by the MMDR Act, 1957. (Para 142)

Para 9(1) of Schedule VI confines to the licences or leases of minerals granted by the Government of the State. Para 12-A(*a*) of Schedule VI itself contemplates that any law made by the District Council or Regional Council which is repugnant to any law of the State shall be void. Thus, the status of law made by the District Council or Regional Councils has to give way to the law made by the State. There can be no doubt that the District Council and Regional Council cannot make any law which may be repugnant to the provisions of the parliamentary Act. (Para 146)

Thus the District Council does not have any power to make any law with regard to grant of mining lease. The mining leases for winning the major minerals has to be granted in accordance with the MMDR Act, 1957 and the 1960 Rules. (Para 147)

Points 7 and 8

The use of natural resources also plays major role in carrying out development. A fine balance has to be maintained in utilisation of natural resources and its conservation and preservation. One cannot be sacrificed for the interest of other. The concept of sustainable development has been evolved and is being pursued. (Para 149)

State of T.N. v. *Hind Stone*, (1981) 2 SCC 205: *Lafarge Umiam Mining (P) Ltd.* v. *Union of India*, (2011) 7 SCC 338, *relied on*

Narmada Bachao Andolan v. *Union of India*, (2000) 10 SCC 664, *cited*

The Tribunal prohibited the rat-hole mining/illegal mining throughout the State of Meghalaya. (Para 150)

The Tribunal being satisfied from the materials on record has issued the order dated 17-4-2014 which cannot be faulted in the facts and materials which are on record in the present case. One more fact in the above context needs to be noticed i.e. after the order dated 17-4-2014, several applicants including the appellants of Civil Appeal No. 5272 of 2016 filed application for vacating the ban which was not acceded to by the Tribunal. Subsequently NGT permitted transportation of coal till 15-5-2016 and directed that after 15-5-2016, all coal within the State of Meghalaya shall vest in the State. (Paras 150 and 152)

The Tribunal after considering all pleas and materials including reports submitted by the committees affirmed the order dated 17-4-2014 and refused to withdraw the ban. There is no error in the order of NGT reaffirming its ban order in the facts of the present case. But the question which has been raised by the appellant before the Supreme Court is that whether the complete ban as imposed by NGT deserves to be vacated or modified in the interest of the State and tribals. The revenue earned by the State from coal mining plays substantial part in the economy of the State. It is also amply demonstrated from the record that tribals are the owners of the land who carry on mining of coal in their land by which they earn their substantial livelihood. (Para 153)

Though as discussed above, the manner in which the mining is being carried out by the tribals cannot be approved which is clearly in violation of statutory regime under the MMDR Act, 1957 and the 1960 Rules but in event the mining is carried out by tribals or their assignees as per the provisions of the MMDR Act, 1957 and the 1960 Rules, there can be no objections in carrying on such mining under the regulation and control of the State of Meghalaya. It is thus clarified that in event mining operations are undertaken by the tribals or other owners of Hills

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Districts of Meghalaya in accordance with mining lease obtained from the State of Meghalaya as per the MMDR Act, 1957 and the 1960 Rules, the ban order dated 17-4-2014 of the Tribunal shall not come in its way of carrying on mining operations. The ban order is for the illegal coal mining which was rampant in the State of Meghalaya and the ban order cannot be extended to valid and legal mining as per the MMDR Act, 1957 and the 1960 Rules. (Para 154)

Points 9 and 10

What Section 19(1) of the NGT Act, 2010 means to convey is that the Tribunal is not shackled with the procedure laid down by CPC for conducting its proceedings. Section 19(2) empowers the Tribunal with powers to regulate its own procedure. Section 19(2) confers vide powers on the Tribunal insofar as its procedure is concerned. Section 19(4) vests some powers as are vested in the civil court, while trying a suit, in respect of matters enumerated therein. The use of the expression "shall not be bound by the procedure laid down by CPC" is not akin to saying that procedure as laid down by CPC is in no manner relevant to the Tribunal. Further, Section 19(1) also does not mean that the Tribunal cannot follow any procedure given in CPC. (Para 157)

Order 26 Rule 10-A CPC is enabling power to the courts to obtain report from such persons as it thinks fit when any question involves scientific investigation. The powers under Order 26 Rule 10-A CPC which are to be exercised by the court can very well be used by NGT to obtain reports by experts. NGT as per the statutory scheme of NGT has to decide several complex questions pertaining to pollution and environment. The scientific investigation and report by experts are necessary requirement in appropriate cases to come to correct conclusion to find out measures to remedy the pollution and environment. Thus there is no dearth of jurisdiction in NGT to appoint a committee to submit a report. Further, while asking expert to give a report NGT is not confined to the four corners of Order 26 Rule 10-A CPC rather its jurisdiction is not shackled by strict terms of Order 26 Rule 10-A CPC as per Section 19(1) of the NGT Act, 2010. (Para 158)

Rule 24 of the National Green Tribunal (Practice and Procedure) Rules, 2011 empowers the Tribunal to make such orders or give such directions as may be necessary or expedient to give effect to its order or to secure the ends of justice. Rule 24 gives wide powers to the Tribunal to secure the ends of justice. Rule 24 vests special power to the Tribunal to pass orders and issue directions to secure ends of justice. Use of words "may", "such orders", "gives such directions", "as may be necessary or expedient", "to give effect to its orders", "order to prevent abuse of process", are words which enable the Tribunal to pass orders and the above words confer wide discretion. (Para 160)

G.P. Singh in *Principles of Statutory Interpretation*, 14th Edn., *referred to*

The enabling powers given to the Tribunal under Rule 24 of the NGT Rules, 2011 are for the purpose and object to decide the subjects which are to be examined, decided and an appropriate relief is to be granted by the Tribunal. Further, subjects contain wide range of subjects which require technical and scientific inputs. The Tribunal can pass such orders as it may think fit, necessary or expedient to secure ends of justice. (Para 162)

The object for which the said power is given is not far to seek. To fulfil the objective of the NGT Act, 2010, NGT has to exercise a wide range of jurisdiction and has to possess wide range of powers to do justice in a given case. The

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power is given to exercise for the benefit of those who have right for clean environment which right they have to establish before the Tribunal. The power given to the Tribunal is coupled with duty to exercise such powers for achieving the objects. (Para 163)

L. Hirday Narain v. *CIT*, (1970) 2 SCC 355, *considered*

Thus there is no lack of jurisdiction in NGT to direct for appointment of committee or to obtain a report from a committee in the given facts of the case. (Para 164)

Now coming to the challenge to the Fund which has been constituted by the Tribunal, namely, "MEPR Fund", it is useful to notice the observation of the Tribunal in its order dated 25-3-2015 by which the said Fund was created. The reasons for constitution of Fund are self-explanatory. (Para 165)

All Dimasa Students Union v. *State of Meghalaya*, 2015 SCC OnLine NGT 697, *affirmed*

NGT could have passed any order or direction to secure ends of justice which power is especially conferred by Rule 24 as noticed above, direction to constitute Fund is thus also saved under such power. (Para 166)

Point II

In respect of constitution of committee by the Tribunal there are two other limbs of submission: that: (1) NGT by constituting committees has delegated essential judicial power to the committee; (2) the constitution of committees encroaches on the constitutional scheme of administration of tribal areas under Article 244(2) read with the Sixth Schedule of the Constitution. (Para 167)

The various instances where NGT directed for report or investigation and submission of report by committees were with the object of ensuring the implementation of the orders passed by it and to decide the environmental issues raised before it. In no manner constitution of committee can be said to be delegation of essential judicial powers of NGT to the committee. (Para 168)

The constitution of the Committee and its functions entrusted were with the object to implement the orders passed by the Tribunal. The Tribunal has already directed for preparing a scheme for the restoration of the environment and ecology. For the restoration of environment NGT vide its order dated 31-8-2018 has directed the Committee to submit its action plan and reports by email. The Tribunal, thus, had kept complete control on all steps which were required to be taken by the Committee and issued directions from time to time. It thus cannot be accepted that the essential judicial powers of NGT had been delegated to the Committee. Looking to the enormous work of restoration of environment which has to be supervised on the spot, the Committee was constituted. The State is always at liberty to obtain particular direction if aggrieved by any act of the Committee. The matter being pending before the Tribunal the acts of the Committee are under direct control of the Tribunal and if the committee oversteps in any direction the same can very well be corrected by the Tribunal on the matter being brought before it. (Para 170)

All Dimasa Students Union v. *State of Meghalaya*, 2018 SCC OnLine NGT 671, *approved*

In the directions of the Tribunal to constitute committee for transportation of extracted minerals or for preparing time-bound action to deal with the restoration of environment and to ensure its implementation, there is no interference in the powers of the District or Regional Councils. Action plan for restoration of environment is consequence of the Tribunal finding out that an unregulated coal mining has damaged the environment and has caused the pollution including water pollution. It is not the case of the appellant that the District and Regional Councils have

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framed any law for restoration of environment which is being breached by the Committee or its acts. The District and Regional Councils are free to exercise all their powers and the Committee constituted by the Tribunal is only concerned with the environmental degradation and illegal coal mining. The Committee's report or direction of the Tribunal in no manner encroaches upon the administration of tribal areas by the District and Regional Councils. (Para 171)

Point 12

NGT vide its order dated 4-1-2019 directed the State of Meghalaya to deposit an amount of Rs 100 crores with the Central Pollution Control Board, which was to be spent for restoration of environment. (Para 172)

Threat to Life Arising Out of Coal Mining in South Garo Hills District v. *State of Meghalaya*, 2019 SCC OnLine NGT 105, *modified*

All Dimasa Students Union v. *State of Meghalaya*, 2014 SCC OnLine NGT 2307, *cited*

The amount, which has been directed by NGT to be deposited by the State of Meghalaya is neither a penalty nor a fine imposed on the State. The amount has been directed to be deposited for carrying out steps regarding restoration of environment. The said amount cannot be said to be amount for damages to be paid by the State. Further, the State of Meghalaya has very limited source of revenue and putting an extra burden on the State of Meghalaya to make payment of Rs 100 crores from its own financial resources and budgetary amount may cause great hardship to the State of Meghalaya. Ends of justice will be served in modifying the direction of NGT dated 4-1-2019 to the extent that the State is permitted to transfer an amount of Rs 100 crores from the amount lying in the MEPRF to the Central Pollution Control Board. The Central Pollution Control Board as directed by the Tribunal (NGT) shall utilise the aforesaid amount of Rs 100 crores only for restoration of the environment. The appeal is thus, partly allowed to the above extent. (Para 182)

Threat to Life Arising Out of Coal Mining in South Garo Hills District v. *State of Meghalaya*, 2019 SCC OnLine NGT 105, *modified*

All Dimasa Students Union v. *State of Meghalaya*, 2014 SCC OnLine NGT 2307, *cited*

Point 13

Vide order dated 31-3-2016, NGT had permitted transportation of coal till 15-5-2016 under the terms and conditions as enumerated therein. The order dated 31-3-2016 further contemplated that no coal in any form whatsoever shall be permitted to be transported after 15-5-2016 on which date the entire remaining coal shall vest in the State Government and shall be disposed of in accordance with law. (Para 183)

The main grievance of the appellant is that NGT could not have directed for vesting of coal in the State. It has already been held in the present case that the private owners of the land are also owners of the minerals and the minerals belong to the owners/tribals. And it has been found that coal mining was illegally going on unregulated by any statutory law in the Hills Districts of the State of Meghalaya without there being any mining lease. The entire mining was, thus is clear, in contravention of Section 4(1) of the MMDR Act, 1957 which attracted penalties under Section 21. (Para 184)

However, the present is not a case where any kind of penalty has been imposed on the miners except that the amount of royalty as payable on mining of coal is being collected by the State as penalty. It is true that the State Government

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has power under Section 21(5) of the MMDR Act, 1957 to recover from such person the minerals so raised, or, where such material has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax, as the case may be, but it is for the State Government to exercise its power under Section 21(5) by way of penalty. NGT has not given any reason as to how coal shall automatically vest in the State. The right of recovery of mineral as contemplated under Section 21(5) does not amount to say that proprietary right of owner of the minerals is lost, rather, the State under Section 21(5) exercises its power to recover the mineral which has been raised without any lawful authority. Therefore, the coal extracted and lying in open after 15-5-2016 was not automatically vested in the State and the owner of the coal or the person who has mined the coal shall have the proprietary right in the mineral which shall not be lost. (Para 186)

Point 14

It is not necessary for the purpose of the present case to notice different quantities and claims of different persons for transportation. (Para 187)

Lber Laloo v. *All Dimasa Students Union*, (2019) 16 SCC 317 : 2019 SCC OnLine SC 698: *Lber Laloo* v. *All Dimasa Students Union*, 2018 SCC OnLine SC 3330, *referred to*

The details of assessments made by committees appointed by the State of Meghalaya have been brought on the record. The State Government itself has come with a case that huge quantity of coal in the four Hills Districts, which has been extracted, is lying waiting for orders of transportation. (Para 188)

The entire extracted coal lying at various places be directed to be taken over by Coal India Ltd., a Government of India unit, who may dispose of the same as per its normal method of disposal and proceeds be distributed as per directions issued by the Supreme Court hereinafter. NGT has already directed that for all extracted coal lying at different places, it is the State, which is the receiver-cum-custodian of the coal. The State having carried out the assessment of the coal lying in the aforesaid four districts including the details of the quantities and the details of owners being available with it, it may ensure that the entire coal is handed over to Coal India Ltd., as per the mode and manner to be formulated by the Katakey Committee, in consultation with officers of Coal India Ltd. and the State of Meghalaya. (Para 190)

The Katakey Committee and its various members and participants have done a commendable job in studying and examining various aspects of environment in the State of Meghalaya and several valuable suggestions have been given by the Committee, which are also being implemented to mitigate the suffering of the citizens consequent to the illegal coal mined. (Para 191)

The Commissioner and Secretary of the State in the Department of Mining and Geology along with the officers of Coal India Ltd. may deliberate with the Katakey Committee to finalise a comprehensive plan for transportation and handing over of the coal to Coal India Ltd. for disposal/auction as per rules of Coal India Ltd. Disposal/auction by Coal India Ltd. shall be beneficial to both the owners of the mines as well as to the State of Meghalaya. Receiving fair value of the coal should be a concern of both the owners and the State. It is for Coal India Ltd. to decide as to venue, where they shall receive the coal i.e. either at any of its depot or any other place in the State of Meghalaya and it is for Coal India Ltd. to finalise the process of disposal and auction of the coal. It goes without saying that it shall be the duty of the State of Meghalaya and its officers, especially the Deputy Commissioner of the area concerned to enter details of quantity of the coal, name of the owner and place from

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where it is collected. Coal India Ltd. shall also take steps to ensure weighment of the coal when it is received by it and since all consequent steps regarding disposal, price grade of the coal shall be determined as per the weight of the coal received by Coal India Ltd. from different places. The expenses of transportation shall be borne by the State of Meghalaya, Coal India Ltd. or by both, which expenses shall be deductible from the price received of the coal. The State of Meghalaya shall be entitled to royalty and payment towards MEPR Fund as well as taxes out of the price of the coal. After deduction of cost of transportation, the payment of royalty and payment to MEPR Fund and taxes plus 10% of value of the coal to be given to Coal India Ltd. for the above exercise, balance amount shall be disbursed to the owner of the coal towards its price, which disbursement shall be the responsibility of the State. Coal India Ltd. after taking its expenses for transportation with 10% of price of the coal shall remit the entire amount to the State and it is for the State after deducting the royalty and payment to the MEPR Fund and taxes to pay back the balance of the amount to the owner. (Para 192)

Another aspect of the matter is also to be noticed. The coal, which has been seized by the State in illegal transportation or illegal mining for which different cases have been registered by the State, is not to be dealt with as directed above. The said seized coal shall be dealt with by the State in accordance with Section 21 of the MMDR Act, 1957 and on being satisfied, the State can take a decision to recover the entire quantity of coal so illegally raised without lawful authority and the said cases have to be separately dealt with in accordance with law. (Para 193)

Thus all IAs filed by different applicants seeking order of transportation of the different quantities stand disposed of in view of the directions as given above. Let the Katakey Committee in consultation with the State of Meghalaya and officers of Coal India Ltd. finalise appropriate mode and manner to effect the transport and disposal of the coal in the above manner. (Para 194)

Threat to Life Arising Out of Coal Mining in South Garo Hills District v. *State of Meghalaya*, 2018 SCC OnLine NGT 1241; *All Dimasa Students Union* v. *State of Meghalaya*, 2016 SCC OnLine NGT 174, *partly affirmed*

Threat to Life Arising Out of Coal Mining in South Garo Hills District v. *State of Meghalaya*, 2019 SCC OnLine NGT 105, *modified*

All Dimasa Students Union v. *State of Meghalaya*, 2014 SCC OnLine NGT 2307, *approved*

All Dimasa Students Union v. *State of Meghalaya*, 2016 SCC OnLine NGT 422, *partly overruled*

Threat to Life Arising Out of Coal Mining in South Garo Hills District v. *State of Meghalaya*, 2013 SCC OnLine NGT 4489; *Iber Laloo* v. *All Dimasa Students Union*, 2019 SCC OnLine SC 744; *Threat to Life Arising Out of Coal Mining in South Garo Hills District* v. *State of Meghalaya*, 2018 SCC OnLine NGT 1243, *referred to*

Lawrence Basaiawmoit v. *All Dimasa Students Union*, (2015) 14 SCC 416; *Impulse NGO Network* v. *State of Meghalaya*, 2014 SCC OnLine NGT 2565; *Impulse NGO Network* v. *State of Meghalaya*, 2014 SCC OnLine NGT 7157; *All Dimasa Students Union* v. *State of Meghalaya*, 2015 SCC OnLine NGT 839; *KA Hima Nongstoin Land Owners, Coal Traders and Producers Assn.* v. *All Dimasa Students Union*, 2016 SCC OnLine SC 1830; *KA Hima Nongstoin Land Owners, Coal Traders and Producers Assn.* v. *All Dimasa Students Union*, 2016 SCC OnLine SC 1831; *KA Hima Nongstoin Land Owners, Coal Traders and Producers Assn.* v. *All Dimasa Students Union*, 2018 SCC OnLine SC 3431, *cited*

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The Judgment of the Court was delivered by

ASHOK BHUSHAN, J.— Natural resources of the country are not meant to be consumed only by the present generation of men or women of the region where natural resources are deposited. These treasures of nature are for all generations to come and for intelligent use of the entire country. The present generation owes a duty to preserve and conserve the natural resources of the nation so that it may be used in the best interest of coming generations as well and for the country as a whole.

2. These appeals have been filed challenging various orders passed by the National Green Tribunal wherein several directions were issued, measures to be taken to check and combat the unregulated coal mining in tribal areas of the State of Meghalaya which coal mining resulted not only in loss of lives but damaged the environment of the area.

Details of appeals

3. Civil Appeals Nos. 10720 of 2018, 10611 of 2018 and 10907 of 2018 have been filed against the order dated 31-8-2018[1] passed by the National Green Tribunal, Principal Bench, New Delhi. Civil Appeal No. 5272 of 2016 has been filed by KA Hima Nongstoin Land Owners, Coal Traders and Producers Association against the order dated 10-5-2016[2] of the National Green Tribunal, Principal Bench, New Delhi. Civil Appeal (Diary No. 3067) of 2018 has been filed by Lber Laloo against the order dated 25-3-2015[3] of the National Green Tribunal, Principal Bench, New Delhi and Civil Appeal No. 2968 of 2019 has been filed against the order dated 4-1-2019[4] of the National Green Tribunal, Principal Bench, New Delhi by which the State of Meghalaya has been directed to deposit Rs 100 crores with the Central Pollution Control Board.

4. All the appeals having been filed against the orders of the National Green Tribunal (NGT), it is necessary to notice the details of various proceedings before NGT to appreciate the grievances raised in the appeals. The Gauhati High Court on the basis of a news item to the effect that on 6-7-2012, 30 coal labourers were trapped inside a coalmine at Nongalbibra in the district of South Garo Hills and 15 of them died inside the coalmine, registered PIL Suo Motu No. (SH) 3 of 2012. Vide order dated 10-12-2012 of the Gauhati High Court the matter was directed to be transferred to NGT in which notice was issued by the Tribunal on 30-1-2013[5]. Transferred matter was registered as Original Application No. 110 (THC) of 2012. All Dimasa

1 *Threat to Life Arising Out of Coal Mining in South Garo Hills District* v. *State of Meghalaya*, 2018 SCC OnLine NGT 1241
2 *All Dimasa Students Union* v. *State of Meghalaya*, 2016 SCC OnLine NGT 174
3 *All Dimasa Students Union* v. *State of Meghalaya*, 2015 SCC OnLine NGT 697
4 *Threat to Life Arising Out of Coal Mining in South Garo Hills District* v. *State of Meghalaya*, 2019 SCC OnLine NGT 105
5 *Threat to Life Arising Out of Coal Mining in South Garo Hills District* v. *State of Meghalaya*, 2013 SCC OnLine NGT 1489

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Students Union Dima Hasao District Committee filed Original Application No. 73 of 2014 before the National Green Tribunal, Principal Bench making serious complaints with regard to rat-hole mining operation, which has been going on in Jaintia Hills in the State of Meghalaya for the last many years without being regulated by any law. It was alleged that in the course of rat-hole coal mining by flooding water several employees and workers have died. The applicant had also brought before the Tribunal a detailed report of one Dr O.P. Singh, Professor, Department of Environmental Studies, North-Eastern Hills University, Shillong, Meghalaya where entire aspects of the coal mining in the State of Meghalaya were discussed. NGT admitted the application and took the view[6] that illegal and unscientific mining can neither be held to be in the interest of people of the area, the people working in the mines nor in the interest of environment. After hearing the applicant, the Tribunal on 17-4-2014[6] passed an order directing the Chief Secretary of Meghalaya, Director General of Police, State of Meghalaya to ensure that rat-hole mining/illegal mining is stopped forthwith throughout the State of Meghalaya and any illegal transport of coal shall not take place until further orders passed by the Tribunal.

5. After the passing of the order dated 17-4-2014[6] various applications were filed before the Tribunal by different Associations and persons claiming interest in the subject-matter of the application. Application No. 317 of 2019 was filed by Western Coal Miners and Exporters Association for being impleaded in OA No. 73 of 2014, which was allowed. Another application MA No. 306 of 2014 was filed by Khasi Hills District Autonomous District Council, Shillong, East Khasi Hills District, Meghalaya (one of the appellants before us) for impleadment claiming to be a constitutional body and entitled in the sharing primarily of the royalty on the coal produced/mined, which application was allowed.

6. The Tribunal clubbed OA No. 13 of 2014, OA No. 73 of 2014 and OA No. 110 (THC) of 2012. Miscellaneous applications were filed before the Tribunal praying for vacating the order dated 17-4-2014[6]. Against the order dated 17-4-2014[6], CA No. 5756 of 2014 was filed by a coalmine owner. The miscellaneous application was also filed by the State Coordination Committee of Jaintia Hills District, Meghalaya (one of the appellants before us) for their impleadment, which was allowed[7]. This Court dismissed the civil appeal filed against the order dated 17-4-2014[6] passed by the Tribunal, however, granted liberty to the appellant to approach the Tribunal for modification of the order. The Tribunal also noticed in its order dated 9-6-2014[8] that there has been serious air, water and environmental pollution being caused by the illegal, unregulated and indiscriminate rat-hole mining being carried on in various parts of the State of Meghalaya. Serious pollution to the upstream

6 *All Dimasa Students Union* v. *State of Meghalaya*, 2014 SCC OnLine NGT 2307
7 *Lawrence Basaiawmoit* v. *All Dimasa Students Union*, (2015) 14 SCC 416
8 *Impulse NGO Network* v. *State of Meghalaya*, 2014 SCC OnLine NGT 2565

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was also noticed. The Tribunal, however, noticed that there are documents on record to show that right from the year 2003, there has been serious air and water pollution in the mining areas of Meghalaya which is injurious and has not only resulted in degradation of environment, particularly the streams and underground water, but has also seriously jeopardised the human health. It was further noticed that transportation of coal in an illegal, unregulated, indiscriminate and unscientific manner has resulted in serious diseases to the people. The report of the Committee dated 9-6-2014[8] was noticed by the Tribunal. By order dated 9-6-2014[8] while permitting the transportation of the already extracted coal lying in open near the mining sites, constituted a committee for supervising such transportation. Various other directions were issued to the Committee as well as to the State and its authorities.

7. By a subsequent order dated 1-8-2014[9] the Tribunal noticed that the committee earlier constituted by order dated 9-6-2014[8] failed to perform the functions assigned to it, hence, a new committee was constituted. The Tribunal from time to time issued various directions. We need to notice four orders passed by the Tribunal in detail which are subject-matter of challenge in these appeals. The orders which are subject-matter in these appeals are orders dated 25-3-2015[3], 10-5-2016[2], 31-8-2018[1] and 4-1-2019[4].

Order dated 25-3-2015[3]

8. In order dated 25-3-2015[3] NGT noticed that the rampant, illegal, unscientific and life-threatening mining activity, particularly rat-hole mining is going on in the State of Meghalaya for years. NGT noticed the report of the Commissioner appointed by it and opined that in spite of the order dated 17-4-2014[6] fresh mining was going on. The Tribunal also noticed that the State of Meghalaya has promulgated a Mining Policy of 2012 which does not deal with rat-hole mining. The State Government was also directed to formulate and declare Mining Policy and Guidelines for the State of Meghalaya to deal with all aspects of mining, which Policy was yet to see the light of the day. The Tribunal also noticed that the order of the Tribunal has been violated by illegal mining despite complete prohibitory orders. It was noticed that the State Government has found as many as 73 cases of illegal transportation of coal in one district. Further, 15 more cases of specific violation of NGT orders had already been registered by the State Government. In all 11 districts of the State of Meghalaya, 308 cases of violation have been registered and a total number

8 *Impulse NGO Network* v. *State of Meghalaya*, 2014 SCC OnLine NGT 2565
9 *Impulse NGO Network* v. *State of Meghalaya*, 2014 SCC OnLine NGT 7157
3 *All Dimasa Students Union* v. *State of Meghalaya*, 2015 SCC OnLine NGT 697
2 *All Dimasa Students Union* v. *State of Meghalaya*, 2016 SCC OnLine NGT 174
1 *Threat to Life Arising Out of Coal Mining in South Garo Hills District* v. *State of Meghalaya*, 2018 SCC OnLine NGT 1211
4 *Threat to Life Arising Out of Coal Mining in South Garo Hills District* v. *State of Meghalaya*, 2019 SCC OnLine NGT 105
6 *All Dimasa Students Union* v. *State of Meghalaya*, 2014 SCC OnLine NGT 2307

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of 605 trucks and 2675.63 tonnes of coal has been seized. The stand of the State for non-compliance and its inability to comply with the direction was also noticed to the following effect:

> "(*a*) Lack of forces to carry out counter insurgency operations and implementation of NGT orders.
>
> (*b*) The State Government proposes to approach the Central Government for claiming an exemption, in terms of Para 12-A(*b*) of the VIth Schedule of the Constitution of India and from the condition of previous approval of the Central Government under the Mines and Minerals (Development and Regulation) Act, 1957 in respect of reconnaissance, prospecting and mining of coal and from the operations of the Coal Mines Nationalisation Act."

9. The Tribunal issued directions that the Additional Secretary, North-East in the Ministry of Home, Central Government shall, within a period of two weeks, hold a meeting with the Chief Secretary of the State of Meghalaya and other authorities concerned and consider the proposal of the State of Meghalaya. The Tribunal also expressed its disapproval for the conduct of the State in not formulating appropriate policy and guidelines. The Tribunal further observed that the mining in the State cannot be permitted, unless appropriate policy is prepared by the State Government.

10. The Tribunal also noticed that there is huge environmental degradation and pollution of the water in the State of Meghalaya and observed that serious steps are required to be taken for cleaning polluted waterbodies, with the above objective the Tribunal authorised the State Government to collect 10% on the market value of the coal in addition to the royalty payable to it. In this regard, the following directions were issued:

> "It is also indisputable that there has been huge environmental degradation and pollution of the waterbodies in the State of Meghalaya, because of this illegal, unscientific mining. No one has even thought of restoration of the area in question, to bring to some extent, if not completely, restoration of ecology and environment in question. Serious steps are required to be taken for cleaning polluted waterbodies and ensure that no further pollution is caused by this activity and the activity which would be permitted to be carried on finally including transportation of coal. On the basis of "polluter pays principle", we direct that the State Government shall in addition to the royalty payable to it, shall also collect 10% on the market value of the coal for every consignment. Having heard the learned counsel appearing for the parties and keeping in view the Notifications of the Central Government dated 10-5-2012 and that of the State Government dated 22-6-2012, we may notice that in the report of the Comptroller and Auditor General of India for the period ending 31-3-2013 under 7.5.18 of Chapter 7 of which the invoice value of the coal has been taken at Rs 4850 per metric tonne.

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Thus, we direct that the State Government shall in addition to the royalty payable to it, also collect 10% of the said market value of the coal per metric tonne from each person. The amount so collected shall be deposited in the account to be titled as "Meghalaya Environment Protection and Restoration Fund" to be maintained by the State under the direct control of the Chief Secretary of the State of Meghalaya.

This amount shall only be used for restoration of environment and for necessary remedial and preventive measures in regard to environment and matters related thereto."

11. Certain other directions were issued by the Tribunal vide order dated 25-3-2015[3].

Order dated 10-5-2016[2]

12. Order dated 10-5-2016[2] has been challenged by KA Hima Nongstoin Land Owners, Coal Traders and Producers Association. NGT vide its order dated 23-12-2015[10] had permitted transportation of coal for the period till 15-5-2016. By order dated 31-3-2016[11], NGT refused to further extend the time for transportation and directed that after 15-5-2016 all extracted coal shall vest in the State. Aggrieved against order dated 31-3-2016[11] KA Hima Nongstoin Land Owners, Coal Traders and Producers Association filed CA No. 4793 of 2016 before this Court, which was disposed[12] of by granting liberty to the appellant to file application before NGT. Pursuant to the liberty granted by this Court MA No. 427 of 2016 was filed before NGT. By order dated 10-5-2016[2] applications, MAs Nos. 400 and 427 of 2016 were dismissed. By the same order the State of Meghalaya was directed to place on record the exact current quantity of coal and value thereof including the status of the coal lying and mined anywhere in the State of Meghalaya as on 1-4-2015 and the exact quantity of coal lying as on 16-5-2016. The State was also directed to submit its proposal as to how the State shall deal with the coal that is vested in the State primarily for the reasons that entire coal is illegally extracted coal.

Order dated 31-8-2018[1]

13. On 31-8-2018[1], the Tribunal noticing the earlier proceedings also noted that few issues are pending before this Court arising out of orders passed by

3 *All Dimasa Students Union* v. *State of Meghalaya*, 2015 SCC OnLine NGT 697
2 *All Dimasa Students Union* v. *State of Meghalaya*, 2016 SCC OnLine NGT 174
10 *All Dimasa Students Union* v. *State of Meghalaya*, 2015 SCC OnLine NGT 839
11 *All Dimasa Students Union* v. *State of Meghalaya*, 2016 SCC OnLine NGT 422
12 *KA Hima Nongstoin Land Owners, Coal Traders and Producers Assn.* v. *All Dimasa Students Union*, 2016 SCC OnLine SC 1830
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the Tribunal. In para 10 of the order, the following has been noticed: (*Threat to Life Arising Out of Coal case*[1], SCC OnLine NGT)

> "*10.* At this stage, we may note that the following issues are pending before the Hon'ble Supreme Court arising out of orders passed by this Tribunal:
>
> (*i*) Civil Appeal No. 5272 of 2016 titled as *KA Hima Nongstoin Land Owners, Coal Traders and Producers Assn.* v. *All Dimasa Students Union*, wherein the following order was passed on 21-9-2016[13]: (SCC OnLine SC paras 2-3)
>
> '2. Having heard the counsel for the parties, it is directed that the petitioners, as well as the respondents, who have mined the coal, are permitted to transport the coal on payment of royalty and other fees as fixed by the National Green Tribunal (for short "the Tribunal") and other relevant status. The extracted coal can be transported from 1-10-2016 till 31-5-2017. It is further directed that no other extraction shall take place in the meantime.
>
> *3.* The finding of the tribunal that the coal is vested in the State on the ground that it is illegally extracted coal, shall be adverted to at the time of final hearing. The miners shall keep the accounts and if, ultimately, it is held that the coal belongs to the State, they will refund the amount with interest. The quantum of interest shall be determined at the time of final hearing. Needless to say, these observations have been made without prejudice to the contentions to be raised by the learned counsel for the parties. The tribunal can proceed with regard to the other aspects which are pending before it.'
>
> The above order shows that question whether coal is vested in the State is to be gone into before the Hon'ble Supreme Court.
>
> Thereafter, on 28-3-2018[14], by the said order, time for transporting already extracted coal was extended up to 31-5-2018 but it was clear that no further extraction shall be allowed.
>
> (*ii*) Civil Appeal Diary No. 3067 of 2018 titled as *Iber Laloo* v. *All Dimasa Students Union*, raising the question whether ban on mining can be continued. We are informed that in the said matter, the issue of mining plan has also been raised."

14. The Tribunal further directed that ban on rat-hole mining shall continue subject to further orders of this Court. Ban on transportation of extracted coal

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14 *KA Hima Nongstoin Land Owners, Coal Traders and Producers Assn.* v. *All Dimasa Students Union*, 2018 SCC OnLine SC 3431

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will also continue subject to further orders. Following directions were issued in para 13: (*Threat to Life Arising Out of Coal case*[1], SCC OnLine NGT)

> "*13*. Accordingly, we direct that orders of ban of rat-hole mining will continue, subject to further orders of the Hon'ble Supreme Court. Ban of transportation of the already mined material will also continue subject to further orders of the Hon'ble Supreme Court. The State of Meghalaya will be the receiver/custodian of the available extracted coal as on date, subject to further orders of the Hon'ble Supreme Court. If any further coal not so far recorded in the inventory is available, a separate inventory may be made and if it is found that the extraction was illegal, royalty in terms of orders already passed may also be collected. This may be determined by the Secretary of Mining of the State of Meghalaya. While one view is that there is extracted coal and not accounted for, the other view put forward is that it is result of illegal mining. This aspect may be gone into by the Secretary of Mining, State of Meghalaya in the first instance. The same be cross-checked by a joint team of representatives of Central Pollution Control Board and Indian School of Mines, Dhanbad."

15. The Tribunal also deliberated on restoration of the environment and rehabilitation of the victims for which funds were available. The Tribunal constituted a Committee headed by Justice B.P. Katakey, Former Judge of the Gauhati High Court with representatives from Central Pollution Control Board and Indian School of Mines, Dhanbad. Paras 14 to 26 of the order are relevant in this context, which are as follows: (*Threat to Life Arising Out of Coal case*[1], SCC OnLine NGT)

> "*14*. Only last question which remains is of restoration of the environment and rehabilitation of the victims for which funds are available. We are of the view that for this task, it will be appropriate that we constitute an independent Committee. This Committee will be headed by Justice B.P. Katakey, Former Judge of the Guwahati High Court with representatives from Central Pollution Control Board and Indian School of Mines, Dhanbad.
>
> *15*. The Committee will take the following steps:
>
> • Take stock of all actions taken so far in this regard.
>
> • Prepare time bound action plan to deal with the issue and ensure its implementation.
>
> *16*. The Committee may requisition services of such technical experts as may be necessary and may also carry out visits to sites whenever necessary. They will be entitled to all logistic support for performing these functions which shall be provided under the directions of the Chief Secretary, Meghalaya.
>
> *17*. The Committee may also set up website for receiving and giving information on subject.

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18. The Committee may also involve educational institutions for awareness and feedback about results.

19. All authorities concerned in the State of Meghalaya shall cooperate and coordinate with the Committee. The Committee can seek such technical assistance as may be required from any relevant authority.

20. The Chief Secretary, Meghalaya to provide all facilities to said Committee to perform its functions. The Committee may send its periodical reports to the Tribunal by email at filing.ngt@gmail.com.

21. The Committee may assume its charge within two weeks from today. The Committee may prepare action plan which shall have targets of ensuring compliance. It may meet at such intervals as considered appropriate but twice in every month and fix targets for compliance.

22. The Committee will be free to take up all incidental issues. The Committee will be free to seek any further directions from this Tribunal by email.

23. The Chief Secretary of the State of Meghalaya may determine remuneration of the Chairman in consultation with him and the Chief Secretary of the State of Meghalaya will also provide all logistic support including security if needed for their proper functioning.

24. The Committee will be entitled to take the help of the technical experts in execution of this order. The Committee may frame its action plan for implementation within one month from today and implementation may be completed within six months as far as possible. The timelines may be laid down. A copy of the action plan may be sent to this Tribunal by email at filing.ngt@gmail.com. Thereafter, reports may be sent at least once in two months. The Committee may also assess the damage to the environment as well as to the individuals as already suggested in the Report.

25. The State of Meghalaya will make available all the relevant records to the Committee for the purpose. The State will also determine the remuneration to be paid to the Chairman of the Committee in consultation with him within one month from today.

26. The Committee will be at liberty to take technical assistance from any quarter which may be facilitated by the State of Meghalaya. The Committee may also supervise any issue arising out of receivership/ custodianship of the already extracted coal, including any environmental issues which any arise out of storage of the extracted material and the steps required to be taken for the purpose.

The Report of the Committee may be furnished to this Tribunal by email at filing.ngt@gmail.com.

A copy of this order may be sent to all the authorities concerned by email for compliance.

All pending matters will stand disposed of in above terms.

List for consideration of the Report on 6-3-2019."

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Order dated 4-1-2019[1]

16. Justice Katakey Committee submitted its report before the Tribunal on 2-1-2019. The Committee's various proceedings which were part of the report were noticed in detail by NGT. In para 21 of the order the following was noticed: (*Threat to Life Arising Out of Coal Mining in South Garo Hills District case*[4], SCC OnLine NGT)

> "*21*. Under issue number D, it was noted that the Meghalaya State Pollution Control Board in its report in September 1997 had noted that unplanned and unscientific coal mining activities were taking place. This had achieved dangerous dimensions in the last two decades creating ecological disturbance and adverse environmental impacts. This showed that though cognizance of the problem was taken in the year 1997, the problem continues even 20 years thereafter. The State Pollution Control Board had, in the year 1997, recommended steps to check illegal mining including generation of awareness, legislative measures, use of technology, carrying out of study but none of the recommendations were implemented even after 21 years."

17. The Tribunal after considering the report of the Committee and other materials on record came to the conclusion that the State of Meghalaya had failed to perform its duties to act on the recommendation of the report of the Meghalaya State Pollution Control Board submitted in the year 1997. The Tribunal opined that interim amount be deposited towards restoration of the environment. Paras 31 to 33 are as follows: (*Threat to Life Arising Out of Coal Mining in South Garo Hills District case*[4], SCC OnLine NGT)

> "*31*. Paying capacity and the amount which may act as deterrent to prevent further damage is also well recognised. Net Present Value of the ecological services foregone and cost of damage to environment and pristine ecology, the cost of illegal mined material, and the cost of mitigation and restoration are also relevant factors. The Committee may go into these aspects to determine the final figure.
>
> *32*. We are satisfied that having regard to the totality of factual situation emerging from the record, damages required to be recovered are not, prima facie, less than Rs 100 crores. Accordingly, by way of an interim measure, we require the State of Meghalaya to deposit Rs 100 crores within two months with CPCB in this regard.
>
> *33*. We have already noted the extent of damage found and the value of the illegally mined material, apart from clandestine mining for which sufficient material is not available. The State had collected, as noted in the earlier order, royalty of Rs 400 crores which by now must be higher figure."

18. The State of Meghalaya has filed two appeals being CA No. 10720 of 2018 and CA No. 2968 of 2019. CA No. 10720 of 2018 has been filed

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questioning the order dated 31-8-2018[1] passed by the Tribunal by which the Tribunal directed that order of the ban of rat-hole mining will continue and further constituted Justice B.P. Katakey Committee to take steps for restoration of the environment and rehabilitation of the victims. The other Civil Appeal No. 2968 of 2019 has been filed by the State of Madhya Pradesh questioning the order dated 4-1-2019[4] by which the State of Meghalaya was directed to deposit interim amount of Rs 100 crores towards restoration of the environment.

19. Against the same order dated 31-8-2018[1] two other appeals have been filed being CA No. 10611 of 2018 by the State Coordination Committee of Coal Owners, Miners and Dealers Forum and CA No. 10907 of 2018 by Garo Hills Autonomous District Council aggrieved by the perpetual ban of coal mining by order dated 31-8-2018[1] without considering illegality of the ban in the first place. The appellants are also aggrieved by appointment of State Government receiver/custodian of the extracted coal when there is no dispute of the ownership of the coal and further the question of vesting of the coal in the State is pending consideration in this Court in CA No. 5272 of 2016.

20. CA No. 10907 of 2018 is filed by Garo Hills Autonomous District Council which is aggrieved by the order of the Tribunal dated 31-8-2018[1] by which it has confirmed the ban on coal mining which was in force for over four years and further direction by the Tribunal to constitute a committee for the disposal of funds in excess of Rs 400 crores. The appellants are aggrieved by the above and alleged that the Tribunal failed to consider that constituting the Committee without considering the roles and responsibilities of the District Council has the effect of virtually excluding the Council from issues concerning administration of forests and lands which are within the exclusive jurisdiction of the Council. The ban on coal mining has effectively closed the doors on a major source of revenue for the functioning of the District Council, which is empowered in terms of the Sixth Schedule of the Constitution to collect taxes.

21. CA No. 5272 of 2016 by KA Hima Nongstoin Land Owners, Coal Traders and Producers Association has been filed against the order dated 10-5-2016[2] by which Miscellaneous Applications Nos. 400 and 427 of 2016 were dismissed. The appellants had prayed for modification and clarification and/or recall of the final order dated 31-3-2016[11] by which the Tribunal directed for vesting of the duly assessed already extracted coal with the State of Meghalaya and refusing to extend the time for transportation of the already extracted coal. The appellants claim for propriety rights of its members over such coal, which were mined as per prevailing custom prior to 17-4-2014.

22. Now, remains appeal being Civil Appeal of 2019 (arising out of Diary No. 3067 of 2018) filed on behalf of Lber Laloo. The appellant has filed this

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appeal against the order dated 25-3-2015, aggrieved by the blanket ban on mining activities imposed in the State of Meghalaya by NGT which, according to the appellant, is adversely affecting the lives and livelihood of the miners in the State of Meghalaya. As a result of ban on coal mining, large number of the families are affected in the State of Meghalaya, who are dependent for their livelihood on coal mining.

Submissions

23. We have heard Shri Shekhar Naphade, learned Senior Counsel, Shri Amarendra Sharan, learned Senior Counsel, Shri Amit Kumar, Advocate General, for the State of Meghalaya. We also heard Shri Ranjan Mukherjee appearing for the State of Meghalaya. Shri Ranjit Kumar, learned Senior Counsel, appearing for the appellant in CA Diary No. 3067 of 2018 and Shri Raju Ramachandran, learned Senior Counsel, appearing for the appellant in CA No. 10907 of 2018. Shri Colin Gonsalves, learned Senior Counsel has been heard as Amicus Curiae. We have also heard the learned counsel for Respondent 1 in CA No. 5272 of 2016 (who was the applicant before NGT). Shri Nidhesh Gupta, learned Senior Counsel has been heard for the private respondents in CA No. 5272 of 2016. Shri A.N.S. Nadkarni, learned Additional Solicitor General has been heard for the Union of India. We have also heard other learned counsel who were permitted to intervene in the matter and raise various arguments in respect of their different IAs.

24. Shri Shekhar Naphade, learned Senior Counsel led the arguments on behalf of the State of Meghalaya. Shri Naphade submits that jurisdiction of NGT constituted under the National Green Tribunal Act, 2010 is confined to Sections 14, 15 and 16. Section 16 is not attracted in the present case. Section 14 deals with original jurisdiction of NGT and it takes within its compass or all of civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment) is involved and such question arises out of the implementation of the enactments specified in Schedule I. The jurisdiction depends upon two conditions which are required to be satisfied cumulatively and they are:

(1) substantial question which relates to environment, and

(2) implementation of the enactments specified in Schedule I.

25. It is submitted that the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as "the MMDR Act, 1957") not being specified in Schedule I, the National Green Tribunal could not have exercised jurisdiction to examine violation of the MMDR Act, 1957. It is submitted that NGT committed error in holding that the coal mining in the State of Meghalaya is unregulated. NGT proceeded on erroneous premise that the tribals of Meghalaya cannot do coal mining without obtaining lease from the State Government. It is submitted that tribals who are owners of the land are also owners of the subsoil and the minerals in the land. The land in the State of Meghalaya was property of men and villages. The Khasi Hills, Jaintia Hills and Garo Hills have different land tenure system of their own, which does not

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provide for vesting of land or minerals in the State right from pre-Independence period.

26. Shri Naphade submits that the ownership of minerals vests with the owner of the land unless the owner of the land is deprived of the same by some valid process of law, for example, the provision contained in Land Revenue Codes of different States, which categorically state that the ownership of minerals exclusively vests in the State Government. However, in the State of Meghalaya, there exists no such law that deprives the owner of the land from owning the minerals beneath it.

27. Shri Naphade submits that under the MMDR Act, 1957, the State has no legislative or executive power with regard to coal, which is a major mineral. It can neither exercise any jurisdiction of granting any mining lease to the tribals nor has it any jurisdiction to frame any mining policy. It is submitted that the provisions of the MMDR Act deal with lease and prospecting licence. The tribals of Meghalaya are owners of the minerals located in their land. Since they are the owners, there is no question of they being required to obtain either a prospecting licence or a mining lease. The concepts of lease and licence necessarily involve minimum two parties to the transaction—in case of a licence, there has to be a licensor and licensee. The owner of minerals cannot give licence or lease to himself or grant a prospecting licence. The State is not the owner of the minerals and, therefore, it cannot on its own grant prospecting licence or lease as it has no proprietary right in respect of such minerals. The State can neither be a licensor nor a lessor in such situation.

28. Shri Naphade reiterates that the whole premise of NGT that the coal mining in the State of Meghalaya is unregulated is fully erroneous. Referring to north-eastern area under which the State of Meghalaya was established as full-fledged State, it is submitted that administration of tribal areas is to be governed as per the Sixth Schedule of the Constitution of India and various orders passed by NGT directly interfered in the administration of tribal area which is vested in the Autonomous District Councils. It is submitted that NGT failed to consider the relevant statutory matrix including the provisions of the Sixth Schedule and legislation framed by the Autonomous District Councils. It is submitted that NGT has no jurisdiction to constitute any committee for the purpose of enforcing its orders. The constitution of committees including constitution of Justice B.P. Katakey Committee, former Judge of the Gauhati High Court by the impugned order dated 31-8-2018[1] is beyond the jurisdiction of NGT. The constitution of the Committee is interference with the jurisdiction of Autonomous District Council. It is further submitted that NGT has also no jurisdiction to create any fund. The Tribunal by constituting the Committee and by constituting a fund has created a parallel Government. The Tribunal not being a constitutional court it cannot issue a continuous mandamus. It is submitted that the Tribunal although issued several directions to the State

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of Meghalaya to frame mining policy whereas the State has no jurisdiction regarding framing of mining policy under the MMDR Act, 1957, the State is denuded with any legislative powers with regard to regulation and development of minerals, which have been declared by the Union to have been taken under its control. Referring to the EIA Notification dated 14-9-2006 issued under the Environment Protection Act, 1986, he submitted that environment clearance for mining was required only when area of mining was more than five hectares. In tribal areas of the State of Meghalaya, mining area consists of small area which being not more than five hectares, there was no requirement of obtaining an environment clearance. He does not dispute that after 15-1-2016 by the EIA notification now the requirement of area of being not more than five hectares having been deleted environment clearance is required as on date with regard to carrying on mining operations. The tribals are dependent for their livelihood on coal mining and, therefore, by complete ban on coal mining with effect from 17-4-2014, large number of tribals are deprived from their livelihood and it is obligatory for the State to espouse the cause of the tribals, who individually were not before NGT. There being no jurisdiction in the State of Meghalaya to grant mining lease as per special nature of land tenure in the tribal areas of the State of Meghalaya and further minerals are not vested in the State of Meghalaya, NGT erred in holding that the State has failed to carry on its obligation and failed to check coal mining in the State of Meghalaya, it is the Central Government which has all jurisdiction and authorities under the 1957 Act to make necessary rules and issue necessary directions and the State alone cannot be blamed. Referring to the Mineral Concession Rules, 1960 framed under Section 13 of the MMDR Act, 1957, it is submitted that even though Rule 13(*f*) refers to mining application with regard to land of which minerals vest in persons other than the Government, he submits that this provision shall not apply for owner when he himself carries on the mining, the question of taking lease may arise when owner of the land gives land to some other person to mine the minerals.

29. Shri Naphade, however, submits that the provisions of the Mines Act, 1952 are applicable and have to be complied with. He referred to the Mineral Conservation and Development Rules, 1988, where cess can be charged by the State.

30. Shri Amarendra Sharan, learned Senior Counsel appearing for the State of Meghalaya in CA No. 2968 of 2019 submits that NGT vide the impugned order dated 4-1-2019[4] has directed the State of Meghalaya to deposit Rs 100 crores as an interim measure which is wholly unsustainable. NGT has passed the order dated 4-1-2019[4] relying on first interim report of the Committee headed by Justice B.P. Katakey, former Judge of the Gauhati High Court. The constitution of the Committee was itself beyond the jurisdiction of NGT. Shri Sharan adopts the submissions made by Shri Naphade and in addition to those submissions, submits that the order dated 4-1-2019[4] has been passed in

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violation of principles of natural justice since no opportunity was given to the State of Meghalaya to respond to the report of the Committee used against it for imposing a penalty of Rs 100 crores. The order impugned has been made by NGT contrary to the findings recorded in the report of the Committee of Justice B.P. Katakey. The impugned order dated 4-1-2019[4] has been passed by NGT without any assessment of damage of environment whatsoever. The Tribunal also did not notice its earlier order dated 25-3-2015[3] wherein penalty has already been imposed on actual polluters i.e. coal miners and transporters based on polluter pays principle for which fund, namely, Meghalaya Environment Protection and Restoration Fund (hereinafter referred to as "MEPRF") has already been created. NGT passed order dated 4-1-2019[4] without considering the statutory provisions concerned to determine as to who is responsible for implementation of the mining statutes and the environmental legislation in the State of Meghalaya. The State of Meghalaya has limited source of revenue and putting extra burden of Rs 100 crores shall shatter the economy of the State.

31. Shri Raju Ramachandran, learned Senior Counsel, in support of appellant, Garo Hills Autonomous District Council in Civil Appeal No. 10907 of 2018 submits that NGT while passing order dated 31-8-2018[1] has ignored the Sixth Schedule of the Constitution. By order dated 31-8-2018[1], NGT could not have constituted the Committee. Referring to the Sixth Schedule of the Constitution, Shri Raju Ramachandran submits that under para 2, District Councils, Regional Councils have been constituted and also Hills District Council is a Council created under the Sixth Schedule of the Constitution framed under Article 244(2) and Article 275(1) of the Constitution of India. The constitution of Committee by NGT has virtually affected District Autonomous Council from issues concerning administration of forests and lands within the exclusive jurisdiction of the Council. The ban of coal mining has deprived the appellant from major source of Revenue. Under Para 8 of the Sixth Schedule, Autonomous District Council is entitled to share the Revenue from minerals royalty collected by the State Government. The impugned order has been passed without hearing and taking note of existence of shareholders or stake of shareholders. Shri Raju Ramachandran further submits that NGT has disposed of OAs Nos. 73, 13 and 186 of 2014 by order dated 31-8-2018[1] after this, it could not have passed any order.

32. The learned counsel for the appellant in support of CA No. 5272 of 2016 submits that the appeal filed by the appellant is only for seeking protection of the proprietary rights of its members over the coal which was mined as per prevailing custom prior to 17-4-2014. It is submitted that by

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order dated 31-3-2016[11], NGT had taken the view that all coal after 2016 shall vest in the State. The appellant had previously approached this Court by filing CA No. 4793 of 2016 against the order dated 31-3-2016[11] wherein this Court granted[12] the liberty to the appellant to approach NGT for filing application for clarification of the order. The application of the appellant for clarification was rejected by NGT without giving any reason. NGT had overreached the scope of its jurisdiction and authority in directing for vesting of the coal extracted by the members from their land in the State. It is further submitted that the MMDR Act, 1957 was enacted by Parliament to regulate the mining activities in the country which does not in any manner purport to declare the proprietary rights to the State in the minerals.

33. Mr Ranjit Kumar, learned Senior Counsel in support of CA (D) No. 3067 of 2018 submits that the Tribunal committed error in stopping the entire coal mining in the State of Meghalaya. Referring to Section 15 of the NGT Act, 2010, Shri Ranjit Kumar submits that relief, compensation and restitution can be granted as provided in Section 15. It is submitted that by stopping entire coal mining from 17-4-2014 the livelihood of the appellant and several similarly situated persons had been adversely affected. It is submitted that the Tribunal ought to have lifted the ban. The order impugned infringes right under Article 21 of the Constitution of India. The Tribunal has acted beyond its power under Section 15 of the NGT Act, 2010. The finding of the Tribunal on mining that in the State of Meghalaya mining is unregulated is not correct, whereas, a miner is required to get registered and it has to pay royalty fixed by the State of Meghalaya.

34. Shri Ranjan Mukherjee, learned counsel appearing for Respondent 2, State of Meghalaya in CA No. 3067(D) of 2019 submits that even if rat-hole mining has been banned, all mining cannot be banned. He submits that the Meghalaya Mines and Minerals Policy, 2012 has been formulated with an aim to facilitate systematic, scientific and planned utilisation of mineral resources and to streamline mineral based development of the State. The State of Meghalaya has been created to follow the customary rights and practices of coal mining in the tribal areas of Meghalaya. In this regard Letter of the Central Government dated 2-7-1987 has also been relied. The draft guidelines for coal mining activities in the State have also been framed in the year 2015. Although, NGT has directed the Ministry of Environment and Forests to look into the matter but no objection has been communicated to the State except certain minor discrepancies.

35. Shri A.S. Nadkarni, learned Additional Solicitor General appearing for the Union of India submits that the provisions of the MMDR Act, 1957 are also applicable in the tribal areas of the State of Meghalaya. The request submitted

11 *All Dimasa Students Union* v. *State of Meghalaya*, 2016 SCC OnLine NGT 422

12 *KA Hima Nongstoin Land Owners, Coal Traders and Producers Assn.* v. *All Dimasa Students Union*, 2016 SCC OnLine SC 1830

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by the Government of Meghalaya for issuance of presidential notification under Para 12-A(*b*) of the Sixth Schedule of the Constitution of India for exempting the State of Meghalaya from certain provisions of the MMDR Act, 1957 has not been acceded to. The Office Memorandum dated 12-3-2019 issued by the Government of India, Ministry of Coal has been referred to and relied on by the learned Additional Solicitor General in this regard. It is submitted that no prior approval for mining rights in respect of area containing coal has been given under the MMDR Act, 1957 by the Ministry of Coal, Government of India for the State of Meghalaya.

36. It is submitted that it is entirely impermissible for the appellant or any other private person to claim any rights for illegal or unlawful mining of coal in derogation of the law in force in the State of Meghalaya. It is further submitted that generation of revenue would not be a ground for claiming permission to carry out mining in contravention/derogation of the law in force. A draft guideline submitted by the State Government of Meghalaya by Letter dated 24-9-2015 was examined by the Ministry of Coal, Government of India on which decision was taken that the guidelines submitted by the Government of Meghalaya were not in conformity with the existing statutory provisions of the MMDR Act, 1957. Hence, the State of Meghalaya may reframe the guidelines in conformity with the MMDR Act, 1957 and submit. In the revised proposal dated 25-7-2016 the State of Meghalaya had proposed certain amendments in the MMDR Act, 1957 and exemption from the application of the MMDR Act, 1957 through a presidential notification under Para 12-A(*b*) of the Sixth Schedule. It had already been communicated by the Central Government that exemption from applicability of the MMDR Act, 1957 cannot be acceded to.

37. Shri Colin Gonsalves, learned Senior Counsel, appearing as Amicus Curiae, has raised various submissions. The learned Amicus Curiae has submitted a report in two volumes titled "CURSE OF UNREGULATED COAL MINING IN MEGHALAYA", a Citizen's Report from Meghalaya, 1-12-2018. In Vol. I under the head "Introduction" the Report states:

> "*Introduction*
>
> Meghalaya has a resource curse. Although, we have been endowed with abundant forests and minerals, these resources have not contributed to the good of our society, because they have been extracted without any regulation or concern for the larger common good. This unregulated, narrow, self-interest based use of natural resources has exacerbated socio-economic inequality, destroyed the environment, heightened criminality, and torn as under our egalitarian tribal social fabric.
>
> It also violates Section 39(*b*) of the Constitution which provides that the ownership and control of the material resources of the community should be so distributed so as to best subserve the common good and, therefore, the State cannot distribute the material resource of the community in any way it likes. The process of distribution must be guided

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by the constitutional principles including the doctrine of equality and larger public good.

The National Green Tribunal's landmark order regarding unregulated and illegal coal mining in our State therefore came as a wake-up call for Meghalaya society at large. This order has been criticised and appealed against by a small section of locals most of who are coalmine owners, transporters, politicians and administrators who have 'illegally' benefited out of this unregulated mining and who want things to get back to business as usual. Coal miners and politicians who are miners, truck owners, weighbridge operators, etc. have filed appeals with the Honourable Supreme Court, asking the Hon'ble Court to rescind NGT orders so that mining can once again begin."

38. The learned Amicus Curiae submits that the State of Meghalaya still continues with the illegal mining. Shri Gonsalves submits that Section 4 of the MMDR Act, 1957 by use of words "no person" clearly prohibits mining operation without obtaining mining lease in accordance with the Act. Referring to Section 5, he submits that for Schedule A minerals, permission of the Central Government is required which has not been obtained. Shri Gonsalves submits that for mining, the leases are required and permission be sought. He submits that there are 53 mines per kilometre in tribal areas of Meghalaya. He submits that all extracted coal which is claimed to be lying assessed or unassessed in the State of Meghalaya is result of illegal mining and Coal India Ltd. be directed to take over the entire coal.

39. Shri Gonsalves has also referred to various reports of the Comptroller and Auditor General of India which has been brought on record in Vol. II—A Citizen's Report from Meghalaya, 6-1-2019.

40. Shri Nidhesh Gupta, learned Senior Counsel, appearing on behalf of the private respondent in Civil Appeal No. 5272 of 2016 has refuted the submissions raised by the learned counsel for the appellants. Shri Nidhesh Gupta submits that as per List I Entry 54 regulation of mines and minerals development has been declared by Parliament under the MMDR Act, 1957. Section 2, by declaration as contained in the MMDR Act, 1957, the State Government is denuded of all legislative and executive powers under List II Entry 23 read with Article 162 of the Constitution of India. Section 4 sub-section (1) makes it clear that no person can undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of a reconnaissance permit or of a prospecting licence. As per Section 5 sub-section (1) a State Government shall not grant a reconnaissance permit, prospecting licence or mining lease to any person unless such person is an Indian national and satisfies such conditions as may be prescribed. The proviso to Section 5(1) provides that in respect of any mineral specified in Part A and Part B of the First Schedule, no reconnaissance permit, prospecting licence or mining lease shall be granted except with the previous approval of the Central Government. The contention on behalf of the State of

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Meghalaya that the MMDR Act, 1957 does not apply to the State of Meghalaya is based on an erroneous reading of the statutory provisions.

41. Section 13 empowers the Central Government to make rules for regulating the grant of reconnaissance permits, prospecting licences and mining leases in respect of land in which minerals vest in the Government and also in respect of any land in which the minerals vest in a person other than the Government. In exercise of powers under Section 13 of the Act, the Mineral Concession Rules, 1960 have been framed.

42. Chapter V deals with the procedure for obtaining a prospecting licence or a mining lease in respect of a land in which the minerals vest in a person other than the Government. The said Chapter contains provisions from Rule 41 to Rule 52. Rule 41 stipulates that the provisions of the said Chapter apply only to the grant of prospecting licences and mining leases in respect of land in which minerals vest exclusively in a person other than the Government. Therefore, mining leases in respect of land where minerals vest in a person other than the Government are covered by the said Chapter and matters concerning grant of prospecting licences and mining leases are detailed therein.

43. As per Section 23-C, the State Government is empowered to make Rules for preventing illegal mining, transportation and storage of minerals. No Rules have been framed by the State of Meghalaya under Section 23-C. The contention on behalf of the State of Meghalaya that the MMDR Act applies only in the cases where minerals vest in the Government, therefore, the MMDR Act does not apply in the State of Meghalaya, is completely misconceived.

44. The learned counsel also relies on the stand taken by the Union of India in the status report dated 24-7-2018. Shri Gupta submits that approximate price of coal is Rs 10,000 per metric ton. Referring to notice inviting tenders by the State of Meghalaya, it is submitted that amount of Rs 1000 per metric ton was contemplated. It is submitted that selling the coal on much low price is causing loss to the Revenue as well as loss to other stakeholders. The allegations have been by Shri Gupta that sale of coal at such low price raises suspicion of underhand dealing. It is submitted that legal position be laid down by this Court and the orders of NGT be upheld.

45. In addition to the above, we have also heard several learned counsel who have filed IA for impleadment and IAs for direction including direction to transport coal belonging to them. We have heard Shri Sidharth Luthra, Shri R. Basant, Smt Meenakshi Arora, Senior Advocates and other learned counsel.

46. On 10-5-2019[15], we had passed an order permitting transportation of coal to the extent of 75,050 MT which was balance quantity from 1,76,655 MT of coal, for transportation of which this Court had passed order on 4-12-2018[16]. The order dated 10-5-2019[15] permitted transportation of the coal, for which transport challans had already been issued after 4-12-2018[16] under the terms

15 *Iber Laloo* v. *All Dimasa Students Union*, (2019) 16 SCC 317 : 2019 SCC OnLine SC 698
16 *Iber Laloo* v. *All Dimasa Students Union*, 2018 SCC OnLine SC 3330

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and conditions as indicated in the order dated 10-5-2019[15]. In the order dated 10-5-2019[15], we had also held that applicants need not be impleaded, however, they were permitted to intervene in the matter.

47. The counsel appearing for different applicants claim transportation of different quantity of coal which according to them has now been assessed. Still some of the applicants claim transportation of the coal which is yet to be assessed. In different applications, different quantities are claimed to be transported which according to the applicant is lying in different districts of the State of Meghalaya. IA No. 22981 of 2019 and IA No. 22991 of 2019 are applications by an applicant claiming to be auction-purchaser. The learned counsel submitted that he was declared highest bidder, he pleaded for extension of time to deposit the amount but after the order dated 15-1-2019[17], he was not permitted to transport the coal nor could he deposit the balance auction money.

48. Shri Ranjan Mukherjee, learned counsel appearing for the State of Meghalaya has filed an additional affidavit of the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department dated 6-4-2019. In the affidavit, it is stated that in pursuance of the order of NGT dated 31-8-2018[1], the State Government vide Notification dated 14-9-2018 has constituted a team to assist the Commissioner and Secretary to deal with the directives given in para 13 of the order of NGT. It is submitted that in pursuance of the Order of the State Government dated 14-9-2018, the members of the Committee have carried out assessment of unassessed extracted coal appearing in the datasheet of inventory in different Hills District. The report dated 4-10-2018 of the Deputy Commissioner, West Khasi Hills, is filed as Annexure A-3, containing the statement of unassessed extracted coal has been brought on record. Another reports dated 22-10-2018 and 16-11-2018 of West Khasi Hills District containing the statement of assessment of unassessed extracted coal have been brought on record. By report dated 12-11-2018 of the Deputy Commissioner, South-West Khasi Hills, datasheet of coal inventory has been brought on the record. The Report dated 30-10-2018, Deputy Commissioner, South Garo Hills, has also been brought on record. There were reports referring to different assessments carried out by the Committee according to the affidavit which has been filed on behalf of the Commissioner and Secretary to the Government of Meghalaya, the total quantity of coal stock which has now been assessed in different reports stands at 32,56,715 MT.

49. It is further submitted by the learned counsel for the State of Meghalaya that above assessment of coal has been also verified by Technical Committees appointed by the State of Meghalaya. Certain reports of Technical Committees have also been brought on the record along with the affidavit.

15 *Uber Laloo* v. *All Dimasa Students Union*, (2019) 16 SCC 317 : 2019 SCC OnLine SC 698

17 *Uber Laloo* v. *All Dimasa Students Union*, 2019 SCC OnLine SC 744

1 *Threat to Life Arising Out of Coal Mining in South Garo Hills District* v. *State of Meghalaya*, 2018 SCC OnLine NGT 1211

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50. Shri Colin Gonsalves, learned Amicus Curiae has challenged the assessment made by the committees appointed by the State Government as well as verification by Technical Committee report. It is submitted by Shri Gonsalves that report of Technical Committee wants to undo what has been done in the proceedings before the Tribunal and this Court. The learned Amicus Curiae submits that for transportation, five extensions were granted by NGT and four extensions were granted by this Court. Shri Gonsalves referred to Katakey Committee Report in support of his submissions.

51. Shri Nidhesh Gupta, learned Senior Counsel, has also refuted the claim of the different applicants as well as the steps taken by the State of Meghalaya in assessing the coal and verifying the same by Technical Committee. Shri Gupta submits that the coal which is now claimed to be assessed is nothing but illegally extracted coal. It is submitted that in pursuance of several orders passed by NGT and this Court substantial transportation of coal has been permitted, still the enormous quantity of coal is claimed which is nothing but an excuse to obtain an order of transportation of such illegally mined coal. It is submitted that the State of Meghalaya is hand in glove with illegal miners. Shri Gupta submits that the cost of winning coal by rat-hole mining is negligible and after payment of royalty of Rs 675 and Rs 485 towards Meghalaya Environment Protection and Restoration Fund i.e. total payment of Rs 1160, the coal is transported. The market price of the coal is approximately Rs 10,000 per metric ton. The claim of different applicants with regard to unassessed coal is false. It is submitted that all illegally mined coal should be vested in the State and no permission of transport as prayed by the different applicants be granted by this Court. The learned Senior Advocate submits that all applications praying for different directions deserve to be rejected.

52. The learned counsel for the parties in support of their respective submissions have placed reliance on various judgments of this Court which shall be referred to while considering the submissions of the parties.

Points for consideration

53. From the submissions of the parties as noted above and the materials on record in these appeals, the following points arise for consideration.

53.1. (*1*) Whether orders passed by the National Green Tribunal are without jurisdiction being beyond the purview of Sections 14, 15 and 16 of the National Green Tribunal Act, 2010?

53.2. (*2*) Whether provisions of the Mines and Minerals (Development and Regulation) Act, 1957 are applicable in tribal areas within the State of Meghalaya, included in the Sixth Schedule of the Constitution?

53.3. (*3*) Whether for mining the minerals from privately owned/ community owned land in Hills Districts of Meghalaya, obtaining a mining lease is a statutory requirement under the MMDR Act, 1957 and the Mineral Concession Rules, 1960?

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53.4. (*4*) Whether under the MMDR Act, 1957 and the Mineral Concession Rules, 1960, it is the State Government, who is to grant lease for mining of minerals in privately owned/community owned land or it is the owner of the minerals, who is to grant lease for carrying out mining operations?

53.5. (5) Whether the State of Meghalaya has any statutory control over the mining of coal from privately owned/community owned land in Hills Districts of the State of Meghalaya?

53.6. (*6*) Whether the power to allot land for mining purposes is vested in Autonomous District Councils?

53.7. (*7*) Whether the order of the National Green Tribunal dated 17-4-2014[6] directing for complete ban on mining is unsustainable?

53.8. (*8*) Whether the complete ban on mining of coal in the State of Meghalaya as directed by NGT deserved to be vacated/modified in the interest of the State and tribals?

53.9. (*9*) Whether NGT had any jurisdiction to constitute committees to submit reports, to implement the orders of NGT, to monitor storage/ transportation; of minerals and to prepare action plan for restoration of environment?

53.10. (*10*) Whether NGT committed error in directing for constitution of fund, namely, Meghalaya Environment Protection and Restoration Fund?

53.11. (*11*) Whether NGT by constituting committees has delegated essential judicial powers to the committees and has further encroached the constitutional scheme of administration of tribal areas under Article 244(2) and Article 275(1) and Schedule VI of the Constitution?

53.12. (*12*) Whether direction to deposit Rs 100 crores by the State of Meghalaya by order dated 4-1-2019[4] of NGT impugned in CA No. 2968 of 2019 is sustainable?

53.13. (*13*) Whether NGT's order dated 31-3-2016[11] that after 15-5-2016 all remaining coal shall vest in the State of Meghalaya is sustainable?

53.14. (*14*) Whether assessed and unassessed coal which has already been extracted and lying in different districts of Meghalaya be permitted to be transported and what mechanism be adopted for disposal of such coal?

54. Now we proceed to consider the above points in seriatim.

Point 1

55. The State of Meghalaya submits that NGT while imposing ban on mining and by forming committee and creating a "Meghalaya Environment Protection and Restoration Fund" has gone beyond its jurisdiction as conferred

6 *All Dimasa Students Union* v. *State of Meghalaya*, 2014 SCC OnLine NGT 2307

4 *Threat to Life Arising Out of Coal Mining in South Garo Hills District* v. *State of Meghalaya*, 2019 SCC OnLine NGT 105

11 *All Dimasa Students Union* v. *State of Meghalaya*, 2016 SCC OnLine NGT 122

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on it by the NGT Act, 2010. The Tribunal has no inherent jurisdiction, its jurisdiction flows from Sections 14, 15 and 16 of the Act.

56. It is relevant to notice few provisions of the NGT Act, 2010 to comprehend the jurisdiction vested with the Tribunal. The National Green Tribunal Act, 2010 was enacted to provide for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto. Section 2 is definitions. Section 2(*c*) defines "environment" in the following manner:

> "**2.** (*c*) "**environment**" includes water, air and land and the inter-relationship, which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property;"

57. Section 2(*m*) defines "substantial question relating to environment", which is to the following effect:

> "**2.** (*m*) "**substantial question relating to environment**" shall include an instance where—
>
> (*i*) there is a direct violation of a specific statutory environmental obligation by a person by which—
>
> (A) the community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or
>
> (B) the gravity of damage to the environment or property is substantial; or
>
> (C) the damage to public health is broadly measurable;
>
> (*ii*) the environmental consequences relate to a specific activity or a point source of pollution;"

58. Chapter III of the Act deals with jurisdiction, powers and proceedings of the Tribunal. Sections 14 and 15, which are relevant in the present case, are as follows:

> "**14.** ***Tribunal to settle disputes.***—(1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.
>
> 1. Ins. by Act 7 of 2017, S. 182 (w.e.f. 26-5-2017).
>
> (2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon.
>
> (3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:

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Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

15. ***Relief, compensation and restitution.*** (1) The Tribunal may, by an order, provide

(*a*) relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);

(*b*) for restitution of property damaged;

(*c*) for restitution of the environment for such area or areas,

as the Tribunal may think fit.

(2) The relief and compensation and restitution of property and environment referred to in clauses (*a*), (*b*) and (*c*) of sub-section (1) shall be in addition to the relief paid or payable under the Public Liability Insurance Act, 1991 (6 of 1991).

(3) No application for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

(4) The Tribunal may, having regard to the damage to public health, property and environment, divide the compensation or relief payable under separate heads specified in Schedule II so as to provide compensation or relief to the claimants and for restitution of the damaged property or environment, as it may think fit.

(5) Every claimant of the compensation or relief under this Act shall intimate to the Tribunal about the application filed to, or, as the case may be, compensation or relief received from, any other court or authority."

59. The submission which has been pressed by the State is that neither the MMDR Act, 1957 nor the Mines Act, 1952 is prescribed in Schedule I of the Act, hence, coal mining is not within the purview of Schedule I and not within the jurisdiction of the Tribunal. The submission further is that for applicability of Section 14 both the components of sub-section (1) of Section 14 that (*i*) a substantial question relating to environment, and (*ii*) such question arises out of the implementation of the enactments specified in Schedule I, have to be satisfied.

60. It is relevant to notice that before NGT no such plea was taken by the State of Meghalaya or any of the parties questioning the jurisdiction of NGT. However, the issue being a jurisdictional issue, we have permitted the learned counsel for the appellant to raise the issue. NGT took cognizance when

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application, OA No. 73 of 2014 on 17-4-2014[6] was admitted and order was issued. The jurisdiction of the Tribunal to entertain OA No. 73 of 2014 has to be found out from the case set up and pleadings in OA No. 73 of 2014 for which we need to scrutinise the application. OA No. 73 of 2014 has been brought on record as Annexure A-3 in CA No. 5272 of 2016. The application was filed by one All Dimasa Students Union Dima Hasao District Committee. In the application, the following were the respondents:

1. The State of Meghalaya through the Principal Secretary, Forest and Environment Department, Government of Meghalaya, Shillong.

2. The Chairperson, State Pollution Control Board, Meghalaya, Shillong.

3. The State of Assam through the Principal Secretary, Forest and Environment Department, Government of Assam, Dispur.

4. The Chairperson, State Pollution Control Board, Assam, Dispur.

5. The Central Pollution Control Board, Parvesh Bhawan, East Arjun Nagar, Delhi 110 032 through its Chairperson.

6. North-Eastern Electric Power Corporation Ltd. through its Chairman and Managing Director, Brooklyn Compound, Lower New Colony, Shillong 793 003, Meghalaya.

61. Para 3 of the application states the case of the applicant and facts in brief. Paras 3 and (I) to (IV) are as follows:

"3. The applicant above named begs to present the present application to bring to the notice of this Hon'ble Tribunal about the adverse impact of unscientific opencast mining operations being still undertaken in the Jaintia Hills in Meghalaya on the ecology and socio-economy of the area concerned including Dima Hasao District of Assam. It is stated that the acid mine drainage (for short "AMD") generated from the aforesaid mining operations has resulted in making the water of River Kopili (an inter-State river flowing through the State of Meghalaya and Assam) and its tributaries highly acidic which in turn has not only caused serious far-reaching damage to the environment, water bodies, soil, agriculture, economy and industry of the area concerned but also resulted in causing erosion/corrosion of the critical underwater hydro power equipments of the Kopili Hydroelectric Project (for short "KHEP") of North-Eastern Electric Power Corporation Ltd. (for short "NEEPCO") situated in Umrongso, Dima Hasao, District of Assam inasmuch as the said acidic water is ultimately led to the reservoirs of the said project.

Facts in brief

I. That the applicant is the Secretary of Dima Hasao Students Association and filing the present petition in a representative capacity to

6 *All Dimasa Students Union* v. *State of Meghalaya*, 2014 SCC OnLine NGT 2307

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espouse the cause of the people of Dima Hasao, Assam who are constantly and continuously facing the adverse effect of the aforesaid illegal activities in the State of Meghalaya.

II. That Kopili River is an inter-State river in North-East India that flows through the States of Meghalaya and Assam and is the largest south bank tributary of River Brahmaputra in Assam, the Kopili River originates from the black mountains of Lum Bah-bo Bah-Kong in Meghalaya and flows north-west into the Brahmaputra Valley in Assam. The said river demarcates the Jaintia Hills in Meghalaya and Dirria Hasao in Assam. The river flows for a total length of 290 km and has a catchment area of 16, 420 km.

III. That the Kopili Hydroelectric Project (KHEP) of NEEPCO (a Government of India undertaking) is one of the pioneering hydroelectric project in the North-Eastern region of India. The Kopili hydroelectric plant is a 275 MW storage type hydroelectric plant consisting of two dams which have created two reservoirs, namely, Kopili reservoir is used in the Khandong powerhouse through a 2759 m tunnel to generate power. The tail water from this powerhouse is led to Umrong Reservoir is used in Kopili powerhouse through a 5473 m tunnel to generate power. Although, the dam, powerhouse and residential colony of Kopili Hydro Electric Plant (KHEP) are located in the Dima Hasao District (formerly known as North Cachar Hills District) of Assam, the catchment and reservoirs are spread in two States, namely, Meghalaya and Assam. It is further stated that Kopili River and its tributaries feed water to the reservoirs of the project. Kharkor is a major tributary of River Kopili and drains a vast area of Jaintia Hills Districts of Meghalaya. The Jaintia Hills being well known for coal mining areas are contributing acidic water in the form of acid mine drainage (AMD) to River Kharkor through its different tributaries such as Urn Pai, Myntriang, Urn Ropang, Sarbang, Mostem, etc. as these streams drain through the active and inactive coal mining areas of Jaintia Hills. The acidic water finally reaches to Khandong and Umrong reservoirs of KHEP. As a result, the water of the reservoirs has become highly acidic. The water pollution in streams of catchment area varies from brownish to reddish orange. The same polluted water through various tributaries of Rivers Kharkor and Kopili is perpetually reaching to the reservoirs of KHEP. As a result, the water of reservoirs has become highly acidic. In recent years, it has been found that acidity of reservoir water is a major threat to equipments and machinery due to corrosion/metal decay and erosion. Components such as cooling water header pipe, bends, throttling valves, pressure equaliser pipe of turbine, etc. made up of different metals and alloys are getting severely affected and incurring high maintenance cost.

IV. That the said adverse impact of the aforesaid mining operation which has not only affected the ecology and socio-economy of the area but also severely affected the generation of hydro-electricity at the Kopili Hydroelectric Plant has been subject-matter of various studies. In fact,

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a detailed project report of pilot project for remediation of acid mine drainage (AMD) in the catchment of Kopili River at the upstream of Kopili Hydro Electric Plant (KHEP), Umrongso, Dima Hasao, Assam was done by Dr O.P. Singh, Professor, Department of Environmental Studies, North-Eastern Hills University, Shillong, Meghalaya. Similarly, a detailed article based on detailed investigation by Shri Pankaj Sharma and others was published under the heading "Acid Mine Discharge—Challenges Met in a Hydro Power Project" in *International Journal of Environmental Sciences*, Vol. 1, No. 6, 2011. Both the aforesaid publications give an in-depth analysis of the aforesaid problem as well as suggest remedial measures to improve the situation. However, it is stated that no proper and effective remedial measures have been taken by the authorities concerned/State respondents to abort the aforesaid menace and the ill effects of the same are still continuing and the same are being constantly faced by the innocent citizens/waterbodies, etc. of the area including the people of Dima Hasao District of Assam. Copies of the detailed project report of pilot project for remediation of acid mine drainage (AMD) in the catchment of Kopili River at the upstream of Kopili Hydro Electric Plant (KHEP), Umrongso, Dima Hasao, Assam and the article published under the heading "Acid Mine Discharge Challenges Met in a Hydro Power Project" in *International Journal of Environmental Sciences*, Vol. 1, No. 6, 2011 are annexed herewith and marked as *Annexures P-1 and P-2* respectively. The ill effect of the aforesaid operations has also been the subject-matter of news items in various newspapers including one published by *The Assam Tribune* on 20-6-2012 under the heading "Concern Over Contamination of Kopili Water" and another one published in *The Telegraph* on 20-6-2013 under the heading "Two Kopili Power Units Shut Down—Mining in Jaintia Hills Affects Machines". Copies of the news items published in *The Assam Tribune* dated 20-6-2012 and *The Telegraph* dated 20-6-2013 are annexed herewith and marked as *Annexures P-3 and P-4* respectively."

62. In Para 3(V) the appellant has extracted a report of one Dr O.P. Singh, Professor, North-Eastern Hills University, Shillong, Meghalaya. Certain paragraphs of the report stated that acid mine drainage (AMD) is the greatest environmental problem of coal industry and main source of water pollution in and around mining areas. The report mentioned that AMD degrades the water quality of the area in terms of lowering the pH of the surrounding water resources and increasing the level of total suspended solids, total dissolved solids and some heavy metals. Following is the part of Para 4.1.4 of the Report which is extracted in Para 3(V):

"4.1.4. *Impact of AMD on Environment, Socio-economy and Industry*

Impact on environment and water resources—acid mine drainage is the greatest environmental problem of coal mining industry and main source of water pollution in and around mining areas. The influx of untreated AMD into streams severely degrades both water quality and aquatic habitat

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turning water unfit for desired uses and often producing an environment devoid of most aquatic life. AMD degrades the water quality of the area in terms of lowering the pH of the surrounding water resources and increasing the level of total suspended solids, total dissolved solids and some heavy metals. Acidity and high concentration of SO_4^2; iron and other metals prove to be toxic and corrosive to most aquatic animals and plants. Precipitate of iron hydroxide increases the load of suspended solids which impair light penetration and visibility resulting into low productivity and disruption of normal functioning of the contaminated aquatic ecosystem. AMD can also be toxic to vegetation when discharged to the shallow soil water zones and wetlands (Van Green et al., 1999; Singh and Agrawal, 2004; Gosh, 1991).

Aquatic communities of rivers and streams comprise of phytoplanktoris, periphyton, macrophytes, zooplanktons, invertebrates and vertebrate species. They play important role in normal functioning of the aquatic ecosystem and are indicative of good health of water bodies. Generally, a variety of species with representatives of almost all insect orders, including a high diversity of insects belonging to the taxonomic orders of Ephemeroptera (mayflies), Plecoptera (stoneflies), and Trichoptera (caddisflies) commonly referred to as EPT taxa. Any physical, chemical or biological change in water bodies affects one or all species and disturbs the normal functioning of the aquatic ecosystem. Like many other pollutants, AMD contamination causes a reduction in the diversity and total numbers, or abundance, of these aquatic communities including benthic macroinvertebrates, fishes, etc. As a result, the community structure is altered and water bodies affected by AMD possess a lower percentage of EPT taxa (Campbell et al., 2000). Moderate AMD contamination eliminates the more sensitive species whereas severely contaminated conditions are characterised by dominance of certain taxonomic representatives of pollution tolerant organisms.

As a consequence of depletion of aquatic invertebrates, the fishes do not get adequate supply of food and suffer indirectly from AMD contamination. AMD also has direct effect on fish by causing various physiological disturbances. However, the primary cause of fish death in acid waters is loss of sodium ions from the blood. Less availability of oxygen to the cells and tissues leads to anoxia and death as acid water increases the permeability of fish gills to water, adversely affecting the gill function. Severe anoxia occurs below pH 4.2. Low pH that is not directly lethal may adversely affect fish growth rates and reproduction."

63. Further, Para 4.2.3 of the Report dealt with coal mining in Jaintia Hills and Para 4.2.4 dealt with impact of coal mining in Jaintia Hills and Para 4.2.5 dealt with degradation of water quality due to coal mining. Paras 4.2.3, 4.2.4, 4.2.5 and 4.2.6 which were extracted in OA No. 73 of 2014 are produced as below:

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"4.2.3. *Coal mining in Jaintia Hills*

Extraction of coal has been taking place in all three regions, however, major production occurs in Jaintia Hills. The mining activity in Jaintia Hills is a small-scale venture controlled by individuals who own the land. Primitive mining method commonly known as "rat-hole" mining is in practice in Meghalaya. In this method the land is first cleared by cutting and removing the ground vegetation and then digging pits ranging from 5 to 100 m^2 into the ground to reach the coal seam. Thereafter, tunnels are made into the seam sideways to extract the coal which is brought into the pit by using a conical basket or a wheelbarrow manually. Coal seams are reached by excavating the side edge of the hill slopes and then coal is extracted through a horizontal tunnel. The coal from the tunnel or pit is taken out and dumped on nearby un-mined area, from where it is carried to the larger dumping places near highways for its trade and transportation. Finally, the coal is carried by trucks to the larger dumping places near highways for its trade and transportation. Entire roadsides in and around mining areas are used for piling of coal which is a major source of air, water and soil pollution. Off-road movement of trucks and other vehicles in the area causes further damage to the ecology of the area.

Every year new areas are brought under mining and area under coal mining in Jaintia Hills is increasing day-by-day as shown in Figures 4, 5.

4.2.4. *Impact of coal mining in Jaintia Hills and beyond*

Mining operation, undoubtedly has brought wealth and employment opportunity in the area, but simultaneously has led to extensive environmental degradation and erosion of traditional values in the society. Environmental problems associated with mining have been felt severely because of the region's fragile ecosystems and richness of biological and cultural diversity. The indiscriminate and unscientific mining and absence of post-mining treatment and management of mined areas are making the fragile ecosystems more vulnerable to environmental degradation and leading to large-scale land cover/land use changes. The current modus operandi of surface mining in the area generates huge quantity of mine spoil or overburden (consolidated and unconsolidated materials overlying the coal seam) in the form of gravels, rocks, sand, soil, etc. which are dumped over a large area adjacent to the mine pits. The dumping of overburden and coal destroys the surrounding vegetation and leads to severe soil and water pollution. Large-scale denudation of forest cover, scarcity of water, pollution of air, water and soil, and degradation of agricultural lands are some of the conspicuous environmental implications of coal mining in Jaintia Hills. Further, entire coal mining area of the Jaintia Hills has become full of mine pits and caves. These open, unfilled pits are the places where surface water percolates and disappears. As a result, smaller streams and rivers of the area, which served as lifelines for the people, are either completely disappearing from the face of the earth or becoming seasonal

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instead. Consequently, the area is facing acute shortage of clean drinking and irrigation water. Besides, a vast area has become physically disfigured due to haphazard dumping of overburden and mined coal, and caving in of the ground and subsidence of land.

Continuous discharge of acid mine drainage (AMD) and toxic chemicals from coal mines, storage sites and exposed overburden have polluted the river system of the area. Acidic water on reaching to land and agricultural fields has affected the traditional agriculture and agricultural productivity of the area (Das Gupta et al, 2002; Swer and Singh, 2004)

4.2.5. *Degradation of water quality due to coal mining*

The water bodies of the area are the greatest victims of the coal mining. The water bodies are badly affected by contamination of acid mines drainage (AMD) originating from mines and spoils, leaching of heavy metals, organic enrichment and silting by coal and sand particles. Pollution of the safer is evidenced by the colour of the water which in most of the rivers and streams in the mining area varies from brownish to reddish orange. Low pH (between 2-3), high conductivity, high concentration of sulphate, iron and toxic heavy metals, low dissolved oxygen (DO) and high BOD are some of the physico-chemical and biological parameters which characterise the degradation of water quality. Analysis of physico-chemical and biological parameters of water in the mining area shows severe degradation of water quality.

The colour of the water in mining area generally varies from brownish to reddish orange. Siltation of coal particles, sand, soil, etc. and contamination of AMD and formation of iron hydroxide are some of the major causes of change in water colour. Formation of iron hydroxides [Fe $(CH)_3$] is mainly responsible for orange or red colour of water in the mining areas. Iron hydroxide is a yellowish insoluble material commonly formed in water bodies of the coalfields. It is this material that stains streams and responsible for red to orange colour of water. When elevated levels of iron are introduced into natural waters, the iron is oxidised and hydrolysed, thereby forming precipitate of iron hydroxides.

The water in coal mining areas has been found highly acidic. The pH of streams and rivers varies between 2.31 to 4.01. Solids such as fine particles of coal, sand, mud and other mineral particles were found deposited at the bottom of the water bodies. Besides, water was also found turbid and coloured due to suspended precipitates of iron hydroxides. Dissolved oxygen was found to be low in water bodies of coal mining areas, the lowest being 4.24 mg/L in River Rawaka and stream Metyngka of Rymbai.

The waters of the mining areas have been found containing sulphate concentration between 78 to 168 mg/l. Electrical conductivity is a rapid measure of the total dissolved solids present in ionic form. Water in coal mining areas was found having high conductivity. Deposition of silt at the bottom of the rivers and streams is another important problem in coal

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mining areas. Water bodies of the mining area appear to contain various types of organic matter which is evident by low dissolved oxygen (DO) and high biochemical oxygen demand (BOD).

As a result, the rivers, streams and springs which had supported extremely rich biodiversity and traditional agriculture, and were source of potable and irrigation water in the area have become unfit for human consumption. Further, there is an overall decline in agricultural productivity due to contamination of soil with coal particles, seepage of acid mines drainage and scarcity of water. The water of many rivers and streams has almost become devoid of aquatic life.

4.2.6. *Causes of deterioration of water quality*

Major causes of deterioration of water quality, as evidenced by above observations are AMD discharge, siltation and organic enrichment. As in any other coal mining area, acid mine drainage (AMD) is the main source of water pollution in the coal mining areas of Jaintia Hills. As discussed in previous chapter, AMD is formed by a series of complex geochemical and microbial reactions that occur when water comes in contact with pyrite (iron sulfide) found in coal and exposed rocks of overburden. Iron sulfide in presence of oxygen, water and bacteria forms sulphuric acid, is referred to as AMD. In the process, iron hydroxide, a yellowish orange precipitate, is also formed. The precipitate of iron hydroxide together with other contaminants causes turbidity and changes in colour of the water which reduces the penetration of light and affects the aquatic life. Extremely low pH conditions in the water accelerate weathering and dissolution of silicate and other rock minerals, thereby causing the release of other elements such as aluminium, manganese, copper, cadmium, etc. into the water. Hence, water contaminated with AMD is often coloured and turbid with suspended solids, highly acidic (low pH), and contains high concentration of dissolved metals and other elements. Most of the streams and rivers of Jaintia Hills in coal mining areas are severely contaminated with AMD and thus water has highly acidic. The pH and other parameters of some AMD affected water bodies are summarised in Table 4.1. Table 4.1: Summary of water quality parameters in some coal mining rivers/reservoir:

Sl. No.	*Rivers/Streams & Location*	*Colour of water*	*pH*	*Sulphate contents (mg/l)*	*E Conductivity (pS/cm)*
1.	Myntriang	Light	2.8	36	56
2.	Urn Pai	Brownish	3.2	186	160
3.	Rawaka, Rymbai	Reddish	2.31	166.5	135
4.	Kenaium,	Reddish	2.66	144.0	74
5.	Metyngka, Rymbai	Reddish brown	2.42	168.0	27
6.	Urn-Mynkseh, Ladrymbai	Brownish orange	3.52	118.7	67

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7.	Thwai-Kungor, Bapun	Brownish	4.01	82.87	18
8.	Umkyrpon, Khliehriat	Light orange	3.67	161.3	37
9.	Waikhyrwi, Sutnga	Brownish	3.96	78.69	-
10.	Um Roong		2.8	896	128
11.	Mostem	Brownish	2.9	616	119
12.	Sarbang	Turbid	3.35	150	32
13.	Um Lurem	Yellowish	5.0	19	3
14.	Khongdong Reservoir	Clear	4.6	43	34

Source: Present study; GSI, 2006-7;
Biahwar, 2010

The results show that most of the rivers in the coal mining areas of Jaintia Hills are severely affected by AMD as is evident from the lower pH values, higher sulphate content and EC in water samples."

64. Thus, there were clear allegations in the application that in spite of various remedial measures set out in the report no proper and effective remedial measures have been taken by the authorities concerned of the State of Meghalaya. Para 3(VI) is as follows:

"3. (VI) That the various remedial measures are set out in detail in Paras 4.4, 4.5, 5, 5.1 and 5.2 and other relevant paragraphs of the said report. However, to the best of knowledge of the applicant, no proper and effective remedial measures have been undertaken by the authorities concerned till date and the innocent citizens/water bodies, etc. of the areas concerned including that of Dima Hasao District in Assam continue to be subjected to the ill effect of the aforesaid illegal mining operation in the State of Meghalaya. That apart, continuous and irreparable damage on the environment, water, soil, agriculture, etc. in the areas concerned including Dima Hasao District of Assam are also continuing as a result of the said illegal mining operations in Jaintia Hills in the State of Meghalaya."

65. Ground A of the application is also relevant to be reproduced which is to the following effect:

"*Grounds*

A. That the aforementioned illegal mining operations in the Jaintia Hills in the State of Meghalaya have not only caused serious and irreparable damage to the ecology, water bodies and the socio-economy of the areas concerned including of Dima Hasao District of Assam but has also resulted in serious erosion/corrosion of the underwater plants and machineries and equipments of the Kopili Hydro Power Project of the North-Eastern Electric Power Corporation of India (a Government of India undertaking), the ill effect of the said mining operation has been highlighted in detail in the aforementioned detailed project report by Dr O.P. Singh, Professor,

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North-Eastern Hills University as well as the said article published in *International Journal of Environmental Sciences*. Though remedial measures were suggested in both the aforesaid studies, to the best of the knowledge of the applicant, no proper and effective remedial measures have been undertaken by the respondents herein and the ill effect of the said activities are still continuing to the detriment of the ecology, water bodies and socio-economy of the areas concerned including Dima Hasao District of Assam. It is most respectfully submitted that the total inaction on the part of the respondents herein in spite of detailed study on the subject with remedial suggestions are totally inexcusable and show the total callous attitude of the State respondents, the menace of illegal opencast mining operations in the Jaintia Hills in Meghalaya is still continuing to the detriment of the ecology and socio-economy of the areas concerned including Dima Hasao District of Assam and as such, warrants, in the most respectful submissions of the applicant, immediate intervention by this Hon'ble Tribunal. The aforesaid inaction has resulted in violation of the various enactments mentioned in Schedule I of the National Green Tribunal Act, 2010 including the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 apart from infringing the fundamental rights of the applicant under Articles 14 and 21 of the Constitution of India."

66. The pleadings in OA No. 73 of 2014 as extracted above clearly and categorically alleged environmental degradation consequent to illegal coal mining. It was further stated that inaction of respondent authorities has resulted in violation of various enactments mentioned in Schedule I of the NGT Act, 2010 including the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986. The application OA No. 73 of 2014 thus has clearly made out allegations which were sufficient for the Tribunal to exercise its jurisdiction as conferred by Section 14. Both the component as appearing in sub-section (1) of Section 14 that is (*i*) substantial question relating to environment, and (*ii*) such question arises out of the implementation of the enactments specified in Schedule I, were involved.

67. NGT after adverting to the application OA No. 73 of 2014 on 17-4-2014[6] has undertaken different proceedings and asked for various reports from different committees including State Pollution Control Board. By order dated 31-8-2018[1], NGT had appointed a committee headed by Justice B.P. Katakey, former Judge of the Gauhati High Court which consisted of Prof. Ashok K. Singh, Rajiv Gandhi Chair Professor, Department of Environmental

6 *All Dimasa Students Union* v. *State of Meghalaya*, 2014 SCC OnLine NGT 2307

1 *Threat to Life Arising Out of Coal Mining in South Garo Hills District* v. *State of Meghalaya*, 2018 SCC OnLine NGT 1211

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Science & Engineering representative from Indian School of Mines, Dhanbad IIT (ISM), Dhanbad (826004), Dr Shantanu Kumar Dutta, Scientist 'D' representative of Central Pollution Control Board. The said Committee submitted interim report on 31-12-2018 and on the subject "Whether coal mining activities as well as dumping of coal results in adverse environmental effect, if so, the nature and extent thereof?" has been dealt with in Issue (D) in the following manner:

"*Issue (D) Whether coal mining activities as well as dumping of coal results in adverse environmental effect, if so, the nature and extent thereof?*

(*i*) The Meghalaya State Pollution Control Board in the month of September 1997 published a report entitled "ENVIRONMENTAL IMPACT OF COAL MINING IN JAINTIA HILLS DISTRICT". The then Chairman of the said Board, in his foreword, has admitted unplanned and unscientific coal mining activities in the State for more than hundred years, which achieved dangerous dimensions since last two decades and are creating ecological disturbances and negative environmental impacts, to the extent that the very existence of biological life is threatened in the coal mining areas of the State. It has also been admitted that no systematic efforts to study such impacts have so far been made by any institution. The then Member Secretary of the Board, in the preface, has projected the adverse impacts on the environment because of the coal mining activities. The pH level in water of almost all the rivers and streams was found to be below the required level. In some rivers and streams, the pH level was found to be as low as 2.4. The Meghalaya State Pollution Control Board, in the said report, has observed that the random discharge of AMD and acidic run-offs from the coal storage areas have also made the rivers, streams and even groundwaters highly acidic. The ambient air quality of the coal mining and coal storage areas was also found to be degraded to certain extent. The Board, therefore, observed that—"The uncontrolled and unscientific coal mining operations in Jaintia Hills District have already created massive ecological disturbances and environmental degradation because presently neither any pollution control measures are adopted by the miners nor any sincere efforts are made for reclamation of the mine land." In the said report, the following recommendations were made to minimise the overall adverse environmental impacts of the mining activities:

(*a*) To generate social awareness among the public in general and the miners in particular about the adverse environmental impacts and the health hazards associated with such unscientific and unplanned coal mining activities.

(*b*) Preparation of the inventory of the mine owners, areas under mining and rate of land use change to get the first-hand knowledge about the quantum of the efforts required for better management of these activities.

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(*c*) To enforce suitable legislations on the lines of the National Mineral Policy immediately for exploitation of coal in most sustainable manner.

(*d*) To engage expert institution for finding out the most suited technologies for the coal exploitation with appropriate pollution control measures in order to ensure that the environment as a whole is not subjected to further degradation.

(*e*) To engage the expert institution for finding out the suitable ways for rehabilitation of the mined land in phased manner so that the scarce land resources can be brought back to productive uses.

(*f*) To look for the alternative transport facilities to control vehicular pollution.

(*g*) To identify the suitable location for the storage of coal for sale with adequate facilities to treat dump run-offs.

(*h*) To study the aspect of the presence of trace elements in the surface and groundwater because the low pH values increase the dissolution power of water. Large numbers of trace elements are always associated with the coal which gets dissolved in low pH waters. These trace elements are serious health hazards even in very low concentrations.

(*i*) To introduce lucrative schemes for the afforestation in the most affected areas.

(*j*) To develop the State Mineral Policy with the interaction of government agencies, social institutions, local elders and the miners, keeping in view the specific land ownership system of the State. Nothing of the above recommendations have been implemented so far.

(*ii*) It is, therefore, evident that apart from the water, air pollution, there is degradation of surface land because of the coal mining activities in the State of Meghalaya. Despite publication of the said report by the Meghalaya State Pollution Control Board as back as in the year 1997, no steps appeared to have been taken by any authority to check the adverse environmental effect and also to remedy the same."

68. The present is not a case of mere allegation of applicant of environmental degradation by illegal and unregulated coal mining rather there were materials on the record including the report of the experts, the Meghalaya State Pollution Control Board published in the month of September 1992, the report of Katakey Committee appointed by the Tribunal where environmental degradation of water, air and surface of the land was proved.

69. Hence, there was sufficient allegation regarding substantial questions relating to environment and violation of enactments in Schedule I. We fail to see any substance in the submission of the learned counsel for the appellant that NGT has no jurisdiction to entertain the case and pass orders. During submission, the learned counsel for the appellant has not even referred to

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application which was filed by the applicant in OA No. 73 of 2014. There were reports of the Meghalaya State Pollution Control Board before the State Government pointing out environmental degradation and the Tribunal having taken up the issue, the submission on behalf of the State that the Tribunal has no jurisdiction, is not expected from the State Government which is under constitutional obligation to ensure clean environment to all its citizens. In cases pertaining to environmental matters the State has to act as facilitator and not as obstructionist. Article 48-A of the Constitution provides:

> "**48-A.** ***Protection and improvement of environment and safeguarding of forests and wildlife.*** The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country."

70. The learned counsel for the appellant has placed reliance on the judgment of this Court in *Techi Tagi Tara* v. *Rajendra Singh Bhandari*[18]. This Court had occasion to consider Sections 14, 15 and 2(*m*) of the National Green Tribunal Act, 2010, which involves the question of jurisdiction of NGT. The nature of order passed[19] by NGT which was challenged before this Court has been noticed in para 1 of the judgment, which is to the following effect: (SCC p. 737)

> "*1.* This batch of appeals is directed against the judgment and order dated 24-8-2016 passed by the National Green Tribunal, Principal Bench, New Delhi (for short "NGT") in *Rajendra Singh Bhandari* v. *State of Uttarakhand*[19]. On a reading of the judgment and order passed by NGT, it is quite clear that the Tribunal was perturbed and anguished that some persons appointed to the State Pollution Control Boards (for short "SPCBs") did not have, according to NGT, the necessary expertise or qualifications to be members or Chairpersons of such high-powered and specialised statutory bodies and therefore did not deserve their appointment or nomination. While we fully commiserate with NGT and share the pain and anguish, we are of the view that the Tribunal has, at law, exceeded its jurisdiction in directing the State Governments to reconsider the appointments and in laying down guidelines for appointment to the SPCBs, however well-meaning they might be. Therefore, we set aside the decision of NGT, but note that a large number of disconcerting facts have been brought out in the judgment which need serious consideration by those in authority, particularly the State Governments that make appointments or nominations to the SPCBs. Such appointments should not be made casually or without due application of mind considering the duties, functions and responsibilities of the SPCBs."

71. In the above background, this Court held that the failure of the State Government to appoint professionals and experienced persons to the key positions in the State Pollution Control Board cannot be classified as a primary

18 (2018) 11 SCC 734

19 *Rajendra Singh Bhandari* v. *State of Uttarakhand*, 2016 SCC OnLine NGT 456

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dispute over which NGT could have jurisdiction. The following was laid down in para 21: (*Techi Tagi Tara case*[18], SCC p. 750)

> "*21.* As far as we are concerned, in the context of the Act, a dispute would be the assertion of a right or an interest or a claim met by contrary claims on the other side. In other words, the dispute must be one of substance and not of form and it appears to us that the appointments that we are concerned with are not "disputes" as such or even disputes for the purposes of the Act—they could be disputes for a constitutional court to resolve through a writ of quo warranto, but certainly not for NGT to venture into. The failure of the State Government to appoint professional and experienced persons to key positions in the SPCBs or the failure to appoint any person at all might incidentally result in an ineffective implementation of the Water Act and the Air Act, but this cannot be classified as a primary dispute over which NGT would have jurisdiction. Such a failure might be of a statutory obligation over which, in the present context and not universally, only a constitutional court would have jurisdiction and not a statutory body like NGT. While we appreciate the anxiety of NGT to preserve and protect the environment as a part of its statutory functions, we cannot extend these concepts to the extent of enabling NGT to consider who should be appointed as a Chairperson or a member of any SPCB or who should not be so appointed."

72. The issue involved in the above case was entirely different which did not directly pertain to environmental degradation. Whether NGT has jurisdiction to entertain a particular cause is a question which depends on the facts of each case. To find out as to whether NGT has jurisdiction to entertain a case, the case set up before the Tribunal has to be looked into to answer the question. The judgment of *Techi Tagi Tara*[18] was on its own facts and does not help the appellant in the present case.

73. In view of the foregoing discussion, we reject the submission of the learned counsel for the State that the Tribunal exceeded its jurisdiction under Sections 14 and 15 in entertaining the application OA No. 73 of 2014. We also record our disapproval to the stand taken by the State in this regard.

Point 2

74. Before we proceed to consider the above points, first of all, we need to notice the nature of land tenure in the Hills Districts of the State of Meghalaya. The learned counsel for the parties are not at variance on the question of nature of land tenure in the Hills Districts of the State of Meghalaya.

74.1. By the North-Eastern Area Reorganisation Act, 1971 the State of Meghalaya was formed as independent full-fledged State. After the enforcement of the Constitution the area, now comprised in the State of Meghalaya, was included in the State of Assam, the administration and control

18 *Techi Tagi Tara* v. *Rajendra Singh Bhandari*, (2018) 11 SCC 734

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of which area was as per Article 244 of the Constitution of India read with the Sixth Schedule of the Constitution.

74.2. Insofar as the land tenure in the Hills Districts of Meghalaya is concerned, there is no substantial change after the advent of the Constitution. There was no payment system of land revenue before the advent of the Constitution in the Hills Districts of Meghalaya. The learned counsel for the parties have referred to various materials pertaining to the land tenure system prevalent in the Hills Districts of the State of Meghalaya. The lands in the Khasi Hills District of Meghalaya come under two divisions *Ri Raid and Ri Kynti*. Ri Raid lands are community lands which are set apart for the benefit and use of entire community. Ri Kynti lands are privately owned lands which were also owned by community as well as by individuals. The owner of the Ri Kynti land is an absolute proprietor. The tenure system in Jaintia Hills is classified into two types of lands, namely, *hali/irrigated land and highland*. Hali lands are further categorised in raj land, service land, village puja land and private land. Proprietary right does not vest in the State in respect to majority of lands which are either privately owned or owned by the tribal community. No system of payment of land revenue is prevalent in the Hills District of Meghalaya except lands which belong to the State.

74.3. For the purposes of the present case where the submission of the appellant is that land in which mining operations of coal is being done are lands belonging to tribals who are owners of the land as well as of the subsoil, we proceed with the assumption that tribal is the owner of the land. It is further the case of the appellant that in Hills Districts of the State of Meghalaya in land which is privately owned by the tribal or community owned, the tribals or the community or the clan are owners of both surface right and subsoil.

74.4. It is the case of the appellant that the State does not have any right in subsoil or minerals. The judgment of this Court in *Thressiamma Jacob* v. *Deptt. of Mining & Geology*[20], is relied on. This Court in the above case had occasion to consider the question of ownership of subsoil/mineral rights in reference to genmom lands in Malabar area of the State of Madras. Holder of the genmom rights also claimed not only as proprietor of the soil but the owner of the minerals in the soil. This Court laid down the following in para 58: (SCC p. 752)

> "*58.* For the abovementioned reasons, we are of the opinion that there is nothing in the law which declares that all mineral wealth/subsoil rights vest in the State, on the other hand, the ownership of subsoil/mineral wealth should normally follow the ownership of the land, unless the owner of the land is deprived of the same by some valid process. In the instant appeals, no such deprivation is brought to our notice and therefore we hold that the appellants are the proprietors of the minerals obtaining in their lands. We make it clear that we are not making any declaration regarding their liability to pay royalty to the State as that issue stands referred to a larger Bench."

20 (2013) 9 SCC 725 : (2013) 4 SCC (Civ) 559

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75. A Constitution Bench of this Court in *Anand Brahma Shah* v. *State of U.P.*[21], had laid down that prima facie owner of a surface of the land is entitled to everything beneath the land unless there is an express or implied reservation in the grant. In para 13, the following has been laid down: (AIR p. 1088)

> "*13*. In our opinion, a reading of the two sanads supports the case of the appellant that there is no reservation of mineral rights in favour of the Government. The expression used in the sanad of 1803 AD is 'You ought to consider him the Raja of immovable jagir and of mahal and everything appertaining thereto belongs to him'. In effect, the grant to the Raja in the two sanads is a grant of the lands comprised in the mahal of Agori and everything appertaining thereto and as a matter of construction the grant must be taken to be not only of the land but also of everything beneath or within the land. Prima facie the owner of a surface of the land is entitled ex jure to everything beneath the land and in the absence of any reservation in the grant minerals necessarily pass with the rights to the surface (*Halsbury's Laws of England*, 3rd Edn., Vol. 26, p. 325). In other words, a transfer of the right to the surface conveys right to the minerals underneath unless there is an express or implied reservation in the grant. A contract, therefore, to sell or grant a lease of land will generally include mines, quarries and minerals beneath or within it (*Mitchell* v. *Mosley*[22]). It is manifest that when the sanad was executed in favour of the Raja the Government made over the land with all its capabilities to the Raja and merely imposed on him a fixed sum of revenue in lieu of all the rights the Government had as a proprietor of the soil. When neither of the parties knew undiscovered minerals underneath the land and the idea of reservation never entered their minds it cannot be held that there was any implied reservation in the grant. Nor can afterwards a distinction be drawn between the various rights that may exist on the land for the purpose of qualifying the original grant and importing into it what neither party could have imagined. It was argued on behalf of the respondents that the assessment was made on the agricultural income, but this circumstance cannot derogate from the rights conveyed to the Raja in the two sanads because no restriction was placed on the use of the land and the use by the Raja was not limited to agriculture."

76. Thus, looking to the nature of the land tenure as applicable in the Hills Districts of the State of Meghalaya, most of the lands are either privately or community owned in which the State does not claim any right. Thus, private owners of the land as well as community owners have both the surface right as well as subsoil right. We are, thus, of the opinion that tribals owned the land and also owned the minerals, which is an inescapable conclusion. We, thus, proceed to examine the issues on the premise that in privately owned land or community land, minerals also vest in the owner. We first need to consider as to whether the provisions of the MMDR Act, 1957 are applicable in the tribal area of Hills Districts of the State of Meghalaya.

21 AIR 1967 SC 1081
22 (1914) 1 Ch 438 (CA)

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77. Part X of the Constitution separately deals with scheduled and tribal areas. Hills Districts of the State of Meghalaya were treated to be tribal area and were to be governed by Article 244 sub-clause (2) read with Schedule VI. Provisions of Article 244 after formation of the State of Meghalaya are as follows:

"**244.** ***Administration of Scheduled Areas and Tribal Areas.*** (1) The provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State other than the States of Assam, Meghalaya, Tripura and Mizoram.

(2) The provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram."

78. The Sixth Schedule of the Constitution contains "Provisions as to the Administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram". Para 20 of the Sixth Schedule refers to tribal areas and Part II of which consists of Khasi Hills District, Jaintia Hills District and Garo Hills District which have been referred to as autonomous districts. The Sixth Schedule Para 1(1) is as follows:

"**1.** ***Autonomous districts and autonomous regions.***—(1) Subject to the provisions of this paragraph, the tribal areas in each item of Parts I, II and II-A and in Part III of the table appended to Para 20 of this Schedule shall be an autonomous district."

79. Para 2 of the Sixth Schedule provides for constitution of District Councils and Regional Councils. Para 3 provides for powers of the District Councils and Regional Councils to make laws which is to the following effect:

"**3.** ***Powers of the District Councils and Regional Councils to make laws.***—(1) The Regional Council for an autonomous region in respect of all areas within such region and the District Council for an autonomous district in respect of all areas within the district except those which are under the authority of Regional Councils, if any, within the district shall have power to make laws with respect to—

(*a*) the allotment, occupation or use, or the setting apart, of land, other than any land which is a reserved forest for the purposes of agriculture or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interests of the inhabitants of any village or town:

Provided that nothing in such laws shall prevent the compulsory acquisition of any land, whether occupied or unoccupied, for public purposes by the Government of the State concerned in accordance with the law for the time being in force authorising such acquisition;

(*b*) the management of any forest not being a reserved forest;

(*c*) the use of any canal or water-course for the purpose of agriculture;

(*d*) the regulation of the practice of jhum or other forms of shifting cultivation;

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(*e*) the establishment of village or town committees or councils and their powers;

(*f*) any other matter relating to village or town administration, including village or town police and public health and sanitation;

(*g*) the appointment or succession of Chiefs or Headmen;

(*h*) the inheritance of property;

(*i*) marriage and divorce;

(*j*) social customs.

(2) In this paragraph, a "reserved forest" means any area which is a reserved forest under the Assam Forest Regulation, 1891, or under any other law for the time being in force in the area in question.

(3) All laws made under this paragraph shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect."

80. Para 9 of the Sixth Schedule, which is relevant for the present case, is as follows:

"**9.** ***Licences or leases for the purpose of prospecting for, or extraction of, minerals.***—(1) Such share of the royalties accruing each year from licences or leases for the purpose of prospecting for, or the extraction of, minerals granted by the Government of the State in respect of any area within an autonomous district as may be agreed upon between the Government of the State and the District Council of such district shall be made over to that District Council.

(2) If any dispute arises as to the share of such royalties to be made over to a District Council, it shall be referred to the Governor for determination and the amount determined by the Governor in his discretion shall be deemed to be the amount payable under sub-paragraph (1) of this paragraph to the District Council and the decision of the Governor shall be final."

81. Para 12-A, which is relevant for Meghalaya, is as follows:

"**12-A.** ***Application of Acts of Parliament and of the Legislature of the State of Meghalaya to autonomous districts and autonomous regions in the State of Meghalaya.***—Notwithstanding anything in this Constitution—

(*a*) if any provision of a law made by a District or Regional Council in the State of Meghalaya with respect to any matter specified in sub-Para (1) of Para 3 of this Schedule or if any provision of any regulation made by a District Council or a Regional Council in that State under Para 8 or Para 10 of this Schedule, is repugnant to any provision of a law made by the Legislature of the State of Meghalaya with respect to that matter, then, the law or regulation made by the District Council or, as the case may be, the Regional Council whether made before or after the law made by the Legislature of the State of Meghalaya, shall, to the extent of repugnancy, be void and the law made by the Legislature of the State of Meghalaya shall prevail;

(*b*) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to an autonomous district or

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an autonomous region in the State of Meghalaya, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect."

82. Now, we revert back to the Mines and Minerals (Development and Regulation) Act, 1957. The 1957 Act has been enacted to provide for development and regulation of mines and minerals under the control of the Union. Section 1 of the Act is as follows:

"**1.** ***Short title, extent and commencement.*** (1) This Act may be called the Mines and Minerals (Development and Regulation) Act, 1957.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint."

83. The Act came into effect w.e.f. 1-6-1958. Whether there are any indications in the Sixth Schedule or any other provision of the law by which it can be contended that the 1957 Act is not applicable in Hills District of tribal areas of the State of Meghalaya? We may first refer to the Sixth Schedule of the Constitution which is a provision for administration of tribal areas in the State of Meghalaya. Para 12-A sub-clause (*b*) empowers that the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to an autonomous district or an autonomous region in the State of Meghalaya, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification. No notification has been issued by the President under Para 12-A(*b*) of the sixth Schedule of the Constitution, although, the said Para 12-A(*b*) is in the Constitution with effect from 21-1-1972. Thus, there is nothing in the Sixth Schedule of the Constitution which may indicate about the inapplicability of the 1957 Act with regard to the Hills Districts of the State of Meghalaya. At this juncture, we may also notice the report of the Comptroller and Auditor General of India for the year ended 31-3-2013. In Para 7.5.1 the report mentions:

"7.5.1. *Introduction*

Meghalaya is endowed with sizeable deposits of valuable minerals like coal, limestone, uranium, granite and clay. Minerals being valuable resource, the extraction needs to be maximised through scientific methods of mining with aim to ensure extraction and utilisation of minerals. Besides, most of the mineral reserves are in areas which are under forest cover and hence, mining in the State has environmental implications. In Meghalaya, individual and local communities have ownership over the land and the minerals and barring a few reserve forest areas, the State Government has no ownership over the minerals. The activities of the Mining & Geology (M&G) Department, Government of Meghalaya (GOM) are limited to collection of royalty on the minerals exported outside the State besides geological investigation/exploration of minerals. The Mines and Minerals (Development and Regulation) Act, 1957 lays down

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the legal framework for regulation of mines and development of minerals. The Mineral Concession Rules, 1960 and the Mineral Conservation and Development Rules, 1988 were accordingly framed under the MMDR Act framed for conservation and systematic development of minerals and for regulating grant of permits, licences and leases. The GOM has introduced the Meghalaya Mineral Cess Act, 1988 to mobilise additional revenue. Further, with a view to facilitating systematic, scientific and planned utilisation of mineral resources and to streamline mineral based development of the State, the Meghalaya Mines and Mineral Policy, 2012 has also been notified with effect from 5-11-2012."

84. The Comptroller and Auditor General has clearly stated that the 1957 Act is fully applicable for regulation of mines and regulation of minerals in the State of Meghalaya.

85. The learned counsel for the State of Meghalaya has also filed before us along with an affidavit of Joint Secretary of Government of Meghalaya, Mining and Geology Department dated 13-4-2018 by which Meghalaya Mines and Minerals Policy, 2012 issued by the Government of Meghalaya as well as draft guidelines of coal mining activities in the State prepared in the year 2015 have been brought on the record.

86. Clause 10 of the Policy provides for "Regulatory Framework for Mine Development and Mining". Sub-clause (*b*) of Clause 10 required application for mineral concession either fresh or renewal is to be submitted to the State Government through the Deputy Commissioner of the district wherein the area applied for is situated and with NOC from District Council concerned and landowner. Clause 10 also refers to clearance of the Pollution Control Board of Meghalaya and other requirement. Sub-clause (1) further contemplated that order for grant of mineral concessions will be issued by the State Government, with the approval of the Central Government wherever necessary. Thus, the Policy of 2012 contemplated regulatory regime for mining lease by the State. The Mining and Geology Department of the Government had framed draft guidelines for coal mining activity in the State which has also been brought on record along with the above affidavit dated 13-4-2018.

87. The above guidelines were prepared after/in consultation with the Central Government.

88. The above draft guidelines prepared by the State clearly mention about the unregulated and unscientific mining being carried out in the State of Meghalaya. The Policy Guidelines of Coal Mining which is part of the guidelines also contains the following statement:

> "The Mines Act, 1952 and the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR), together with the rules and regulations framed under them constitute the basic laws governing the mining sector in India. While the Mines Act, 1952 governs the health and safety of the workers, the MMDR Act, 1957 (including all amendments) lays down the legal framework for the regulation of mines and development of all minerals other than petroleum and natural gas. The relevant rules in force

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under the MMDR Act, 1957 are the Mineral Concession Rules (MCR), 1960 outline the procedures and conditions for obtaining a prospecting licence or mining lease. The MCDR, 1988 lays down guidelines for ensuring mining on a scientific basis, while conserving the environment, at the same time.

Apart from the mining statutes, which also govern environment in mines, India has elaborate environment statutes for protection of environment in mining."

89. One submission of Shri Naphade with respect to direction of NGT to frame Mining Policy by the State also needs consideration. Shri Naphade submits that the State of Meghalaya having no legislative competence with regard to major minerals, the National Green Tribunal could not have directed the State of Meghalaya to frame Mining Policy.

90. There can be no dispute to the proposition that in view of the MMDR Act, 1957, the legislative competence of State of Meghalaya under Schedule VII List II Entry 23 stands denuded. However, under the MMDR Act, 1957 as well as the Mineral Concession Rules, 1960, several statutory obligations/ jurisdictions have been conferred on the State of Meghalaya, which shall be referred to later in this judgment.

91. When under a parliamentary enactment, the State has been given some statutory obligations, there is no lack of jurisdiction in the State to frame policy to give effect to or implement the jurisdictions conferred on the State by parliamentary enactments. It is true that Mining Policy to be framed by the State has to confine to the jurisdiction conferred on it as per the MMDR Act, 1957 and the Rules framed thereunder. There are other related issues concerning mining like protection of environment and forests for which the State has to declare its policy for implementation of its objective. Several other aspects relating to mining, like rehabilitation, reclamation and restoration have to be effectively implemented by the State for which also, it may be required to frame a policy. We may further notice that the Meghalaya Mines and Minerals Policy, 2012 was already framed by the State of Meghalaya, even before directions were issued by NGT. In pursuance of the NGT directions, it was draft guidelines of 2015, which were prepared by the State of Meghalaya. We, thus, are of the view that direction of NGT to declare Mining Policy by the State of Meghalaya cannot be said to be without jurisdiction. However, the State in its Mining Policy can only include those areas where it has jurisdiction under the MMDR Act, 1957 and the Rules framed thereunder.

92. A perusal of the entire Policy documents indicate that the Policy has been framed by the State as per the 1957 Act and the Mineral Concession Rules, 1960.

93. The Government of Meghalaya has also made a request to the Government of India in the year 2015 for issuance of presidential notification under Para 12-A(*b*) of the Sixth Schedule for exempting the State of Meghalaya from certain provisions of the MMDR Act, 1957. After several deliberations, the Union of India has communicated through its OM dated 12-3-2019 that it is not possible to accede to the request of the Government of Meghalaya for issuance of presidential notification under Para 12-A(*b*) of the Sixth Schedule.

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Thus, the request made by the State of Meghalaya to issue exemption has not also been acceded to. The request of the State of Meghalaya that exemption be granted by presidential notification under Para 12-A(*b*) itself expresses recognition of the State of Meghalaya that provisions of the 1957 Act are applicable. We, thus, conclude that there is nothing in the Sixth Schedule of the Constitution which in any manner excludes the applicability of the 1957 Act in the tribal areas of Hills Districts of the State of Meghalaya.

Point 3

94. We need to scan through the statutory scheme of the 1957 Act to find out as to whether parliamentary legislation requires obtaining lease for winning the minerals insofar as mining of coal from privately owned land/community owned land are concerned?

95. Section 2 of the 1957 Act contains declaration to the following effect:

"**2.** ***Declaration as to expediency of Union Control.***—It is hereby declared that it is expedient in the public interest that the Union should take under its control the regulation of mines and the development of minerals to the extent hereinafter provided."

96. The 1957 Act has been enacted in reference to Schedule VII List I Entry 54 to the following effect:

"**54.** Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest."

97. At this juncture, we may notice Schedule VII List II Entry 23, which is to the following effect:

"**23.** Regulation of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union."

98. The legislative power under Entry 23 is subject to the provision of List I with respect to regulation and development under the control of the Union. When the Union has declared to have taken under its control the regulation of mines and development of minerals to the extent provided in the Act, the legislative power of the State to the above extent is denuded. The learned counsel for the appellant have also very fairly not disputed the position in law.

99. Section 3 of the Act contains definition clause. Section 3(*c*) defines "mining lease" and Section 3(*d*) defines a "mining operation" which are to the following effect:

"**3.** (*c*) "**mining lease**" means a lease granted for the purpose of undertaking mining operations, and includes a sub-lease granted for such purpose;

(*d*) "**mining operations**" means any operations undertaken for the purpose of winning any mineral;"

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100. Section 4 of the Act contains general restriction on undertaking prospecting and mining operation. Section 4 is couched in terms of an injunction. No person shall undertake any mining operations in any area, except under and in accordance with the terms and conditions of a reconnaissance permit or of a prospecting licence or, as the case may be, of a mining lease, granted under this Act and Rules made thereunder. Sub-section (1) of Section 4 is relevant in the present case, which is as follows:

> "**4.** ***Prospecting or mining operations to be under licence or lease.***— (1) No person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of a reconnaissance permit or of a prospecting licence or, as the case may be, of a mining lease, granted under this Act and the Rules made thereunder:
>
> Provided that nothing in this sub-section shall affect any prospecting or mining operations undertaken in any area in accordance with terms and conditions of a prospecting licence or mining lease granted before the commencement of this Act which is in force at such commencement:
>
> Provided further that nothing in this sub-section shall apply to any prospecting operations undertaken by the Geological Survey of India, the Indian Bureau of Mines, the Atomic Minerals Directorate for Exploration and Research of the Department of Atomic Energy of the Central Government, the Directorates of Mining and Geology of any State Government (by whatever name called), and the Mineral Exploration Corporation Ltd., a government company within the meaning of clause (45) of Section 2 of the Companies Act, 2013 (18 of 2013), and any such entity that may be notified for this purpose by the Central Government:
>
> Provided also that nothing in this sub-section shall apply to any mining lease (whether called mining lease, mining concession or by any other name) in force immediately before the commencement of this Act in the Union Territory of Goa, Daman and Diu."

101. The use of words "no person" in Section 4(1) is without an exception. There is nothing in Section 4(1) to indicate that restriction contained in Section 4(1) does not apply with regard to a person who is owner of the mine. Further, words "any area" under Section 4(1) also have significance which does not have any exception. Further phrase "except under and in accordance with terms and conditions with a mining lease granted under the Act" are also significant which make the intent and purpose of prohibition clear and loud. Section 5 contains restriction on the grant of prospecting licences and mining lease in the following words:

> "**5.** ***Restrictions on the grant of prospecting licences or mining leases.***— (1) A State Government shall not grant a reconnaissance permit, prospecting licence or mining lease to any person unless such person—
>
> (*a*) is an Indian national, or company as defined in clause (20) of Section 2 of the Companies Act, 2013 (18 of 2013); and
>
> (*b*) satisfies such conditions as may be prescribed:

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Provided that in respect of any mineral specified in Part A and Part B of the First Schedule, no reconnaissance permit, prospecting licence or mining lease shall be granted except with the previous approval of the Central Government.

Explanation.—For the purposes of this sub-section, a person shall be deemed to be an Indian national—

(*a*) in the case of a firm or other association of individuals, only if all the members of the firm or members of the association are citizens of India; and

(*b*) in the case of an individual, only if he is a citizen of India.

(2) No mining lease shall be granted by the State Government unless it is satisfied that—

(*a*) there is evidence to show the existence of mineral contents in the area for which the application for a mining lease has been made in accordance with such parameters as may be prescribed for this purpose by the Central Government;

(*b*) there is a mining plan duly approved by the Central Government, or by the State Government, in respect of such category of mines as may be specified by the Central Government, for the development of mineral deposits in the area concerned:

Provided that a mining lease may be granted upon the filing of a mining plan in accordance with a system established by the State Government for preparation, certification, and monitoring of such plan, with the approval of the Central Government."

102. The proviso to Section 5(1) is relevant since it contains a further restriction that no mining lease shall be granted with regard to any minerals specified in Para A of the First Schedule except with the previous approval of the Central Government. We in the present case are concerned with coal which is in Para A of First Schedule.

103. The next provision which is relevant is Section 13 which provides for rule-making power of the Central Government in respect of minerals. Section 13 sub-section (1) and Section 13 sub-section (2) insofar as relevant in the present case are as follows:

"**13.** ***Power of Central Government to make rules in respect of minerals.***—(1) The Central Government may, by notification in the Official Gazette, make rules for regulating the grant of reconnaissance permits, prospecting licences and mining leases in respect of minerals and for purposes connected therewith.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely

(*a*) the person by whom, and the manner in which, applications for reconnaissance permits, prospecting licences or mining leases in respect of land in which the minerals vest in the Government may be made and the fees to be paid therefor;

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* * *

(*f*) the procedure for obtaining a reconnaissance permit, a prospecting licence or a mining lease in respect of any land in which the minerals vest in a person other than the Government and the terms on which, and the conditions subject to which, such a permit, licence or lease may be granted or renewed;"

104. When we read clause (*a*) and clause (*f*), it makes clear that the Rules can be made for grant of mining lease in respect of land in which minerals vest in the Government as well as in respect of any land in which minerals vest in person other than the Government. The statutory scheme, thus, is clear that lease can be granted with regard to both the categories of land, land in which the Government is owner of minerals and land in which minerals vest in person other than the Government. The tribals, owners of the minerals shall expressly fall in rule-making power of the Government under Section 13(*f*).

105. The Central Government in exercise of power under Section 13 has framed the Rules, namely, the Mineral Concession Rules, 1960. Chapter IV of the Rules contains a heading "Grant of mining lease in respect of land in which the minerals vest in the Government". Rules 22 to 40 contain various provisions under Chapter IV. Chapter V has a separate heading which is "*Procedure for obtaining a prospecting licence or mining lease in respect of land in which the minerals vest in a person other than the Government*". Thus, Chapter V contains provisions for grant of lease in respect of minerals which vest in the person other than the Government. Rules 41 and 42 which are relevant are quoted below:

"**41.** ***Applicability of this chapter***.—The provisions of this chapter shall apply only to the grant of prospecting licences and mining leases in respect of land in which the minerals vest exclusively in a person other than the Government.

42. ***Restrictions on the grant of prospecting licence and mining lease***.—(1) No prospecting licence or mining lease shall be granted to any person unless he has filed an affidavit stating that he has

(*i*) filed up-to-date income tax returns;

(*ii*) paid the income tax assessed on him, and

(*iii*) paid the income tax on the basis of self-assessment as provided in the Income Tax Act, 1961 (43 of 1961).

(2) Except with the previous approval of the Central Government, no prospecting licence or mining lease shall be granted in respect of any mineral specified in the First Schedule to the Act."

106. The statutory scheme delineated by Section 13(2)(*f*) and the Mineral Concession Rules, 1960 clearly contemplate grant of mining lease, with regard to both the categories of land, that is, land in which minerals vest in the Government, and the land in which minerals vest in a person other than the Government. In statutory provisions there is no kind of exception as contended by the learned counsel for the appellant that when owner himself wants to win

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the minerals he does not require any mining lease. The submission is contrary to the express statutory scheme, in the event the submission of the appellant is accepted that with regard to minerals which vest in a private person no mining lease is required, the whole object of the Union by which it declared to have taken under its control regulation of mines and development of minerals shall be frustrated.

107. Another limb of the submission of the appellant needs to be noticed here. Shri Naphade submits that there is no concept of owner of a land granting lease to himself. He submits that concept of lease is well known and well-recognised concept as contained in Section 105 of the Transfer of Property Act. Section 105 of the Transfer of Property Act is as follows:

> "**105.** ***Lease defined.***—A lease of immovable property is a transfer of a right to enjoy such property, made for a certain time, express or implied, or in perpetuity, in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms.
>
> ***Lessor, lessee, premium and rent defined.*** The transferor is called the lessor, the transferee is called the lessee, the price is called the premium, and the money, share, service or other thing to be so rendered is called the rent."

108. *Halsbury's Laws of England*, 4th Edn., Para 321 defines "nature of mining lease" in the following manner:

> "321. *Nature of mining lease.*—A lease may be granted of land or any part of land, and since minerals are a part of the land it follows that a lease can be granted of the surface of the land and the minerals below, or of the surface alone, or of the minerals alone. It has been said that a contract for the working and getting of minerals, although for convenience called a mining lease, is not in reality a lease at all in the sense in which one speaks of an agricultural lease, and that such a contract, properly considered, is really a sale of a portion of the land at a price payable by instalments, that is, by way of rent or royalty, spread over a number of years."

109. This Court had occasion to consider the concept of mining lease under the 1957 Act in *Tarkeshwar Sio Thakur Jiu* v. *Dar Dass Dey & Co.*[23]. This Court held that term "lease" occurring in Section 3(*c*) of Act 67 of 1957 *does not appear to have been used in the narrow technical sense in which it is defined in Section 105 of the Transfer of Property Act but it has all the characteristics of a lease as defined in the Transfer of Property Act.* (emphasis supplied) In para 31, the following was laid down: (SCC p. 115)

> "*31.* It is important to bear in mind that the term "lease" occurring in the definition of "mining lease" given in Section 3(*c*) of Act 67 of 1957 does not appear to have been used in the narrow technical sense in which it is defined in Section 105 of the Transfer of Property Act. But, as rightly

23 (1979) 3 SCC 106

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pointed out by a Bench of the Calcutta High Court in *Falakrishna Pal* v. *Jagannath Marwari*[24] a settlement of the character of a mining lease is everywhere in India regarded as "lease". A mining lease, therefore, may not meticulously and strictly satisfy in all cases, all the characteristics of a "lease" as defined in the Transfer of Property Act. Nevertheless, in the legally accepted sense, it has always been regarded as a lease in this country."

110. This Court proceeded further to consider Section 105 of the Transfer of Property Act and opined the following in para 37: (*Tarkeshwar Sio case*[23], SCC p. 116)

"*37*. A right to carry on mining operations in land to extract a specified mineral and to remove and appropriate that mineral, is a "right to enjoy immovable property" within the meaning of Section 105; more so, when as in the instant case it is coupled with a right to be in its exclusive khas possession for a specified period. The "right to enjoy immovable property" spoken of in Section 105, means the right to enjoy the property in the manner in which that property can be enjoyed. If the subject-matter of the lease is mineral land or a sand-mine, as in the case before us, it can only be enjoyed and occupied by the lessee by working it, as indicated in Section 108, Transfer of Property Act, which regulates the rights and liabilities of lessors and lessees of immovable property."

111. This Court further following *Nageshwar Bux Roy* v. *Bengal Coal Co. Ltd.*[25], in *State of Karnataka* v. *Subhash Rukmayya Guttedar*[26] laid down the following in para 6: (SCC pp. 294)

"*6*. ... The question, therefore, is whether the grant of the right to extract the minor mineral from government quarry is a lease or a licence and whether the contractor is liable to pay the royalty in respect of minor mineral extracted from the government quarry. Section 105 of the Transfer of Property Act defines a lease of immovable property as a transfer of a right to enjoy such property made for a certain time, express or implied, or in perpetuity, in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms. The normal connotation of the term lease is the preservation of the demised estate to be in occupation and enjoyment thereof for a specified period or in perpetuities for consideration; the corpus by user thereof does not disappear and at the expiry of the term or on termination the same is handed over to the lessor subject to the terms of the contract, express or implied. A right to carry on mining operations in the land on surface or subsoil is to extract the specified quantity of the minerals found therein, to remove and appropriate that mineral. Section 9

24 1932 SCC OnLine Cal 80 : AIR 1932 Cal 775
23 *Tarkeshwar Sio Thakur Jiu* v. *Dar Dass Dey & Co.*, (1979) 3 SCC 106
25 1930 SCC OnLine PC 83 : (1930-31) 58 IA 29
26 1993 Supp (3) SCC 290

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of the Mines and Minerals (Development & Regulation) Act, 1957 affords the guidance in this behalf. It says that the holder of a mining lease or agent, etc. is entitled to remove or consume the mineral. It would mean destruction of the estate leased out and appropriation thereof on payment of consideration i.e. royalty. Therefore, it is a right to enjoy immovable property within the meaning of Section 105 more so when, as in the instant case, it is coupled with a right to be in occupation or enter into possession for a specified period. Section 3(*d*) of the Act defines "mining operations" to mean any operation undertaken for the purpose of winning any minerals. It is true that no right, title or interest has been created in the contractor over the mining area. But he has been permitted to remove and use the minor minerals in the execution of the works as its (sic his) right to enjoy immovable property spoken of in Section 105 which means the right to enjoy the property in the manner in which that property can be enjoyed. In *Nageshwar Bux Roy* v. *Bengal Coal Co. Ltd.*[25] Lord Macmillan speaking for the Board held that: (SCC OnLine PC)

> 'In considering the character and effect of acts of possession in the case of a mineral field, it is necessary to bear in mind the nature of the subject and the possession of which it is susceptible. Owing to the inaccessibility of minerals in the earth, it is not possible to take actual physical possession at once of a whole mineral field: it can be occupied only by extracting the minerals and until the whole minerals are exhausted the physical occupation must necessarily be partial.' "

112. The words "mining lease" have been given specific meaning under the 1957 Act. It is well-settled principle of interpretation that the provisions of an Act including definition of a term are to be interpreted in a manner which may advance the object of the legislation. The essential characteristic of mining lease is that it is granted *for the purpose of undertaking mining operation* and mining operation means any operation undertaken for the purpose of winning the mineral. Applying the aforesaid definition in the Mineral Concession Rules, 1960 under Chapter V it cannot be said that no mining lease is contemplated with respect to land where mineral vests exclusively in a private person.

113. The examination of a statutory scheme applicable in tribal areas of the State of Meghalaya shall not be complete unless we notice two more aspects, they are:

(*i*) the Mines Act, 1952 and the Regulations framed thereunder;

(*ii*) the Environment Protection Act, 1986 and the notification issued thereunder with regard to mining project.

114. The Mines Act, 1952 is an Act to amend and consolidate the law relating to the regulation of labour and safety of mines. The Act contains various provisions regarding inspection of mining operation and management

25 1930 SCC OnLine PC 83 : (1930-31) 58 IA 29

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of mines. Section 16 provides a notice to be given to mining operations by the owner agent or manager of a mine. Section 16 is as follows:

> "**16.** ***Notice to be given of mining operations.*** (1) The owner, agent or manager of a mine shall, before the commencement of any mining operation, give to the Chief Inspector, the Controller, Indian Bureau of Mines and the District Magistrate of the district in which the mine is situate, notice in writing in such form and containing such particulars relating to the mine as may be prescribed.
>
> (2) Any notice given under sub-section (1) shall be so given as to reach the persons concerned at least one month before the commencement of any mining operation."

115. Section 18 contains duties and responsibilities of owners, agents and managers. There are various other provisions in the Mines Act, 1952 which are mandatory to be followed before working any mine. The learned counsel for the appellant has not disputed that the provisions of the Mines Act, 1952 are applicable with regard to the coal mining in the State of Meghalaya. He, however, submits that there are no powers with the District Magistrate or State Officials under the Mines Act, 1952. Chapter II of the Mines Act, 1952 deals with Inspectors and Certifying Surgeons. Section 5(3) provided that the District Magistrate may exercise the powers and perform the duties of an Inspector subject to the general or special orders of the Central Government. Section 5(3) is as follows:

> "**5. (3)** The District Magistrate may exercise the powers and perform the duties of an Inspector subject to the general or special orders of the Central Government."

116. The above provision clearly empowers the District Magistrate to exercise the powers and perform the duties of an Inspector but subject to general and special orders of the Central Government, which means that there may be some restriction on the power of the District Magistrate as directed by the Central Government. In this context, Shri Naphade has referred to a Notification dated 18-9-1953 issued under sub-section (3) of Section 5 of the Mines Act, 1952, which is to the following effect:

> "*New Delhi, 18-9-1953*
>
> *S.R.O. 1789* In pursuance of sub-section (3) of Section 5 of the Mines Act, 1952 (XXXV of 1952), the Central Government hereby directs that in exercising the powers and performing the duties of an Inspector, the District Magistrate shall not, without prior reference to the Chief Inspector, take direct action or issue any order in respect of any matter solely connected with the technical direction, management or supervision of any mine, even though such direction, management or supervision may appear to him to be dangerous or defective.
>
> [No. M-41 (370 52.)]
>
> P.N. Sharma, Under-Secretary"

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117. The restriction as is apparent from the above notification is with regard to matters solely connected with the technical direction, management or supervision of any mine. The above notification does not take away all the functions of the District Magistrate but restriction is with regard to area mentioned therein. As noted above, Section 16 obliged the owner, agent or manager of a mine to give notice before the commencement of any mining operation to the District Magistrate of the district in which the mine is situate. Section 75 of the Mines Act, 1952 also empowers the District Magistrate to institute prosecution against any owner, agent or manager for any offence under the Mines Act, 1952. Section 75 is as follows:

> "**75.** ***Prosecution of owner, agent or manager.*** No prosecution shall be instituted against any owner, agent or manager for any offence under this Act except at the instance of the Chief Inspector or of the District Magistrate or of an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector;
>
> Provided that the Chief Inspector or the District Magistrate or the Inspector as so authorised shall, before instituting such prosecution, satisfy himself that the owner, agent or manager had failed to exercise all due diligence to prevent the commission of such offence.
>
> Provided further that in respect of an offence committed in the course of the technical direction and management of a mine, the District Magistrate shall not institute any prosecution against an owner, agent or manager without the previous approval of the Chief Inspector."

118. We, thus, do not accept the submission of Shri Naphade that the District Magistrate has no jurisdiction under the Mines Act, 1952 to take any action.

119. In exercise of the power under Section 57 of the Mines Act, 1952 a new set of regulations has been framed, namely, the Coal Mines Regulations, 2017. Regulation 2(*r*) defines "District Magistrate". The Regulations contain various regulatory provisions with regard to mines. Chapter II deals with returns, notices and records. Chapter IV deals with Inspectors and Mine Officials. The Regulations contain several regulatory provisions which need to be followed while working a mine by the owner or his agent. The enforcement of the Mines Act, 1952 and the 2017 Regulations have to be ensured in the public interest by the State of Meghalaya.

120. Now we come to the Environment (Protection) Act, 1986. A Notification dated 14-9-2006 was issued by the Ministry of Environment and Forests in exercise of power under Section 3(3) of the Environment Protection Act, 1986. Section 3 of the 1986 Act which provided for requirements of prior environmental clearance with regard to projects enumerates therein. The Schedule to the notification listed the projects or activities requiring prior environmental clearance. "Mining of minerals" included at Item 1(*a*) but even for mining project requirement of minimum 5 hectares area was required for applicability of the project. Substituting Item 1(*a*) of the Notification

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dated 14-9-2006 a new Notification dated 15-1-2016 has been issued. In place of Item 1(*a*) new entry has been substituted in respect of coalmine lease which is to the following effect:

(*1*)	(*2*)	(*3*)	(*4*)	(*5*)
"1(*a*)	(*i*) Mining of minerals	>50 ha of mining lease areas in respect of non-coalmine lease >150 ha of mining lease area in respect of coalmine lease Asbestos mining irrespective of mining area	<50 ha of mining lease area in respect of non-coalmine lease <150 ha of mining lease area in respect of coal mine lease	General conditions shall apply except: (*i*) for project or activity of mining of minor minerals of Category 'B2' (up to 25 ha of mining lease area); (*ii*) Riverbed mining projects on account of inter-State boundary."

121. If the project was under Category 'A', environmental clearance is required from the Ministry of Environment and Forests whereas as per the new Notification dated 15-1-2016 for Project 'B' environmental clearance is required from State Environmental Assessment Authority with respect of coal mining lease area of less than or equal to 150 ha. Now as per statutory regime brought in force by the Notification dated 15-1-2016 environmental clearance is required for a project of coal for mining of any extent of area. We have dealt with the Notification dated 15-1-2016, since it was placed before us and submissions were made by the learned counsel for the parties. The Notification dated 15-1-2016 being a statutory provision shall operate on its own force and no order of any court is required for enforcement of the Notification dated 15-1-2016. We have dealt with the matter only in view to clarify the statutory regime pertaining to mining of coal.

122. While implementing statutory regime for carrying on mining operations in the Hills Districts of the State of Meghalaya, the State of Meghalaya has to ensure compliance of not only the MMDR Act, 1957 but the Mines Act, 1952 as well as the Environment (Protection) Act, 1986.

Point 4

123. We having held that for carrying out mining operations in privately owned and community owned land in Hills Districts of Meghalaya, obtaining a mining lease is a mandatory requirement for carrying out the mining, we have to examine the procedure for grant of such mining lease and the authority/person, who is competent to grant such lease.

124. Chapter IV of the Mineral Concession Rules, 1960 deals with grant of mining leases in respect of land in which the minerals vest in the Government

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and Chapter V deals with procedure for obtaining a prospecting licence or mining lease in respect of land in which the minerals vest in a person other than the Government. Chapter IV contains Rules 22 to 40 and Chapter V contains Rules 41 to 52 and the procedure and manner of applying for mining lease and grant of lease as contained in Chapter IV is not made applicable to the procedure as given in Chapter V except that by virtue of Rule 45(*i*) certain conditions of mining lease as contained in Rule 27 under Chapter IV are made applicable for mining lease under Chapter V.

125. Rule 22(1) provides that an application for the grant of a mining lease in respect of land in which the minerals vest in the Government shall be made to the State Government in Form I through such officer or authority as the State Government may specify in this behalf. In Chapter V, there is no such rule, which requires making an application for lease to the State Government. There is a marked difference between the rules contained in Chapter IV and rules contained in Chapter V, few of which are relevant to notice for the purposes of this case. Rule 27(2) provides that a mining lease may contain such other conditions as the *State Government may deem necessary* in regard to the matters enumerated therein. Whereas Rule 45(*iii*) provides that every mining lease may contain such other conditions, not being inconsistent with the provisions of the Act and these rules, as may be *agreed upon between the parties*. The above provision gives an indication that in the lease executed by Chapter V, the omission of the words "State Government" in Rule 45(*iii*) is indicative of the fact that conditions, which are to be added has to be agreed upon between the parties. Most important rule to be noticed is Rule 45 in this context, which is to the following effect:

> "**45.** ***Conditions of mining lease.***—Every mining lease shall be subject to the following conditions:—
>
> (*i*) the provisions of clauses (*b*) to (*l*) and (*p*) to (*u*) of sub-rule (1) of Rule 27 shall apply to such leases with the modification that in clauses (*c*) and (*d*) for the words "State Government" the word "lessor" shall be substituted;
>
> (*ia*) mining operations shall be undertaken in accordance with the duly approved mining plan;
>
> (*ii*) *Omitted*;
>
> (*iii*) the lease may contain such other conditions, not being inconsistent with the provisions of the Act and these rules, as may be agreed upon between the parties;
>
> (*iv*) if the lessee makes any default in payment of royalty as required by Section 9 or commits a breach of any of the conditions of the lease, the lessor shall give notice to the lessee requiring him to pay the royalty or remedy the breach, as the case may be, within sixty days from the date of the receipt of the notice and if the royalty is not paid or the breach is not remedied within such period, the lessor without prejudice to any proceeding that may be taken against the lessee determine the lease;

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(*v*) the lessee may determine the lease at any time by giving not less than one year's notice in writing to lessor."

126. It is provided in Rule 45(*i*) that in clauses (*c*) and (*d*) of Rule 27 for the words "State Government" the word "lessor" shall be substituted, which gives a clear indication that the State Government is not a lessor in a lease granted under Chapter V. Rules 27(5) and 45(*iv*) are also relevant to notice. Rule 27(5) provides as follows:

"**27.** (**5**) If the lessee makes any default in the payment of royalty as required under Section 9 or payment of dead rent as required under Section 9-A or commits a breach of any of the conditions specified in sub-rules (1), (2) and (3), except the condition referred to in clause (*f*) of sub-rule (1), the State Government shall give notice to the lessee requiring him to pay the royalty or dead rent or remedy the breach, as the case may be, within sixty days from the date of the receipt of the notice and if the royalty or dead rent is not paid or the breach is not remedied within the said period, the State Government may, without prejudice to any other proceedings that may be taken against him, determine the lease and forfeit the whole or part of the security deposit."

127. Under Rule 27(5), if the lessee makes any default in the payment of the royalty or the payment of dead rent or commits breach of any of the conditions, the State Government shall give notice to the lessee and determine the lease and forfeit the whole or part of the security deposit. Whereas under Rule 45(*iv*), the said power has been vested in the lessor, which also indicates that it is the lessor, who will determine the lease and not the State Government. Other provisions of Chapter V also support the above conclusion. Rule 47 provides for submission of copy of licence or lease to the State Government within three months of the grant of such licence or lease. Requirement of submitting the licence or lease copy to the State Government indicates that the State Government is not the authority, who is granting the lease, otherwise there was no requirement of submitting a copy to the State Government, if it was contemplated that the State Government shall grant the lease. Rule 63 in Chapter V provides that previous approval of the Central Government was to be obtained through the State Government, which is to the following effect:

"**63.** ***Previous approval of the Central Government to be obtained through State Government.***—Where in any case previous approval of the Central Government is required under the Act or these Rules, the application for such approval shall be made to the Central Government through the State Government."

128. Our above conclusion is reinforced when we look into the statutory regime regarding grant of mining lease as per the Mineral Concession Rules, which were in force prior to enforcement of the Mineral Concession Rules, 1960. Prior to the MMDR Act, 1957, earlier Central legislation which was governing the field was the Mines and Minerals (Regulation and Development) Act, 1948, under which rules have been framed by the Central Government, namely, the Mineral Concession Rules, 1949. Rule 14 of Chapter III contemplated application for prospecting licence. Chapter IV of

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the 1949 Rules contained the heading "grant of mining lease in respect of land in which the minerals belong to the Government". The provisions of Rule 27 of Chapter IV provide for application for mining lease and there were several other rules under Chapter IV, which in substance have been retained in Chapter IV of the 1960 Rules. Chapter V of the 1949 Rules contained the heading "grant of mineral concessions by private persons". As noted above, the heading of Chapter V under the 1960 Rules is "procedure for obtaining a prospecting licence or mining lease in respect of land in which the minerals vest in a person other than the Government". Rule 47 of Chapter V of the 1949 Rules provide for "conditions in a mining lease", which are in substance similar as Rule 45 of the 1960 Rules. Rule 47(*iv*) of the 1949 Rules was akin to present Rule 45(*i*) of the 1960 Rules. Rule 47(*iv*) of the 1949 Rules is as follows:

> "**47.** ***Conditions of mining lease.*** A mining lease granted by a private person shall be subject to the following condition:
>
> * * *
>
> (*iv*) the provisions of clauses (*i*), (*ii*), (*iii*), (*iv*), (*v*), (*vii*), (*viii*), (*ix*), (*x*), (*xi*) and (*xv*) of sub-rule (1) of Rule 41 shall apply to such lease with the modification that in clauses (*ii*), (*iii*), (*iv*) and (*xv*) for the words "State Government" the word "lessor" shall be substituted;"

129. Thus, Chapter V of the 1949 Rules dealt with the mining lease granted by private persons i.e. the category where the minerals were not owned by the Government but were owned by private persons. Chapter V of the 1960 Rules contains substantially similar provisions. Thus, Chapter V of the 1960 Rules has to be treated to be dealing with minerals owned by private owners. The earlier statutory regime, which was enforced as per the 1949 Rules made it amply clear that mineral concessions are to be granted by private persons also, which is in substance retained in Chapter V of the 1960 Rules. Thus, mining lease to be granted as per Chapter V of the 1960 Rules is mining lease by the owner of mineral and similar concept has to be borrowed and read in Chapter V as noted above. Absence of any procedure to make an application for mining lease to the State Government in Chapter V of the 1960 Rules and lessor being the private persons and not the State Government, clearly indicates that the State Government is not to grant the lease in respect of land of privately owned/ community owned owners.

130. Another reason for not providing any application to the State Government for grant of mining lease in respect of minerals, which vests in the private owners and community owners is that without consent or willingness of private owners/community owners of minerals, no authority is empowered to grant any mining lease with regard to minerals, of which he is the owner. It is the owner of the minerals, may be private persons or community owners, who is entitled to grant lease of minerals as per the provisions of Chapter V of the 1960 Rules.

131. We, thus, conclude that as per the statutory provisions contained in the 1960 Rules especially Chapter V, a mining lease for minerals, which belongs to

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a private owner or a community owner, it is not the State Government, which is entitled to receive any application or grant any mining lease, but it is the private owner or community owner, who is entitled to grant a lease for mining minerals owned by them. Issue 4 is answered accordingly.

Point 5

132. Shri Shekhar Naphade, learned Senior Counsel appearing for the State of Meghalaya has submitted that the State of Meghalaya has no control over the mining of the coal by owners of the minerals since it is the owners, who have right to carry on mining, which has been traditionally going on in the State of Meghalaya for last several decades. To find out as to whether the State of Meghalaya has any statutory control over the mining operations in the State of Meghalaya, which is going on for last several decades, we have to examine the statutory provisions governing the field.

133. We have already held that the provisions of the MMDR Act, 1957 and the Mineral Concession Rules, 1960 are applicable in the Hills Districts of the State of Meghalaya. We, in the present case, are concerned with the mining of coal, which is a major mineral as per the 1957 Act and the Mineral Concession Rules, 1960. Rule 42 of Chapter V of the 1960 Rules provides for restrictions on the grant of prospecting licence and mining lease, which is to the following effect:

> "**42.** ***Restrictions on the grant of prospecting licence and mining lease.***—(1) No prospecting licence or mining lease shall be granted to any person unless he has filed an affidavit stating that he has—
>
> (*i*) filed up-to-date income tax returns;
>
> (*ii*) paid the income tax assessed on him, and
>
> (*iii*) paid the income tax on the basis of self-assessment as provided in the Income Tax Act, 1961 (43 of 1961).
>
> (2) Except with the previous approval of the Central Government, no prospecting licence or mining lease shall be granted in respect of any mineral specified in the First Schedule to the Act."

134. As per Rule 42(2), except with the previous approval of the Central Government, no prospecting licence or mining lease shall be granted in respect of any mineral specified in the First Schedule to the Act. Thus, previous approval of the Central Government is mandatory before grant of mining lease of coal. Rule 63 provides that the approval of the Central Government has to be obtained through the State Government. Thus, the State Government has to be aware that any previous approval of the Central Government for mining coal has been obtained or not. Thus, restriction being statutory and without any exception the State Government cannot say that it has no role to play with regard to mining of coal. All applications for previous approval of the Central Government have to be routed through the State Government.

135. There are other rules in Chapter V itself, which provide for control of the State Government in the mining of coal. Rule 50 empowers the provision

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for prohibition of working of mines by the State Government, which is to the following effect:

> "**50.** ***Prohibition of working of mines.*** If the State Government has reason to believe that the grant or transfer of a prospecting licence or a mining lease or of any right, title or interest in such licence or lease is in contravention of any of the provisions of this Chapter, the State Government may, after giving the parties an opportunity to represent their views and with the approval of the Central Government, direct the parties concerned not to undertake any prospecting or mining operations in the area to which the licence or lease relates."

The above Rule empowers the State Government with the approval of the Central Government to direct the parties concerned not to undertake any mining operations, if it has reasons to believe that the grant or transfer of mining lease is in contravention of any of the provisions of Chapter V. Thus, when mining operations of coal are being conducted without prior approval of the Central Government, the State is not powerless to direct the parties not to undertake any prospective mining operations in the area. The power given under Rule 50 is not only enabling power, but is a statutory obligation on the State to exercise the power in the public interest.

136. Rule 51 requires a mining lease to furnish to the State Government such returns and statements as may be prescribed. Rule 52 provides for penalty, which is to the following effect:

> "**52.** ***Penalty.***—(1) If the holder of a prospecting licence or a mining lease or his transferee or assignee fails, without sufficient cause, to furnish the documents or information, or returns referred to in Rule 46, Rule 47, Rule 48, or Rule 51, or acts in any manner in contravention of Rule 49 or Rule 50, he shall be punishable with imprisonment for a term which may extend to one year or fine which may extend to five thousand rupees or with both.
>
> (2) If any person grants or transfers or obtains a prospecting licence or mining lease or any right, title or interest therein, in contravention of any of the provisions of this Chapter, he shall be punishable with imprisonment which may extend to one year or fine which may extend to five thousand rupees or both."

137. Rule 52 gives the State Government ample power to prosecute and punish mining leases or his transferees or assignees on violation of the rules or contravention of any of the provisions of Chapter V, which is ample power to the State to ensure that the Act is faithfully followed.

138. The State was advised by the Comptroller and Auditor General of India in its report ended 31-3-2013 in Para 4.5.1 to regulate mining by following the Mines and Minerals (Development and Regulation) Act, 1957. Para 7.5.8 of the same report has made the following as Recommendation 1:

> "*Recommendation 1.*—The M&G Department should take necessary measures to regulate mining in the State in accordance with the provisions of the MMDR Act and Rules thereunder."

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139. The State is thus well aware of its statutory obligation which is reflected in Mining Policy of 2012 and Draft Guidelines, 2015 but still before this Court their contention that no mining lease is to be obtained for privately owned/community owned land in Hills Districts of the State of Meghalaya is unacceptable and not in a good spirit. Our country being governed by the Constitution of India all the States are to implement parliamentary Acts in true spirit and in the present case the State having been advised time and again by the Comptroller and Auditor General and being well aware of its statutory obligation as noticed above it comes ill from the State to contend before this Court that there is no requirement of mining lease for winning the minerals. The above stand of the State taken before this Court gives the impression that instead of implementing the parliamentary enactment and regulatory regime for mineral regulation some vested interests want to continue the illegal regime of illegal mining to the benefit of a few persons, which is unacceptable and condemnable. We, thus, conclude that the State of Meghalaya has jurisdiction and power to ensure that no mining of coal should take place except when a mining lease is granted under the Mineral Concession Rules, 1960, Chapter V, as discussed above.

Point 6

140. One more point which needs to be considered is as to whether power to allot land for mining purpose is vested in Autonomous District Council?

141. The submission on behalf of one of the Autonomous District Councils is, which is the appellant before us as well as on behalf of the State of Meghalaya, is that Autonomous District Council being constitutional authority constituted under Schedule VI of the Constitution has legislative and administrative power. Reference to various legislations framed by Autonomous District Council which received the assent of the Governor has also been relied on. Para 3 of Schedule VI enumerates the power of District Council and Regional Council to make laws which we have extracted above.

142. Certain legislation framed by the District Council has also been referred, namely, the Khasi Hills District (Trading by Non-Tribals) Regulations, 1954, the United Khasi Jaintia Hills Autonomous District (Management and Control of Forest) Rules, 1960. The Khasi Hills Autonomous District (Trading by Non-Tribals) Rules, 1959, all framed in exercise of power under Para 3 of the Sixth Schedule. The power to make law entrusted to Autonomous District Council under Para 3 of Schedule VI is power to make law referable to List 2 and List 3 of the Seventh Schedule. We have already noticed above that with regard to regulation and development of minerals, the Union has made declaration by Section 2 of the 1957 Act and the power of the State Legislature is denuded in that respect. The logical corollary of the above principle is that power of Autonomous District Council shall also be denuded insofar as regulation and development of minerals to the extent which is covered by the 1957 Act. We may refer to one Rule 4 of the United Khasi Jaintia Hills

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District (Trading by Non-Tribals) Rules, 1959, which contemplates form of licence and one of the licences referred to is under Rule 4 is licence in Form E. Rule 4 is as follows:

> "**4.** ***Form of Licence.*** (1)-(4) * * *
>
> (5) Licence in Form 'E' shall be issued for the mining of minerals and the sale or purchase of minerals accruing from the autonomous district and for the import of minerals into the autonomous district for sale therein as specified in Part 'E' of the First Schedule on payment of prescribed licence fee subject to the conditions specified in the licence...."

143. It is relevant to notice that the United Khasi Jaintia Hills District (Trading by Non-Tribals) Rules, 1959 has been repealed insofar as Jaintia Hills Districts are concerned by the Jaintia Hills Autonomous District (Trading by Non-Tribals) Regulation Act, 2011, Section 18. The 1959 Rules are still in force in Khasi Hills Autonomous Districts, since, no other regulations have been placed before us repealing the 1959 Rules. In the 2011 Regulations, one aspect needs to be noted in Section 2, which is the definition clause. By clause (*viii*), "trade" has been defined, which is to the following effect:

> "**2.** (***viii***) "**Trade**" means any trade involving buying and selling or business for profit and includes exchange of goods or commodities or business or import, export and transport of goods/commodities or entry of goods into market for sale or trade and business such as construction works or other work rendered by the contractor or his agent and it also includes person and persons engaged by such contractor or agent or any other profession or vocation such as barber, cobbler, tailoring, cattle rearing (which include piggery, goatery, poultry) milk and dairy products, automobiles making or repairing, electrician, furniture makers, pharmacist, physician, transport and any other similar vocation or profession and the term "trade" and "trading" shall be construed accordingly."

144. The grant of licences contemplated by the Regulations are only with respect to the "trade" as defined in Section 2(*viii*). The entire Regulations do not refer to any kind of trade in mining of coal or mining operations. Thus, the 2011 Regulations have nothing to do with the mining of coal.

145. Constitutional provisions of Schedule VI are also relevant to be noticed. Para 9 of Schedule VI refers to licences or leases for the purpose of prospecting for, or extraction of, minerals. Para 9 is as follows:

> "**9.** ***Licences or leases for the purpose of prospecting for, or extraction of, minerals.*** (1) Such share of the royalties accruing each year from licences or leases for the purpose of prospecting for, or the extraction of, minerals granted by the Government of the State in respect of any area within an autonomous district as may be agreed upon between the Government of the State and the District Court of such district shall be made over to that District Council.

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(2) If any dispute arises as to the share of such royalties to be made over to a District Council, it shall be referred to the Governor for determination and the amount determined by the Governor in his discretion shall be deemed to be the amount payable under sub-paragraph (1) of this paragraph to the District Council and the decision of the Governor shall be final."

146. Para 9(1) confines to the licences or leases of minerals granted by the Government of the State. Schedule VI which constitutes the District Councils and Regional Councils enumerates their powers. Para 9 refers to licences or leases for extraction of minerals granted by the Government of the State. Para 9 only deals with share of the royalties to District Councils as agreed upon between the Government of the State and the District Councils. Further Para 12-A(*a*) itself contemplates that any law made by the District Council or Regional Council which is repugnant to any law of the State shall be void. Thus, the status of law made by the District Council or Regional Councils has to give way to the law made by the State. There can be no doubt that the District Council and Regional Council cannot make any law which may be repugnant to the provisions of the parliamentary Act.

147. We, thus, are of the view that District Council does not have any power to make any law with regard to grant of mining lease. The mining leases for winning the major minerals has to be granted in accordance with the 1957 Act and the Mineral Concession Rules, 1960.

Points 7 and 8

148. This Court in *State of T.N.* v. *Hind Stone*[27], speaking through Chinnappa Reddy, J., has made the following weighty observations: (SCC pp. 212-13, para 6)

"6. Rivers, forests, minerals and such other resources constitute a nation's natural wealth. These resources are not to be frittered away and exhausted by any one generation. Every generation owes a duty to all succeeding generations to develop and conserve the natural resources of the nation in the best possible way. It is in the interest of mankind. It is in the interest of the nation. It is recognised by Parliament. Parliament has declared that it is expedient in the public interest that the Union should take under its control the regulation of mines and the development of minerals. It has enacted the Mines and Minerals (Regulation and Development) Act, 1957."

149. No one can dispute the underlying object in the above observations of this Court. The use of natural resources also plays major role in carrying out development. A fine balance has to be maintained in utilisation of natural resources and its conservation and preservation. One cannot be sacrificed for the interest of other. The concept of sustainable development has been evolved and is being pursued. In this context, reference be made to the three-Judge

27 (1981) 2 SCC 205

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Bench judgment of this Court in *Lafarge Umiam Mining (P) Ltd.* v. *Union of India*[28]. In para 75, the following legal position was noticed: (SCC pp. 367-68)

> "*75.* Universal human dependence on the use of environmental resources for the most basic needs renders it impossible to refrain from altering the environment. As a result, environmental conflicts are ineradicable and environmental protection is always a matter of degree, inescapably requiring choices as to the appropriate level of environmental protection and the risks which are to be regulated. This aspect is recognised by the concepts of "sustainable development". It is equally well settled by the decision of this Court in *Narmada Bachao Andolan* v. *Union of India*[29] that environment has different facets and care of the environment is an ongoing process. These concepts rule out the formulation of an across-the-board principle as it would depend on the facts of each case whether diversion in a given case should be permitted or not, barring "no go" areas (whose identification would again depend on undertaking of due diligence exercise). In such cases, the margin of appreciation doctrine would apply."

150. Now we come back to the order of NGT dated 17-4-2014[6] by which the Tribunal prohibited the rat-hole mining/illegal mining throughout the State of Meghalaya. We have noticed above that in OA No. 73 of 2014 wherein the above order was passed, sufficient materials were brought on the record including experts report which proved that illegal coal mining in the State of Meghalaya is degrading the environment. The Court also noticed the report of Professor Dr O.P. Singh which noticed that the Meghalaya Pollution Control Board in the year 1997 has submitted the report about the environmental pollution consequent to illegal mining.

151. The learned Amicus Curiae has invited our attention to the report of the Comptroller and Auditor General for the year ending 31-3-2013, where the Comptroller and Auditor General has noticed that due to acid mine drainage several locations of Lukha River were severally polluted. The report also referred to investigation by the Meghalaya State Pollution Control Board in November 2011 and noticed that no effective steps were taken to control AMD. Para 7.5.23.1 of the report is as follows:

> "*7.5.23.1. Pollution of rivers due to acid mine drainage from coal mines*
>
> Based on media reports relating to pollution of Lukha River in Jaintia Hills, the Meghalaya State Pollution Control Board (MSPCB) conducted (November 2011) an investigation to ascertain the water quality of Lukha River and its feeding streams in Jaintia Hills District vis-à-vis a similar investigation carried out in February 2007. For this purpose, eight water

28 (2011) 7 SCC 338
29 (2000) 10 SCC 664
6 *All Dimasa Students Union* v. *State of Meghalaya*, 2014 SCC OnLine NGT 2307

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and sediment samples were collected from the same sampling locations investigated during 2007. The findings are as follows:

Table 1.6

Station	*pH BIS norms 6.5-8.5*		*Iron(mg/l) BIS norms:0.3*		*Sulphate(mg/l) BIS norms:200.0*	
	2007	*2011*	*2007*	*2011*	*2007*	*2011*
St.1	3.0	2.7	3.6	6.2	254.0	566.5
St.2	7.5	5.0	0.13	5.4	13.4	305.0
St.3	6.8	7.3	0.17	0.4	62.0	8.69
St.4	4.5	4.3	0.46	4.8	211.8	265.0
St.5	6.3	5.0	0.32	1.2	188.8	200.0
St.6	4.3	6.2	0.372	0.26	192.1	118.2
St.7	7.9	8.2	1.35	0.18	99.0	29.04
St.8	7.8	8.1	0.3	0.28	101.5	45.6

The water quality characteristics in terms of pH, sulphate and iron concentrations with respect to Stations 1, 2, 4 and 5 indicated that there is significant deterioration of water quality in comparison to that of the year 2007 the major cause of which was the AMD from coal mining in these areas.

The investigation made by MSPCB further revealed that the river water on the entire stretch of the sampling locations was not suitable for drinking purpose...."

152. The Tribunal being satisfied from the materials on record has issued the order dated 17-4-2014[6] which cannot be faulted in the facts and materials which are on record in the present case. One more fact in the above context needs to be noticed i.e. after the order dated 17-4-2014[6], several applicants including the appellants in Civil Appeal No. 5272 of 2016 filed application for vacating the ban which was not acceded to by the Tribunal. Subsequently NGT permitted transportation of coal till 15-5-2016 and directed that after 15-5-2016, all coal within the State of Meghalaya shall vest in the State.

153. The Tribunal after considering all pleas and materials including reports submitted by the committees affirmed the order dated 17-4-2014[6] and refused to withdraw the ban. We do not find any error in the order of NGT reaffirming its ban order in the facts of the present case. But the question which has been raised by the appellant before this Court is that whether the complete ban as imposed by NGT deserves to be vacated or modified in the interest of the State and tribals. The revenue earned by the State from coal mining plays substantial part in the economy of the State. It is also amply demonstrated from the record that tribals are the owners of the land who carry on mining of coal in their land by which they earn their substantial livelihood.

6 *All Dimasa Students Union v. State of Meghalaya*, 2014 SCC OnLine NGT 2307

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154. Though as discussed above, the manner in which the mining is being carried out by the tribals cannot be approved which is clearly in violation of statutory regime under the 1957 Act and the 1960 Rules but in the event the mining is carried out by tribals or their assignees as per the provisions of the 1957 Act and the 1960 Rules, there can be no objections in carrying on such mining under the regulation and control of the State of Meghalaya. We thus clarify that in the event mining operations are undertaken by the tribals or other owners of Hills Districts of Meghalaya in accordance with mining lease obtained from the State of Meghalaya as per the 1957 Act and the Mineral Concession Rules, 1960, the ban order dated 17-4-2014[6] of the Tribunal shall not come in its way of carrying on mining operations. The ban order is for the illegal coal mining which was rampant in the State of Meghalaya and the ban order cannot be extended to valid and legal mining as per the 1957 Act and the 1960 Rules.

Points 9 and 10

155. The appellants contend that NGT has no jurisdiction to constitute any committee. NGT vide its different orders has constituted different committees for submitting reports for different purposes. The constitution of which committees are sought to be challenged on the ground that NGT has no jurisdiction to constitute a committee. Similarly, order of the Tribunal directing for constituting a fund, namely, Meghalaya Environment Protection and Restoration Fund has been challenged on the ground that the Tribunal has no jurisdiction to constitute any fund.

156. What are the powers and jurisdiction of the Tribunal given under the National Green Tribunal Act, 2010 has to be looked into to consider the above submission? Insofar as jurisdiction of the Tribunal is concerned, we have already noticed Sections 14, 15 and 16 of the Act. Section 19 of the Act deals with procedure and powers of the Tribunal. Section 19 which is relevant for the present case is as follows:

> "**19.** ***Procedure and powers of Tribunal.***—(1) The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice.
>
> (2) Subject to the provisions of this Act, the Tribunal shall have power to regulate its own procedure.
>
> (3) The Tribunal shall also not be bound by the rules of evidence contained in the Indian Evidence Act, 1872.
>
> (4) The Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely—
>
> (*a*) summoning and enforcing the attendance of any person and examining him on oath;

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(*b*) requiring the discovery and production of documents;

(*c*) receiving evidence on affidavits;

(*d*) subject to the provisions of Sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;

(*e*) issuing commissions for the examination of witnesses or documents;

(*f*) reviewing its decision;

(*g*) dismissing an application for default or deciding it ex parte;

(*h*) setting aside any order of dismissal of any application for default or any order passed by it ex parte;

(*i*) pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard, on any application made or appeal filed under this Act;

(*j*) pass an order requiring any person to cease and desist from committing or causing any violation of any enactment specified in Schedule I;

(*k*) any other matter which may be prescribed.

(5) All proceedings before the Tribunal shall be deemed to be the judicial proceedings within the meaning of Sections 193, 219 and 228 for the purposes of Section 196 of the Indian Penal Code and the Tribunal shall be deemed to be a civil court for the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973."

157. Sub-section (1) of Section 19 provides that the Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure but shall be guided by the principles of natural justice. What sub-section (1) meant to convey is that the Tribunal is not shackled with the procedure laid down by CPC for conducting its proceedings. Sub-section (2) of Section 19 empowers the Tribunal with powers to regulate its own procedure. Section 19(2) confers vide powers on the Tribunal insofar as its procedure is concerned. Section 19(4) vests some powers as are vested in the civil court, while trying a suit, in respect of matters enumerated therein. The use of the expression "shall not be bound by the procedure laid down by CPC" is not akin to saying that procedure as laid down by CPC is in no manner relevant to the Tribunal. Further, Section 19(1) also does not mean that the Tribunal cannot follow any procedure given in CPC. One provision of CPC inserted by Act 104 of 1976 with effect from 1-2-1977 is Order 26, which is relevant for present inquiry. Order 26 Rule 10-A provides as follows:

"**10-A.** ***Commission for scientific investigations.*** (1) Where any question arising in a suit involves any scientific investigation which cannot, in the opinion of the Court, be conveniently conducted before the Court, the Court may, if it thinks it necessary or expedient in the interests of justice so to do, issue a commission to such person as it thinks fit, directing him to inquire into such question and report thereon to the Court.

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(2) The provisions of Rule 10 of this Order shall, as far as may be, apply in relation to a Commissioner appointed under this Rule as they apply in relation to a Commissioner appointed under Rule 9."

158. Rule 10-A provides that where any question arising in a suit involves any scientific investigation which cannot, in the opinion of the Court, be conveniently conducted before the Court, the Court may, if it thinks necessary or expedient in the interests of justice so to do, issue a commission to such person as it thinks fit, directing him to inquire into such question and report thereon to the Court. Rule 10-A is enabling power to the courts to obtain report from such persons as it thinks fit when any question involves with the scientific investigation. The powers under Rule 10-A which are to be exercised by the Court can very well be used by NGT to obtain reports by experts. NGT as per the statutory scheme of NGT has to decide several complex questions pertaining to pollution and environment. The scientific investigation and report by experts are necessary requirements in appropriate cases to come to correct conclusion to find out measures to remedy the pollution and environment. We do not, thus, find any dearth of jurisdiction in NGT to appoint a committee to submit a report. We may further say that while asking an expert to give a report, NGT is not confined to the four corners of Rule 10-A rather its jurisdiction is not shackled by strict terms of Order 26 Rule 10-A as per Section 19(1) as noticed above.

159. There is one more provision which throws considerable light on the above. Under Section 35 of the NGT Act, 2010 the Central Government is empowered to make rule for carrying out the provisions of the Act. Rules have been framed in exercise of powers under Section 35, namely, the National Green Tribunal (Practice and Procedure) Rules, 2011. The said Rules have been framed in exercise of powers under Section 4(4) as well as Section 35. The 2011 Rules are Rules also for practice and procedure of the Tribunal. Rule 24 which is relevant for the present case is as follows:

"**24.** ***Order and directions in certain cases.***—The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its order or to prevent abuse of its process or to secure the ends of justice."

160. Rule 24 empowers the Tribunal to make such orders or give such directions as may be necessary or expedient to give effect to its order or to secure the ends of justice. Rule 24 gives wide powers to the Tribunal to secure the ends of justice. Rule 24 vests special power to the Tribunal to pass orders and issue directions to secure the ends of justice. Use of words "may", "such orders", "gives such directions", "as may be necessary or expedient", "to give effect to its orders", "order to prevent abuse of process", are words which enable the Tribunal to pass orders and the above words confer wide discretion.

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161. Professor Justice G.P. Singh, in *Principles of Statutory Interpretation*, 14th Edn. while dealing with enabling words says:

> "Ordinarily, the words 'may' and 'it shall be lawful' are not words of compulsion. They are enabling words and they only confer capacity, power or authority and imply discretion. 'They are both used in a statute to indicate that something may be done which prior to it could not be done'. The use of words 'shall have power' also connotes the same idea."

162. The enabling powers given to the Tribunal under Rule 24 are for the purpose and object to decide the subjects which are to be examined, decided and an appropriate relief is to be granted by the Tribunal. Further, subjects contain wide range of subjects which require technical and scientific inputs. The Tribunal can pass such orders as it may think fit necessary or expedient to secure the ends of justice.

163. The object for which the said power is given is not far to seek. To fulfil the objective of the NGT Act, 2010, NGT has to exercise a wide range of jurisdiction and has to possess wide range of powers to do justice in a given case. The power is given to exercise for the benefit of those who have right for clean environment which right they have to establish before the Tribunal. The power given to the Tribunal is coupled with duty to exercise such powers for achieving the objects. In this regard reference is made to the judgment of this Court in *L. Hirday Narain* v. *CIT*[30], wherein this Court was examining provision empowering authority to do something. This Court laid down in para 14: (SCC p. 359)

> "*14.* The High Court observed that under Section 35 of the Indian Income Tax Act, 1922, the jurisdiction of the Income Tax Officer is discretionary. If thereby it is intended that the Income Tax Officer has discretion to exercise or not to exercise the power to rectify, that view is in our judgment erroneous. Section 35 enacts that the Commissioner or Appellate Assistant Commissioner or the Income Tax Officer may rectify any mistake apparent from the record. If a statute invests a public officer with authority to do an act in a specified set of circumstances, it is imperative upon him to exercise his authority in a manner appropriate to the case when a party interested and having a right to apply moves in that behalf and circumstances for exercise of authority are shown to exist. Even if the words used in the statute are prima facie enabling, the courts will readily infer a duty to exercise power which is invested in aid of enforcement of a right — public or private — of a citizen."

164. We, thus, are of the considered opinion that there is no lack of jurisdiction in NGT to direct for appointment of committee or to obtain a report from a committee in the given facts of the case.

165. Now coming to the challenge to the Fund which has been constituted by the Tribunal, namely, "Meghalaya Environment Protection and Restoration

30 (1970) 2 SCC 355

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Fund", it is useful to notice the observation of the Tribunal in its order dated 25-3-2015[3] by which the said Fund was created. The reasons for constitution of Fund are self-explanatory which are to the following effect: (*All Dimasa Students Union case*[3], SCC OnLine NGT)

> "It is also indisputable that there has been huge environmental degradation and pollution of the waterbodies in the State of Meghalaya, because of this illegal, unscientific mining. No one has even thought of restoration of the area in question, to bring to some extent, if not completely, restoration of ecology and environment in question. Serious steps are required to be taken for cleaning polluted waterbodies and ensure that no further pollution is caused by this activity and the activity which would be permitted to be carried on finally including transportation of coal. On the basis of "Polluter Pays Principle", we direct that the State Government shall in addition to the royalty payable to it, shall also collect 10% on the market value of the coal for every consignment. Having heard the learned counsel appearing for the parties and keeping in view the Notifications of the Central Government dated 10-5-2012 and that of the State Government dated 22-6-2012, we may notice that in the report of the Comptroller and Auditor General of India for the period ending 31-3-2013 under 7.5.18 of Chapter 7 of which the invoice value of the coal has been taken as Rs 4850 per metric tonne. Thus, we direct that the State Government shall in addition to the royalty payable to it, also collect 10% of the said market value of the coal per metric tonne from each person. The amount so collected shall be deposited in the account to be titled as "Meghalaya Environment Protection and Restoration Fund" to be maintained by the State under the direct control of the Chief Secretary of the State of Meghalaya.
>
> This amount shall only be used for restoration of environment and for necessary remedial and preventive measures in regard to environment and matters related thereto."

166. As noticed above, NGT could have passed any order or direction to secure ends of justice which power is especially conferred by Rule 24 as noticed above, direction to constitute Fund is thus also saved under such power.

Point 11

167. In respect of constitution of committee by the Tribunal there are two other limbs of submission; that, (1) NGT by constituting committees has delegated essential judicial power to the committee; (2) the constitution of committees encroaches on the constitutional scheme of administration of tribal areas under Article 244(2) read with the Sixth Schedule of the Constitution.

168. The Tribunal vide its various directions has asked for reports from State officials and the committees. The various instances where NGT directed

3 *All Dimasa Students Union* v. *State of Meghalaya*, 2015 SCC OnLine NGT 697

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for report or investigation and submission of report by committees were with the object of ensuring the implementation of the orders passed by it and to decide the environmental issues raised before it. In no manner constitution of committee can be said to be delegation of essential judicial powers of NGT to the committee.

169. Now, we come to the Katakey Committee which was constituted by the Tribunal on 31-8-2018[1]. In paras 14 and 15, the Tribunal while directing for constitution of Committee headed by Justice B.P. Katakey directed: (*Threat to Life Arising Out of Coal Mining case*[1], SCC OnLine NGT)

> "*14.* Only last question which remains is of restoration of the environment and rehabilitation of the victims for which funds are available. We are of the view that for this task, it will be appropriate that we constitute an independent Committee. This Committee will be headed by Justice B.P. Katakey, former Judge of the Guwahati High Court with representatives from Central Pollution Control Board and Indian School of Mines, Dhanbad.
>
> *15.* The Committee will take the following steps:
>
> (*i*) Take stock of all actions taken so far in this regard.
>
> (*ii*) Prepare time-bound action plan to deal with the issue and ensure its implementation."

170. The constitution of the Committee and its functions entrusted were with the object to implement the orders passed by the Tribunal. The Tribunal has already directed for preparing a scheme for the restoration of the environment and ecology. The environment and ecology restoration plan was submitted before the Tribunal along with the affidavit dated 3-10-2017 as has been noticed in the order dated 2-1-2018[31] of NGT. In the constitution of the Katakey Committee, thus, it cannot be said that essential judicial functions were delegated to the Committee by the Tribunal. For the restoration of environment NGT vide its order dated 31-8-2018[1] has directed the Committee to submit its action plan and reports by email. The Tribunal, thus, had kept complete control on all steps which were required to be taken by the Committee and issued directions from time to time. We, thus, do not accept the submission of the appellant that the essential judicial powers of NGT had been delegated to the Committee. Looking to the enormous work of restoration of environment which has to be supervised on the spot, the Committee was constituted. We, however, observe that the State is always at liberty to obtain particular direction if aggrieved by any act of the Committee. The matter being pending before the Tribunal of acts of the Committee are under direct control of the Tribunal and if the Committee oversteps in any direction the same can very well be corrected by the Tribunal on the matter being brought before it.

1 *Threat to Life Arising Out of Coal Mining in South Garo Hills District* v. *State of Meghalaya*, 2018 SCC OnLine NGT 1241

31 *All Dimasa Students Union* v. *State of Meghalaya*, 2018 SCC OnLine NGT 671

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171. Now, we come to the second limb, that the constitution of the Committee encroaches the constitutional scheme of the tribal areas. We revert back to the Sixth Schedule of the Constitution. Para 3 of the Sixth Schedule enumerates the powers of the District Council and Regional Council to make laws. The powers of the District and Regional Councils are enumerated under para 3. In the directions of the Tribunal to constitute committee for transportation of extracted minerals or for preparing time-bound action to deal with the restoration of environment and to ensure its implementation, there is no interference in the powers of the District or Regional Councils. Action plan for restoration of environment is consequence of the Tribunal finding out that an unregulated coal mining has damaged the environment and has caused the pollution including water pollution. It is not the case of the appellant that the District and Regional Councils have framed any law for restoration of environment which is being breached by the committee or its acts. The District and Regional Councils are free to exercise all their powers and the Committee constituted by the Tribunal is only concerned with the environmental degradation and illegal coal mining. The Committee's report or direction of the Tribunal in no manner encroaches upon the administration of tribal areas by the District and Regional Councils.

Point 12

172. NGT vide its order dated 4-1-2019[4] directed the State of Meghalaya to deposit an amount of Rs 100 crores with the Central Pollution Control Board, which was to be spent for restoration of environment. The State of Meghalaya aggrieved by the above direction has filed Civil Appeal No. 2968 of 2019. We have already noticed the submission of Shri Amarendra Sharan, Senior Advocate.

173. Shri Colin Gonsalves, learned Amicus Curiae has refuted the submissions made by the learned counsel for the appellant. It is submitted that despite the specific ban on coal mining by order dated 17-4-2014[6] in the entire State, illegal coal mining had been going on, which was proved from the reports and pictures referred to in the report. The State is responsible and *constitutionally obligated* to provide clean environment to every citizen. They having entirely failed to *stop* the illegal mining, which is cause of degradation of pollution including pollution of river streams, the Tribunal has rightly directed the State of Meghalaya to deposit Rs 100 crores. Shri Gonsalves submits that in spite of State Pollution Control Board as well as Comptroller Auditor General having invited the attention of the State of Meghalaya towards serious pollution especially in the river water, no steps were taken by the State of Meghalaya. It is further submitted that restoration of environment requires carrying out various projects and unless the State provides for necessary fund and finances,

4 *Threat to Life Arising Out of Coal Mining in South Garo Hills District* v. *State of Meghalaya*, 2019 SCC OnLine NGT 105

6 *All Dimasa Students Union* v. *State of Meghalaya*, 2014 SCC OnLine NGT 2307

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the restoration of damaged environment cannot be undertaken. It is further submitted that the State had collected huge fund of Rs 4,33,07,26,731, which amount had not been spent by the State, although, it was required to take steps for restoration of environment.

174. NGT vide its order dated 31-8-2018[1] constituted a committee headed by Justice B.P. Katakey, former Judge of the Gauhati High Court with representatives from Central Pollution Control Board and Indian School of Mines, Dhanbad. By subsequent order dated 19-9-2018[32] issued by the Tribunal, additional Chief Secretary to Government of Meghalaya was made the Member Secretary/Coordinator for proper functioning of the Committee. The Committee visited different sites, held various meetings, various presentations were also made before the Committee by Meghalaya State Pollution Control Board and other bodies, namely, North-Eastern Centre for Technology Application and Reach, North-Eastern Space Application Centre. In Para 12(*g*), the following has been stated by the Committee:

> "12. (*g*) Presentation was also made by the Meghalaya State Pollution Control Board on the coalmine activities and its impact on the land used, water quality, air quality, ecology as well as socio-economic impact. The Committee, on the basis of the said presentation, found the following:
>
> (*i*) Continuation of coalmine activities for a long time in an unplanned and unscientific manner as well as without any pollution control measures.
>
> (*ii*) Such mining activities are generating huge ecological disturbances and negative environmental impacts.
>
> (*iii*) Water in rivers and streams in the mining areas has become highly acidic in nature with pH value of 2.7 since 1991-92 due to presence of high percentage of sulphur in coal, which reacts after mixing with oxygen in air and water giving rise to AMD problem. No difference of pH level of water in rivers, streams and mine drains have been noticed during monsoon.
>
> (*iv*) pH level of water in springs, tap water and hand pumps also found to be less than permissible limit of drinking water standards.
>
> (*v*) Absence of biological life in the water bodies.
>
> (*vi*) Ambient air quality of the coal mining areas and coal storage areas exceeds the National Ambient Air Quality Standards on few occasions.
>
> (*vii*) Requirement of urgent steps to be taken to generate social awareness about the adverse environmental impacts and the health hazards associated with unplanned and unscientific coal mining activities."

1 *Threat to Life Arising Out of Coal Mining in South Garo Hills District* v. *State of Meghalaya*, 2018 SCC OnLine NGT 1241

32 *Threat to Life Arising Out of Coal Mining in South Garo Hills District* v. *State of Meghalaya*, 2018 SCC OnLine NGT 1213

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175. Action plans for restoration of environment were also discussed and finalised.

176. On detailed discussion on Issue (A), the Committee with details including photographs and maps observed the following:

> "(*vi*) From the aforesaid materials available before the Committee, it is, therefore, evident that the coal mining activities, which includes the extraction of coal and transportation, is going on in the State of Meghalaya, at least in East Jaintia Hills District, where such mining activities are most, despite the ban imposed by the Hon'ble NGT vide its order dated 17-4-2014[6]. Very sincere and honest efforts are required on the part of the State Government to stop the mining activities, which are going on. Such mining activities are going on without adopting any safety measures for the workers and without caring for adverse environmental effect. A sincere desire to stop such illegal mining activities is also necessary on the part of the State and Central Government agencies for implementation and monitoring of health, safety and environmental regulations.
>
> (*vii*) The result of ongoing un-abetted illegal mining, despite the ban imposed by NGT, is the very tragic incident that occurred very recently on 13-12-2018 in a coalmine in Ksan Village near Lytein River under Saipung Police Station in East Jaintia Hills District, where 15 (fifteen) coalmine workers were reported trapped, while they were working in the mine. Unfortunately, none of them so far could be rescued. For the said incident, Saipung Police Station Case No. 15(12)/2018 under Sections 188/304-A/34 IPC read with Section 3(2)(*d*) of the PDPP Act and Section 21(1) of the MMDR Act against the coalmine owner has been registered. A magisterial enquiry to find out the facts and circumstances leading to the said incident, has also been directed."

177. The fact that on 13-12-2018, 15 coalmine workers were trapped in an ongoing coal mining operation, who all have been reported to be dead itself proves beyond any shade of doubt that order dated 17-4-2014[6] banning mining in the entire State of Meghalaya was neither enforced nor were serious endeavours taken by the State or its authorities to save the environmental pollution. With regard to restoration of the environment and restoration of the victims, action plans were formulated by the Committee.

178. The first submission raised by Shri Amarendra Sharan challenging the order is violation of principles of natural justice. The report dated 31-12-2018 of the Committee itself in Issue (*f*)(*iv*) noticed:

> "Website has been opened and all the proceedings of the Committee are uploaded in the said website."

179. The report being placed on website on 31-12-2018 itself, there is no question of serving copy of the report of the Committee to the stakeholders. It is

6 *All Dimasa Students Union* v. *State of Meghalaya*, 2014 SCC OnLine NGT 2307

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further relevant to notice that the Additional Chief Secretary of the Government of Meghalaya was himself the Member Secretary and Coordinator of the Committee under the orders of the Tribunal dated 19-9-2018[32]. All proceedings of the Committee, its meetings and minutes, were with the knowledge and participation of the Coordinator/Additional Chief Secretary of the State of Meghalaya.

180. A perusal of the order dated 4-1-2019[4], which is impugned in the appeal indicates that although the learned counsel for the State of Meghalaya was present and was heard but no kind of objection was raised regarding acceptability of the report. The report obtained by NGT through the Committee was to take effective steps towards protection of environmental pollution and for restoration of damaged environment. Pollution of the various rivers and streams and steps for treating the acidic water were urgently required. Several presentations before the Committee were also made and different steps regarding restoration of environment were to be taken as noticed and indicated in the report of the Committee. As noticed above, NGT vide its order dated 25-3-2015[3] constituted a fund, namely, "Meghalaya Environment Protection and Restoration Fund" to be maintained by the State under the direct control of the Chief Secretary of the State of Meghalaya. It is reiterated in the report of the Committee that an amount of Rs 433 crores is already lying in the said fund, which has not been spent.

181. The learned counsel for the appellant has laid much emphasis that there had been no calculation of the extent of damage nor could the Tribunal have arrived at on the amount of damages to the extent of Rs 100 crores, which was directed to be deposited by the State of Meghalaya with the Central Pollution Control Board.

182. We are of the view that the amount, which has been directed by NGT to be deposited by the State of Meghalaya is neither a penalty nor a fine imposed on the State. The amount has been directed to be deposited for carrying out steps regarding restoration of environment. We further agree with the submission of the learned counsel for the appellant that the said amount cannot be said to be amount of damages to be paid by the State. We further find force in the submission of the learned counsel for the appellant that the State of Meghalaya has very limited source of revenue and putting an extra burden on the State of Meghalaya to make payment of Rs 100 crores from its own financial resources and budgetary amount may cause great hardship to the State of Meghalaya. Ends of justice will be served in modifying the direction of NGT dated 4-1-2019[4] to the extent that the State is permitted to transfer an amount of Rs 100 crores from the amount lying in the MEPRF to the Central Pollution Control Board. The Central Pollution Control Board as directed by the Tribunal

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3 *All Dimasa Students Union* v. *State of Meghalaya*, 2015 SCC OnLine NGT 697

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(NGT) shall utilise the aforesaid amount of Rs 100 crores only for restoration of the environment. The appeal is thus, partly allowed to the above extent.

Point 13

183. Vide order dated 31-3-2016[11], NGT had permitted transportation of coal till 15-5-2016 under the terms and conditions as enumerated therein. The order dated 31-3-2016[11] further contemplated that no coal in any form whatsoever shall be permitted to be transported after 15-5-2016 on which date the entire remaining coal shall vest in the State Government and shall be disposed of in accordance with law.

184. The main grievance of the appellant is that NGT could not have directed for vesting of coal in the State. The submission is that members of the appellant association have proprietary rights in the coal with which they could not be divested by the Tribunal. We have already held that private owners of the land are also owners of the minerals and the minerals belong to the owners/tribals. We have also found that coal mining was illegally going on unregulated by any statutory law in the Hills Districts of the State of Meghalaya without there being any mining lease. The entire mining was, thus is clear, in contravention of Section 4(1) of the 1957 Act which attracted penalties under Section 21.

185. Section 21 of the Act is as follows:

> "**21.** ***Penalties***.—(1) Whoever contravenes the provisions of sub-section (1) or sub-section (1-A) of Section 4 shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to five lakh rupees per hectare of the area.
>
> (2) Any rule made under any provision of this Act may provide that any contravention thereof shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five lakh rupees, or with both, and in the case of a continuing contravention, with additional fine which may extend to fifty thousand rupees for every day during which such contravention continues after conviction for the first such contravention.
>
> (3) Where any person trespasses into any land in contravention of the provisions of sub-section (1) of Section 4, such trespasser may be served with an order of eviction by the State Government or any authority authorised in this behalf by that Government and the State Government or such authorised authority may, if necessary, obtain the help of the police to evict the trespasser from the land.
>
> (4) Whenever any person raises, transports or causes to be raised or transported, without any lawful authority, any mineral from any land, and, for that purpose, uses any tool, equipment, vehicle or any other thing, such mineral, tool, equipment, vehicle or any other thing shall be liable to be seized by an officer or authority specially empowered in this behalf.

11 *All Dimasa Students Union* v. *State of Meghalaya*, 2016 SCC OnLine NGT 122

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(4-A) Any mineral, tool, equipment, vehicle or any other thing seized under sub-section (4), shall be liable to be confiscated by an order of the court competent to take cognizance of the offence under sub-section (1) and shall be disposed of in accordance with the directions of such court.

(5) 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.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence under sub-section (1) shall be cognizable."

186. The mining of coal in contravention of Section 4(1) invites penalties as enumerated in Section 21. The present is not a case where any kind of penalty has been imposed on the miners except that the amount of royalty as payable on mining of coal is being collected by the State as penalty. It is true that the State Government has power under Section 21(5) to recover from such person the minerals so raised, or, where such material has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax, as the case may be, but it is for the State Government to exercise its power under Section 21(5) by way of penalty. NGT has not given any reason as to how coal shall automatically vest in the State. The right of recovery of mineral as contemplated under Section 21(5) does not amount to say that proprietary right of owner of the minerals is lost, rather, the State under Section 21(5) exercises its power to recover the mineral which has been raised without any lawful authority. We, thus, are of the view that coal extracted and lying in open after 15-5-2016 was not automatically vested in the State and the owner of the coal or the person who has mined the coal shall have the proprietary right in the mineral which shall not be lost.

Point 14

187. Several IAs have been filed by different applicants seeking direction to transport already extracted coal lying at different places in Hills Districts of the State of Meghalaya. Different applicants may claim to different quantities of coal situate at different places. By our order dated 10-5-2019[15], we have already permitted transportation of balance coal to the extent of 75,050 MT for which challans were already issued after the order of this Court dated 4-12-2018[16]. The above quantity of said 75,050 MT was balance quantity out of 1,76,655 MT, for transportation of which order was passed by this Court on 4-12-2018[16]. In addition to the aforesaid quantity, claim with regard to different quantities by different applicants has been laid. It is not necessary for the purpose

15 *Iber Laloo* v. *All Dimasa Students Union*, (2019) 16 SCC 317 : 2019 SCC OnLine SC 698
16 *Iber Laloo* v. *All Dimasa Students Union*, 2018 SCC OnLine SC 3330

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of the present case to notice different quantities and claims of different persons for transportation. After the order of NGT dated 31-8-2018[1], the State of Meghalaya has constituted committees to assist the Commissioner and Secretary, Mining and Geology to prepare a separate inventory with regard to coal not so far recorded in the inventory available with NGT. In pursuance of the said direction, as contained in para 13 of the order, steps were taken and various committees had made certain assessments with regard to different quantities of coal lying in four Hills Districts of the State of Meghalaya. The Katakey Committee Report dated 31-12-2018 has in chart noticed the different quantities as was informed by letter dated 13-11-2018 to the Commissioner and Secretary to the Government of Meghalaya. While dealing with Issue 3, in Paras (*iii*), (*iv*) and (v), the following has been stated:

"(*iii*) The Commissioner & Secretary to the Government of Meghalaya, Mining & Geology Department, in the ATR submitted on 13-11-2018 has stated about the availability of 1,76,655 MT of already inventorised coal for transportation, which has also been reflected in the order dated 4-12-2018[16] passed by the Hon'ble Supreme Court. The Commissioner & Secretary, in the said ATR, has also stated that 23,25,663.54 MT of coal, other than those inventorised coal, remained un-inventorised and available for transportation, district-wise break up of which is as follows:

"Report on extracted coal reflected as unassessed or nil in the inventory approved by NGT

Sl. No.	*Name of district*	*Declared quantity in MT*	*Assessed quantity in MT*
1.	East Jaintia Hills District	15,46,687.00	13,22,379.00
2.	West Khasi Hills District	7,29,757.00	7,78,297.99
3.	South-West Khasi Hills District	1,25,600.63	2,14,145.55
4.	South Garo Hills District	12,834.00	10,841.00
	Total	24,14,878.63	23,25,663.54"

(*iv*) From the aforesaid district-wise break-up of extracted coal, which was un-inventorised, it appears that the quantity of such coal was highest in East Jaintia Hills District, where the Deputy Commissioner, as noticed above, has admitted ongoing coal mining activities despite the ban imposed by the Hon'ble NGT vide order dated 17-4-2014[6]. The stand of the

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6 *All Dimasa Students Union* v. *State of Meghalaya*, 2014 SCC OnLine NGT 2307

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Government that the quantity of coal, as reflected in the aforesaid chart was mined prior to the said ban, appears to be not acceptable, in view of the aforesaid admission of the Deputy Commissioner and also what the Committee has noticed during its field visit on 12-11-2018. It seems that there is an attempt to show the freshly mined coal i.e. the coal mined after the ban imposed by the Hon'ble NGT, as the coal left out from the assessment and remained un-inventorised though mined prior to the said ban. The Committee also apprehends that such freshly mined coal may be transported taking advantage of the order dated 4-12-2018[16] passed by the Hon'ble Supreme Court.

(v) The Hon'ble NGT vide its order dated 31-8-2018[1] given the responsibility of going through the said issue to the Secretary of Mining, State of Meghalaya in the first instance and to be cross-checked by the Joint Team of representatives of the Central Pollution Control Board and India School of Mines, Dhanbad. As reported, no such cross-check has so far been made."

188. The State of Meghalaya has filed additional affidavit dated 6-4-2019 of the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department, where details of assessments made by committees appointed by the State of Meghalaya have been brought on the record. In the affidavit, it has also been stated that a Technical Committee was also constituted to perform the verification of the assessments made by the Deputy Commissioners of respective districts. As per the affidavit, assessment of extracted coal stocks in above four districts is *32,56,715 MT* whereas in the report submitted by the Katakey Committee, the said figure in the above four districts is 23,25,663.54 MT. The Technical Committee submitted their report, which has been brought on the record along with the additional affidavit verifying the assessed quantities. In the affidavit of the Commissioner and Secretary, it has also been sated that the Technical Committees have submitted that it is difficult to define with certainty that which coal was mined prior to ban in 2014 and mined after 2014. From the above, it is clear that the State Government itself has come with a case that huge quantity of coal in the four Hills Districts, which has been extracted, is lying waiting for orders of transportation. The learned Amicus Curiae and Shri Nidhesh Gupta, learned Senior Counsel have refuted the claim made by the applicants as well as the State of Meghalaya. It is submitted by the learned Amicus Curiae that in fact the State is not making any effort to stop the illega mining, in spite of the ban of 17-4-2014[6], illegal mining of coal has been permitted and now such illegally mined coal has also been assessed and the State also supports the claim

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of transportation of the applicants in the guise that coal lying in open is an environmental hazard.

189. Shri Nidhesh Gupta, learned Senior Counsel appearing for private respondents in CA No. 5272 of 2016 has submitted that the State auctioned coal on a meagre price, whereas market rate of the coal is approximately Rs 10,000 per MT. In the present case, we have noticed that illegal coal mining is going on in spite of ban by NGT by its order dated 17-4-2014[6]. The Katakey Committee Report has also opined that all the extracted coal lying in different districts is coal, which has been illegally mined after the imposition of ban by the order dated 17-4-2014[6]. All coal being illegally mined, the State is fully entitled to impose a penalty i.e. to realise the royalty and the amount of MEPR Fund. The coal being major mineral and useful for different industries and projects, appropriate disposal of extracted coal is also of paramount importance.

190. We accept the suggestion of the learned Amicus Curiae that entire extracted coal lying at various places be directed to be taken over by Coal India Ltd., a Government of India unit, who may dispose of the same as per its normal method of disposal and proceeds be distributed as per directions issued by this Court hereinafter. NGT has already directed that for all extracted coal lying at different places, it is the State, which is the receiver-cum-custodian of the coal. The State having carried out the assessment of the coal lying in the aforesaid four districts including the details of the quantities and the details of owners being available with it, it may ensure that the entire coal is handed over to Coal India Ltd., as per the mode and manner to be formulated by the Katakey Committee, in consultation with officers of Coal India Ltd. and the State of Meghalaya.

191. The Katakey Committee and its various members and participants have done a commendable job in studying and examining various aspects of environment in the State of Meghalaya and several valuable suggestions have been given by the Committee, which are also being implemented to mitigate the suffering of the citizens consequent to the illegal coal mined.

192. We direct that the Commissioner and Secretary of the State in the Department of Mining and Geology along with the officers of Coal India Ltd. may deliberate with the Katakey Committee to finalise a comprehensive plan for transportation and handing over of the coal to Coal India Ltd. for disposal/auction as per rules of Coal India Ltd. Disposal/auction by Coal India Ltd. shall be beneficial to both the owners of the mines as well as to the State of Meghalaya. Receiving fair value of the coal should be a concern of both the owners and the State. It is for Coal India Ltd. to decide as to venue, where they shall receive the coal i.e. either at any of its depot or any other place in the State of Meghalaya and it is for Coal India Ltd. to finalise the process of disposal

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and auction of the coal. It goes without saying that it shall be the duty of the State of Meghalaya and its officers, especially the Deputy Commissioner of the area concerned to enter details of quantity of the coal, name of the owner and place from where it is collected. Coal India Ltd. shall also take steps to ensure weighment of the coal when it is received by it and since all consequent steps regarding disposal, price grade of the coal shall be determined as per the weight of the coal received by Coal India Ltd. from different places. The expenses of transportation shall be borne by the State of Meghalaya, Coal India Ltd. or by both, which expenses shall be deductible from the price received of the coal. The State of Meghalaya shall be entitled to royalty and payment towards MEPR Fund as well as taxes out of the price of the coal. After deduction of cost of transportation, the payment of royalty and payment to MEPR Fund and taxes plus 10% of value of the coal to be given to Coal India Ltd. for the above exercise, balance amount shall be disbursed to the owner of the coal towards its price, which disbursement shall be the responsibility of the State. Coal India Ltd. after taking its expenses for transportation with 10% of price of the coal shall remit the entire amount to the State and it is for the State after deducting the royalty and payment to the MEPR Fund and taxes to pay back the balance of the amount to the owner.

193. Another aspect of the matter is also to be noticed. The coal, which has been seized by the State in illegal transportation or illegal mining for which different cases have been registered by the State, is not to be dealt with as directed above. The said seized coal shall be dealt with by the State in accordance with Section 21 of the 1957 Act and on being satisfied, the State can take a decision to recover the entire quantity of coal so illegally raised without lawful authority and the said cases have to be separately dealt with in accordance with law.

194. We, thus, are of the view that all IAs filed by different applicants seeking order of transportation of the different quantities stand disposed of in view of the directions as given above. Let the Katakey Committee in consultation with the State of Meghalaya and officers of Coal India Ltd. finalise appropriate mode and manner to effect the transport and disposal of the coal in the above manner.

Conclusions

195. From the foregoing discussions we arrived at the following conclusions:

195.1. The application OA No. 73 of 2014 has clearly made out allegations which were sufficient for the Tribunal to exercise its jurisdiction as conferred by Section 14 of the National Green Tribunal Act, 2010. Both the component as appearing in sub-section (1) of Section 14, that is (*i*) substantial question relating to environment, and (*ii*) such question arises out of the implementation of the enactments specified in Schedule I, were present.

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195.2. The allegations of the applicant of OA No. 73 of 2014 of environmental degradation by illegal and unregulated coal mining were fully proved from materials on the record including the report of the experts, report of the Meghalaya State Pollution Control Board, the report of the Katakey Committee, which all proved environmental degradation of water, air and surface.

195.3. The stand taken on behalf of the State of Meghalaya before this Court that the Tribunal has no jurisdiction cannot be approved. The State Government is under constitutional obligation to ensure clean environment to all its citizens. In cases pertaining to environmental matter, the State has to act as facilitator and not as obstructionist.

195.4. According to the land tenure system as applicable in the Hills Districts of the State of Meghalaya, most of the lands are either privately or community owned in which the State does not claim any right. The private owners of the land as well as community owners have both the surface right as well as subsoil rights.

195.5. Para 12-A sub-clause (*b*) of the Sixth Schedule of the Constitution empowers that the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to an autonomous district or an autonomous region in the State of Meghalaya, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification. No notification has been issued by the President under Para 12-A(*b*). There is nothing in the Sixth Schedule of the Constitution which may indicate about the inapplicability of the 1957 Act with regard to the Hills Districts of the State of Meghalaya.

195.6. There is nothing in Section 4(1) of the 1957 Act to indicate that restriction contained in Section 4(1) does not apply with regard to privately owned/community owned land in Hills Districts of Meghalaya. Further, words "any area" under Section 4(1) also have significance which does not have any exception. Further phrase "except under and in accordance with terms and conditions with a mining lease granted under the Act" are also significant which make the intent and purpose of prohibition clear and loud.

195.7. The statutory scheme delineated by Section 13(2)(*f*) and the Mineral Concession Rules, 1960 clearly contemplate grant of mining lease, with regard to both the categories of land i.e. land in which minerals vest in the Government, and the land in which minerals vest in a person other than the Government.

195.8. The Mines Act, 1952 contains various provisions regarding inspection of mining operation and management of mines. The provisions of the Mines Act, 1952 are mandatory to be followed before working a mine. The regulations, namely, the Coal Mines Regulations, 2017 also contain several regulatory provisions which need to be followed while working a mine by a

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mining leaseholder. The enforcement of the Mines Act, 1952 and the 2017 Regulations have to be ensured by the State in the public interest.

195.9. As per statutory regime brought in force by Notification dated 15-1-2016 issued under the Environment (Protection) Act, 1986, environmental clearance is required for a project of coal for mining of any extent of area. While implementing statutory regime for carrying on mining operations in the Hills Districts of the State of Meghalaya, the State of Meghalaya has to ensure compliance of not only the MMDR Act 1957, but the Mines Act, 1952 as well as the Environment (Protection) Act, 1986.

195.10. In Hills Districts of the State of Meghalaya for carrying coal mining operations in privately owned/community owned land it is not the State Government which shall grant the mining lease under Chapter V of the 1960 Rules, but it is the private owner/community owner of the land, who is also the owner of the mineral, who shall grant lease for mining of coal as per the provisions of Chapter V of the 1960 Rules after obtaining previous approval of the Central Government through the State Government.

195.11. The State of Meghalaya has ample power and jurisdiction under the 1957 Act and the 1960 Rules to check, control and prohibit coal mining operations in the Hills Districts of the State of Meghalaya.

195.12. The Union having made declaration by Section 2 of the 1957 Act taking under its control regulation and development of mineral, the power of Autonomous District Council to legislate on the subject shall also be denuded as that of the State Legislature.

195.13. In event the mining is carried out by a mining leaseholder as per the provisions of the 1957 Act and the 1960 Rules with an approved mining plan there can be no objections in carrying of such mining operations under the regulation and control of the State of Meghalaya. We clarify that in the event mining operations are undertaken in privately owned/community owned land in Hills Districts of Meghalaya in accordance with mining lease with approved mining plan as per the 1957 Act and the Mineral Concession Rules, 1960, the ban order dated 17-4-2014[6] of the Tribunal of the NGT shall not come in the way of carrying on mining operations.

195.14. Under Order 26 Rule 10-A of the Civil Procedure Code, a court can appoint a commission for scientific investigation. The power which can be exercised by a court under Order 26 Rule 10-A CPC can very well be exercised by the NGT also. The NGT while asking expert to give a report is not confined to the four corners of Rule 10-A and its jurisdiction is not shackled by strict terms of Order 21 Rule 10-A by virtue of Section 19(1) of the NGT Act.

195.15. Rule 24 of the National Green Tribunal (Practice and Procedure) Rules, 2011 empowers the Tribunal to make such orders or give such directions as may be necessary or expedient to give effect to its order or to secure the ends

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of justice. The power given to the Tribunal is coupled with duty to exercise such powers for achieving the objects. There is no lack of jurisdiction in NGT in directing for appointment of a committee and to obtain a report from a committee.

195.16. The direction to constitute a fund, namely, "Meghalaya Environment Protection and Restoration Fund", is also saved under the above power.

195.17. NGT by directing for constitution of committee has not delegated essential judicial functions. The Tribunal had kept complete control on all steps which were required to be taken by the committees and has issued directions from time to time. The State is always at liberty to obtain appropriate directions if aggrieved by any act of the committee. The matter being pending before the Tribunal all acts of the committee are under direct control of the Tribunal and if the committee oversteps in any direction the same can very well be corrected by the Tribunal on the matter being brought before it.

195.18. NGT by issuing direction to constitute the committee for transportation of the extracting mineral, for preparing time-bound action plan to deal with the restoration of environment and to ensure its implementation does not in any manner interfere with the powers of the District or Regional Councils. The District and Regional Councils are free to exercise all their powers and committee constituted by the Tribunal is only concerned with the environmental degradation and illegal coal mining. The committees report or direction of the Tribunal in no manner encroaches upon the administration of tribal areas by the District and Regional Councils.

195.19. The amount which has been directed by NGT to be deposited by the State of Meghalaya is neither a penalty nor a fine imposed on the State of Meghalaya. We accept the submissions of the learned counsel for the appellant that the State of Meghalaya has very limited source of finances and putting an extra burden on the State of Meghalaya to make payment of Rs 100 crores from its own financial resources may cause great hardship to the State of Meghalaya. Ends of justice be served in modifying the direction of NGT dated 4-1-2019[4] to the extent that the State is permitted to transfer an amount of Rs 100 crores from the amount lying in MEPRF to the Central Pollution Control Board. The Central Pollution Control Board as directed by the Tribunal shall utilise the aforesaid amount of Rs 100 crores only for restoration of the environment in the State of Meghalaya.

195.20. The coal extracted and lying in open after 15-5-2016 does not automatically vest in the State of Meghalaya and the owner of the coal or the person who has mined the coal shall have the proprietary right in the mineral which shall not be lost.

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195.21. The suggestion of the learned Amicus Curiae that entire extracted coal lying at various places in Hills Districts of Meghalaya be directed to be taken over by Coal India Ltd. is accepted. Coal India Ltd. may dispose of the same as per its normal method of disposal and proceeds be dealt with as per directions issued.

195.22. The State having carried out the assessment of the coal lying in the aforesaid four districts including the details of the quantities and the details of owners being available with it, it may ensure that entire coal is handed over to Coal India Ltd., as per the mode and manner to be formulated by the Katakey Committee in consultation with officers of Coal India Ltd. and the State of Meghalaya.

195.23. It is for Coal India Ltd. to decide as to venue, where they shall receive the coal i.e. either at any of its depot or any other place in the State of Meghalaya and it is for Coal India Ltd. to finalise the process of disposal and auction of the coal. It shall be the duty of the State of Meghalaya and its officers especially the Deputy Commissioner of the area concerned to enter details of quantity of the coal, name of the owner and place from where it is collected. All concerned shall take steps to ensure weighment of the coal when it is received by Coal India Ltd.

195.24. The expenses of transportation shall be borne by the State of Meghalaya, Coal India Ltd. or by both, which expenses shall be deductible from the price received of the coal. The State of Meghalaya shall be entitled to royalty and payment towards MEPR Fund as well as taxes out of the price of the coal. After deducting its expenses for transportation with 10% of price of the coal, Coal India Ltd. shall remit the balance amount to the State and it is for the State after deducting the royalty and payment to the MEPR Fund and taxes to pay back the balance amount to the owner.

195.25. The coal which has been seized by the State in illegal transportation and illegal mining for which different cases have been registered by the State, is not to be dealt with as directed above. The seized coal shall be dealt with by the State in accordance with Section 21 of the 1957 Act and on being satisfied, the State can take a decision to recover the entire quantity of coal so illegally raised without lawful authority.

196. In view of the foregoing discussions and conclusions, all these appeals are decided in the following manner:

196.1. Civil Appeal No. 10720 of 2018, Civil Appeal No. 10611 of 2018, Civil Appeal No. 10907 of 2018 and Civil Appeal No. … of 2019 (arising out of Civil Appeal Diary No. 3067 of 2018) are dismissed subject to declaration and clarification of law as made above.

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196.2. Civil Appeal No. 5272 of 2016 is allowed setting aside the order of NGT dated 31-3-2016[1] to the extent it declared that all extracted coal after 15-5-2016 shall vest in the State of Meghalaya.

196.3. Civil Appeal No. 2968 of 2019 is partly allowed permitting the State of Meghalaya to transfer the amount of Rs 100 crores to the Central Pollution Control Board from the Meghalaya Environment Protection and Restoration Fund which amount shall be used by Central Pollution Control Board only for restoration of environment.

196.4. All IAs seeking direction for transportation of coal are disposed of directing:

196.4.1. All extracted coal as assessed by the State of Meghalaya lying in different districts of the State of Meghalaya which as per order of NGT is in custody of the State of Meghalaya shall be handed over to Coal India Ltd. for proper disposal.

196.4.2. The Katakey Committee after discussion with Coal India Ltd. and the State of Meghalaya shall formulate a mechanism for transport, weighment of all assessed coal.

196.4.3. Coal India Ltd. shall auction the coal so received by it as per its best judgment and remit the proceed to the State to the extent as directed above.

196.4.4. All coal seized by the State for which cases have already been registered shall be dealt with by the State in accordance with Section 21 of the 1957 Act.

197. Before we close, we record our appreciation for valuable assistance rendered by the learned counsel for the parties which enabled us to decide several important issues in these appeals. We also record our appreciation for assistance rendered by the learned Amicus Curiae Shri Colin Gonsalves, Senior Advocate.

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ANNEXURE R/6

GOVERNMENT OF MEGHALAYA
DEPARTMENT OF FORESTS AND ENVIRONMENT
OFFICE OF
THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS : MEGHALAYA
& HEAD OF FOREST FORCE

No. MFG.39/87/NGT (C)/ Vol.-VII/ 8 448 – 468 Dated Shillong, the 8th July, 2019

From: **Shri H. C. Chaudhary, IFS**
Addl. Principal Chief Conservator of Forests (Planning, Development and Legal Matters), Government of Meghalaya, Shillong

To:

1. **The Managing Director**
Adhunik Cements Limited
Thangskai, East Jaintia Hills District, Meghalaya
(Email: Pradhan.Bhabagrahi@dalmiabharat.com)

2. **The Managing Director**
Amrit Cements Limited
Umlaoer Village, Elaka Rymbai, East Jaintia Hills District, Meghalaya
(Email: sriagarwal@yahoo.co.in)

3. **The Managing Director**
Cosmos Cement Limited
Village Salang, Elaka Rymbai, East Jaintia Hills District, Meghalaya

4. **The Managing Director**
Goldstone Cements Limited
Village Musiang Lamare (Old) East Jaintia Hills District, Meghalaya

5. **The Managing Director**
Green Valley Industries Limited
Village- Nongsning, P.O. Chiehruphi
East Jaintia Hills District, Meghalaya

6. **The Managing Director**
Hills Cement Company Limited
Village Mynkree, East Jaintia Hills District, Meghalaya

7. **The Managing Director**
Jaintia Cements Limited
Manbha Passah Building, Jowai, West Jaintia Hills District, Meghalaya
(Email: aproc@rediffmail.com)

8. **The Managing Director**
JUD Cements Limited
Wahiajer (Narpuh), East Jaintia Hills District, Meghalaya

9. **The Managing Director**
Mawmluh Cherra Cements Limited
Taxation Building, Near Raj Bhawan,
Shillong - 793001, Meghalaya

10. **The Managing Director**
Megatech Engineers Limited
East Jaintia Hills District, Meghalaya

11. **The Managing Director**
Meghalaya Cements Limited
Lumshnong, Shillong - Agartala - Sabrum Road, Thangskai,
East Jaintia Hills District, Meghalaya

12. **The Managing Director/ Chief Executive Officer**
RNB Cements (P) Limited
Umiam, Ri-Bhoi District, Meghalaya

13. **The Managing Director/ Chief Executive Officer**
Star Cement Limited
Lumshnong, East Jaintia Hills District, Meghalaya
(Email: lumshnong@starcement.co.in)

14. **The Managing Director/ Chief Executive Officer**
Star Cement Meghalaya Limited
Lumshnong, East Jaintia Hills District, Meghalaya
(Email: lumshnong@starcement.co.in)

15. **The Managing Director**
Virgo Cements Limited
Damas, East Garo Hills District, Meghalaya

16. **The Managing Director**
CMJ Breweries Limited
Ferndale Complex, CMJ House, Block III,
Keating Road, Shillong, Meghalaya 793001,

17. **The Managing Director**
Maithan Alloys Limited
Export Promotion Industrial Park (EPIP), Byrnihat,
Ri-Bhoi District, Meghalaya 783 101

18. **The Managing Director**
Sree Sakambari Ferro Alloys Pvt. Ltd.
Village Riwiang, Branch Post Office Sienduli,
West Khasi Hills District, Meghalaya 793 119

19. **The Managing Director/ Chief Executive Officer**
Shyam Century Ferrous Limited
Export Promotion Industrial Park (EPIP), Raj Bagan, Byrnihat,
Ri-Bhoi District, Meghalaya 793 101

20. **The Managing Director**
Meghalaya Power Limited
Lumshnong, East Jaintia Hills District, Meghalaya

Sub: Request to attend a Sitting of a Committee constituted by the Hon'ble National Green Tribunal (NGT) under Chairmanship of Hon'ble Mr. Justice B.P. Katakey, Former Judge, Guwahati High Court on 23rd July, 2019.

Sir/Madam,

With reference to above-mentioned subject, it is stated that the Hon'ble National Green Tribunal (NGT), Principal Bench, New Delhi by order dated 31st August, 2018 in the O.A. No. 110 (T_{HC}) / 2012 in the matter of Threat to Life Arising Out of Coal Mining in South Garo Hills District Vs State of Meghalaya & Ors. and other connected matters, constituted a Committee headed by Hon'ble Justice B.P. Katakey, Former Judge, Guwahati High Court to take stock of all actions taken so far for restoration of environment and rehabilitation of victims of coal mining in this State and to prepare time bound action plan to deal with the above issue and ensure its implementation.

The said Committee in its fifteenth Sitting held at Shillong on 28.06.2019 noted that the Hon'ble NGT in order dated 04.01.2019 directed the Committee to undertake resource (coal) audit of Meghalaya Power Limited and Star Cement Limited to ascertain the legitimate procurement of coal and its source. In compliance, the Central Pollution Control Board (CPCB) prepared a report. The Committee, after examination of the report advised the CPCB to update the same by incorporating year-wise details of cement and/or power produced by these plants to ascertain and satisfy that the quantity of coal stated to be procured by these plants from legal resources since imposition of ban on coal mining in the State in April 2014 was sufficient to produce reported quantity of cement and/or power by each of these plants.

The Committee further noted that the Hon'ble NGT in their order dated 11.04.2019 directed the Committee to undertake audit of the sources of coal acquired by all the thermal power plants and cement factories in the State. The Committee in its twelfth Sitting held on 25.04.2019 directed the CPCB to undertake resource (coal) audit of each power plant and cement factory in the State in a format prepared by the Committee.

The representative of the CPCB in fourteenth Sitting of the Committee held on 03.06.2019 informed that due to non-receipt of requisite information from the cement and power plants in the State, it has not been possible for them to complete the resource (coal) audit of these plants.

The Committee noted that the year-wise details of coal reported to be purchased from legal sources is already available in the report submitted to the Committee by the CPCB.

Sylvan House, Lower Lachumiere
Shillong 793001

Phone: 91 364 2220414
Fax: 91 364 2504068

Information on the clinker and power produced by some of these plants are also available in their annual reports, a copy of which is available in the public domain. From a perusal of these information *prima facie* it appears that the quantity of coal reported to be procured by some of these plants was grossly insufficient to produce reported quantity of cement and/or power by these plants. The gap has, in all probability, been met by illegally mined coal. The same, if found to be true, has not only resulted in gross violation of the orders of the Hon'ble NGT and the Hon'ble Supreme Court but has also resulted in enormous loss of revenue to the State.

To have a preliminary assessment of illegally sourced coal, if any, used by any of these plants/factories after ban on mining of coal was imposed by the Hon'ble NGT in April, 2014, the Committee in the said Sitting held on 28.06.2019 directed that the Managing Directors/Chief Executive Officers of all cement factories and thermal power plants in the State shall depute their duly authorised representative(s) to remain present before the Committee in its Sitting to be held on 23.07.2019 and produce before the Committee, along with supporting documentary evidence, the following information / documents:

(i) Year-wise details of clinker and/or power produced since imposition of ban on coal mining in the State in April 2014;

(ii) Year-wise details of coal and/or any other alternate fuel procured since imposition of ban on coal mining in the State in April 2014;

(iii) Year-wise details of the quantity of cement/clinker on which transport subsidy, if any, has been claimed by the plant since imposition of ban on coal mining in the State in April 2014;

(iv) A copy of annual report for each of the years since imposition of ban on coal mining in the State ;

(v) Average estimated quantity of coal and/or any other alternate fuel(s) required to produce one tonne of clinker and / or one unit (kwh) of power; and

(vi) A copy of Detailed Project Reports (DPRs) submitted to the Bank(s) / Financial Institution(s) to obtain loan for establishment /expansion/modernisation of the plant.

Accordingly, you are requested to depute a duly authorised representative(s) to remain present before the Committee in its Sitting to be held on 23.07.2019 at 10.00 AM onwards in the Conference Hall at Office of the Principal Chief Conservator of Forests and Head of Forest Force (HoFF), Sylvan House, Lower Lachumiere, Shillong 793 001 and produce before the Committee, along with supporting documentary evidence, the afore-mentioned information/documents.

Sylvan House, Lower Lachumiere
Shillong 793001

Phone: 91 364 2220414
Fax: 91 364 2504068

This is for your information and necessary action.

Yours faithfully,

(H C Chaudhary, IFS)
Addl. Principal Chief Conservator of Forests (Planning, Development and Legal Matters)
(E-mail: harishcc@yahoo.com)

Memo No. MFG.39/87/NGT (C)/ Vol.-VII/ Dated Shillong, the July, 2019

Copy to:

1. The Principal Secretary to the Government of Meghalaya, Forests and Environment Department, Shillong for information.

Addl. Principal Chief Conservator of Forests
(Planning, Development and Legal Matters)

Sylvan House, Lower Lachumiere
Shillong 793001

Phone: 91 364 2220414
Fax: 91 364 2504068

ANNEXURE R/7

Shyam Century Ferrous Ltd.

Regd. Office.: Vill.:Lumshnong, PO: Khallehriat, Dist. East Jaintia Hills, Meghalaya – 793210, Phone No- 03655-278215/16/18,
Fax : 03655-278217, E-mail ID -investors@shyamcenturyferrous.com, Website – www.shyamcenturyferrous.com
CIN- U27310ML2011PLC008578

Date: 14.08.2019

To
The Hon'ble Chairman
NGT Committee (Committee constituted by the order dated 31.08.2018 of hon'ble NGT)
Shillong, Meghalaya

Sub: Submission of year-wise data regarding power produced and fuel procured

Hon'ble Sir,

Please find enclosed herewith the year-wise details of power produced and fuel procured by us as per Annexure I, Annual report FY 2014-15 to 2018-19 in Annexure II & DPR in Annexure III, as desired by the NGT committee which was communicated to us vide Memo No. MFG.39/87/NGT (C) /Vol.-VII/8, 448-468 dated Shillong, the 8th July,2019 which is self explanatory.

We believe your goodself would find our submission in order.

Thanking you,

For Shyam Century FerrousLtd.

S K Patra
Authorised Signatory

OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FOREST & HOFF
14 AUG 2019
MEGHALAYA, SHILLONG

Date:14.08.2019

Annexure I

1	Name of Plant		SHYAM CENTURY FERROUS LIMITED				
			2018-19	2017-18	2016-17	2015-16	2014-15
2	Producion of Power during the year (In MWH)		34,702	68,898	104,403	55,246	64,117
3	Qty. of coal Procured (In MT)		4,960	13,704	72,086	32,461	43,576
4	Qty. of alternate Fuel Procured (In MT)	Coke Fines/Tamilnadu Charcoal Fines	29	-	-	-	446
5	**Grand Total of 3 & 4 above**		**4,989**	**13,704**	**72,086**	**32,461**	**44,022**
6	Qty. of Power on which transport subsidy Claimed		NA	NA	NA	NA	NA
7	Copy of annual report (Annexure-II)		attached	attached	attached	attached	attached
8	Average Estimated Qty. of Coal and / or alnternate fuel required to produce one KWH of Power		Coal - 0.50-0.70 KG. per KWH Alternate Fuel - 1.00-1.40 KG. per KWH (Coke fines, Tamilnadu Charcoal fines, etc.)				
9	Copy of detailed project report submitted to the banks (Annexure-III)		attached				

ANNEXURE R/8

QUORUM

HON'BLE MR. JUSTICE BROJENDRA PRASAD KATAKEY,
FORMER JUDGE, GAUHATI HIGH COURT, GUWAHATI

PROF. ASHOK K. SINGH, MEMBER
REPRESENTATIVE FROM INDIAN SCHOOL OF MINES, DHANBAD
IIT (ISM), DHANBAD (826004)
(Email id: singhashok0707@gmail.com)

DR. SHANTANU KUMAR DUTTA, ADDITIONAL DIRECTOR
REPRESENTATIVE OF CENTRAL POLLUTION CONTROL BOARD
(Email id: shantanucpcb@gmail.com)

IN THE MATTER OF

Threat to Life Arising Out of Coal Mining in South Garo Hills District

-Vs-

The State of Meghalaya & Ors.
And other connected matters

PRESENT

: **Prof. O. P. Singh,**
Department of Environmental Studies,
North Eastern Hill University
Email id: opsinghnehu@gmail.com

: **Mr. C. P. Marak, IFS,**
Principal Secretary, Government of Meghalaya,
Forest & Environment Department,
& Principal Chief Conservator of Forests & HoFF & Chairman, Meghalaya State Pollution Control Board
Government of Meghalaya
Email id: cpmarak@gmail.com, pccfmegh@gmail.com, megspcb@rediffmail.com

: **Mr. T. Dkhar, IAS**
Commissioner & Secretary, Government of Meghalaya
Mining & Geology Department
Email id: tadkhar.2013@gmail.com

: **Mr. H. Nongpluh, IPS**
Additional Director General of Police
(L & O/ TAP/ SB/ Border)
Home (Police) Department, Government of Meghalaya
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: **Mr. S. K. Agarwal, IFS,**
Additional Director General of Forests (Central)
Ministry of Environment, Forests & Climate Change, Government of India North Eastern Regional Office, Shillong. Email id: ro.nez.shil@gmail.com

: **Mr. R. S. Gill, IFS**
Additional Principal Chief Conservator of Forests
(Social Forestry & Environment)
Forests & Environment Department,
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: **Mr. H.C. Chaudhary, IFS,**
Additional Principal Chief Conservator of Forests, (Planning, Development and Legal Matters), Forests & Environment Department, Government of Meghalaya.
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: **Mr. M. B. K. Reddy, IFS**
Chief Executive Officer, Meghalaya State CAMPA
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: **Mr. K. A. Khieya, IRS**
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: **Mr. Manjunatha C, IFS**
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: **Mr. I. R. Kharkongor, IRS**
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Commissionerate of Customs (Preventive)
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: **Mr. N. Bhattacharjee,** Chairman
State Level Expert Appraisal Committee, Meghalaya
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: **Mr. J. H. Nengnong**
Member Secretary
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Email id: megspcb@rediffmail.com

: **Dr. Z. Changsan**
Regional Director, Central Pollution Control Board,
Regional Directorate North East, Shillong
Email id: zchangsan.cpcb@nic.in

: **Mr. M. S. Lyngdoh,** Director
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: **Dr. A. Warr,** Joint Director
(DHS MI), Meghalaya
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: **Mr. A Ch. Marak,** Director,
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Directorate of School Education and Literacy (DSEL)
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: **Mr. D. Sangma**
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: **Mr. P. M. Sangma**
Deputy Commissioner Transport
Government of Meghalaya

: **Smti. R. Kynjing**
Executive Engineer, Rural Water Supply Division, Jowai
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: **Mr. M. Somorjit Singh**
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: **Dr. H. Tynsong,** Scientist 'D',
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: **Smti. I. Mawlong, MCS**
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: **Mr. K. L. Nonglait, MFS**
Representative of PCCF (CC & R & T)
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: **Dr. G. Ch. Mondal**
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: **Mr. S. E. Kharmawphlang**
Directorate of Mineral Resources
Government of Meghalaya

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Sr. Advocate on Behalf of Star Cement
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: **Smti. N. N. Dutta**
Advocate on behalf of Star Cement
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: **Mr. S. Chowdhury**
Assistant Manager (FSA)
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: **Mr. A. K. Verma,** Authorized Sp. Person
M/s Shree Shakambari Ferro Alloys Pvt Ltd
Email id: montexferro@gmail.com

PROCEEDING NO. 17

RECORD OF THE MINUTES OF SEVENTEENTH SITTING OF THE COMMITTEE CONSTITUTED BY THE HON'BLE NATIONAL GREEN TRIBUNAL UNDER THE CHAIRMANSHIP OF HON'BLE MR. JUSTICE B. P. KATAKEY, FORMER JUDGE, GAUHATI HIGH COURT HELD ON 14th AUGUST, 2019 AT 10.00 A.M IN THE CONFERENCE HALL, O/O PRINCIPAL CHIEF CONSERVATOR OF FORESTS & HOFF, SYLVAN HOUSE, SHILLONG, MEGHALAYA.

At the outset, Mr. C. P. Marak, IFS, Principal Secretary to the Government of Meghalaya, Forest & Environment Department who is also holding charge of the posts of the Principal Chief Conservator of Forests & HoFF, Meghalaya and the Chairman, Meghalaya State Pollution Control

Board welcomed the Hon'ble Chairman & Members of the Committee, Special Invitees, Senior Officials of the State Government, Representatives of the Cement & Thermal Power Plants and other officers present in the meeting..

AGENDA ITEMS FOR DISCUSSION

1. Review of actions taken to comply with directions issued by the Committee in its First Special Sitting held on 12.07.2019.
2. Review of actions taken to comply with directions issued by the Committee in its Sixteenth Sitting held on 22.07.2019 and 23.07.2019.
3. Presentation by scientists from the Council of Scientific and Industrial Research – Central Institute of Mining and Fuel Research (CSIR – CIMFR), Dhanbad on progress made in studies assigned to CSIR-CIMFR on development of protocols for treatment of acid mine drain originating from coal mines and closure of abandoned rat hole coal mines by controlled blasting.
4. Consideration of two similar representations dated 12.07.2019 and dated 11.07.2019 from Mr. Marthon Sangma, Hon'ble Member Legislative Assembly and Mr. Nizamuddin R. Marak respectively regarding use of rack loading infrastructure available at Mendipathar Railway Station for evacuation of coal allowed to be transported by the Hon'ble Supreme Court.
5. Consideration of a representation dated Nil from Mr. Rakbirthson D. Sangma regarding estimate of actual quantity of coal lying in the State of Meghalaya for auctioning in terms of the Hon'ble Supreme Court's final Order and Judgement dated 03.07.2019.
6. Consideration of a proposal to involve Eco – Task Force in bio – restoration of areas affected by coal mining in Meghalaya.
7. Any other matter (s) to be raised with permission of the Chair

AGENDA ITEM NO. 1

1. Mr. T. Dkhar, IAS, Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department states that information/documents sought by the Committee in its First Special Sitting held at Shillong on 12.07.2019 are still being compiled. The same will be submitted to the Committee within a week.

The Committee directs the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department that all the information/documents sought by the Committtee from the Mining and Geology Department in the First Special Sitting held on 12.07.2017 including the video records of all the coal depots where the coal to be handed over to the Coal India Limited is presently lying shall positively be provided to the Committee within one week. As directed by the Committee in the said Special Sitting the videos of the coal depots shall be recorded by joint teams, consisting of representatives from the Mining and Geology Department, Meghalaya State Pollution Control Board and the Coal India Limited.

2. Mr. D. Sangma, MCS, Joint Secretary to the Government of Meghalaya, Transport Department states that an updated Statement in the format provided by the Committee in its First Special Sitting held at Shillong on 12.07.2019 containing details of all those weighbridges which will be available for weighment of coal to be auctioned by the Coal India Limited in compliance of the Hon'ble Supreme Court's Judgment dated 03.07.2019 in Civil Appeal No. 10720 of 2018 along with the geo-coordinates (latitude and longitude) of each of these weighbridges is being prepared. The same will be provided to the Committee within one week.

The Committee directs the Commissioner and Secretary to the Government of Meghalaya, Transport Department that the afore-mentioned information shall positively be provided to the Committee within one week.

3. Mr. H. Nongpluh, IPS, Addl. Director General of Police (L &O/ TAP/ SB/Borders), Government of Meghalaya states that in compliance of the direction issued by the Committee in the First Special Sitting held on 12.07.2019, the Director General of Police, Meghalaya held a meeting with officials of the Mining and Geology Department and the North Eastern Coalfields, Coal India Limited to prepare an Action Plan to ensure that no freshly mined coal is mixed with the assessed coal available at the existing identified depot(s). The Action Plan will be finalised after the Policy for handing over of the coal available at such depots to the Coal India Limited for disposal through e-auction is finalised. The Committee notes the same.

4. The Committee notes that details of the complaints under relevant Section(s) of the Water (Prevention and Control) Act, 1974 and/or the Air (Prevention and Control of Pollution) Act, 1981 against the persons involved in illegal mining, storage and transportation of coal in Meghalaya already filed or proposed to be filed before the concerned competent Courts of Laws is still awaited from the North Eastern Regional Directorate, Central Pollution

Control Board (CPCB). The Committtee therefore, directs the Regional Director, North Eastern Regional Directorate, CPCB to positively provide the said details to the Committee within fifteen days.

5. Mr. Z. Changsan, Regional Director, North Eastern Regional Directorate, CPCB states that decision of the competent authority in the CPCB on advise of this Committee to make available the entire amount of Rs. 100 Crore placed at disposal of the CPCB from amounts available in the Meghalaya Environment Protection and Restoration Fund (MEPRF) in compliance of directions issued by the Hon'ble Supreme Court in para 179 of the Judgment dated 03.07.2019 in the Civil Appeal No. 10720 of 2018 in the matter of State of Meghalaya *versus* All Dimasa Student Union, Dima-Hasao District Committee and Ors. and other connected matters for implementation of the Action Plan prepared by the Committtee for restoration of environment in areas affected by illegal rat hole coal mining in the State to ensure that the amounts available for restoration of Environment in Meghalaya is utilised in a holistic and integrated manner, is still awaited.

The Committee directs Mr. Z. Changsan to obtain a decision of the competent Authority in the CPCB on the above and communicate the same to the Committee within fifteen days.

The Committee further reiterates that in case the aforesaid suggestion of the Committee is not acceptable to the CPCB, the CPCB shall prepare a detailed Action Plan for utilisation of the afore-said amount of Rs. 100 crore and submit the same to the Committee within one month. The Action Plan shall among other contain full details of activities proposed to be undertaken, estimated cost and the agencies responsible for execution and monitoring of each of these activities.

6. The Committee notes that the Addl. Director General (Central), North Eastern Regional Office, Ministry of Environment, Forest and Climate Change (MoEFCC), Government of India (GoI) in a letter dated 08.08.2019 addressed to the Addl. Principal Chief Conservator of Forests (Planning, Development and Legal Matters), Government of Meghalaya has stated that the list of miners, coal dealers/transporters submitted by the Directorate of Mineral Resources, Shillong have been sent to the MoEF&CC, New Delhi to advise the Regional Office, Shillong on the actions to be taken against these persons. He further states that decision of the MoEF&CC, New Delhi is yet to be received by the Regional Office. The Committee takes a copy of the said communication on record.

The Committtee directs the Addl. Director General (Central), North Eastern Regional Office, MoEFCC, GoI to pursue and obtain decision of the concerned competent authority in the MoEFCC, GoI on the above and intimate the same to the Committee within fifteen days.

AGENDA ITEM NO. 2

7. Mr. Z. Changsan, Regional Director, North Eastern Regional Directorate, CPCB states that in compliance of a direction issued by the Hon'ble Supreme Court in para 179 of the Judgment dated 03.07.2019 in the Civil Appeal No. 10720 of 2018 in the matter of State of Meghalaya *versus* All Dimasa Student Union, Dima-Hasao District Committee and Ors. and other connected matters an amount of Rs. 100 Crores has been transferred to the CPCB from the MEPRF. He further states that the said amount has been deposited in a separate account opened by the headquarters of the CPCB at Delhi. The Committee notes the same.

The Committee also notes that the Hon'ble Supreme Court in the said Judgment dated 03.07.2019 has directed that the said amount of Rs. 100 crore shall be utilised only for restoration of the environment in the State of Meghalaya. The Committee therefore is of the view that it may be desirable to transfer the said amount in a separate bank account to be opened in any Nationalised Bank at Shillong.

The Committee, keeping in view the above, advises the CPCB to transfer the said amount in a separate bank account to be opened in any Nationalised Bank at Shillong. The Committee also advises the CPCB to invest the surplus amount which is not likely to be utilised in near future in fixed deposit(s) in Nationalised Bank(s) who offers highest rates of interest.

8. Mr. T. Dkhar, IAS, Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department states that report on a visit undertaken in 2008 by a High Level Delegation headed by the then Deputy Chief Minister to West Virginia, USA for search of appropriate coal mining technology for the State of Meghalaya is presently being examined by the State Government. An appropriate decision on the said Report will be taken by the Government shortly.

The Committee directs the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department to expedite decision on the said Report and communicate the same to the Committee within fifteen days.

The Committee after consultation with the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department directs that to have first-hand

experience of the said technology and to assess feasibility of its adoption in the State, a delegation consisting of the Commissioner and Secretary and/or Secretary to the Government of Meghalaya, Mining and Geology Department; one member of the Committee (*viz.* Dr. Shantanu Kr. Dutta) and Mr. N. Bhattacharjee, Chairman, State Level Expert Appraisal Committee may on 22nd and 23rd August, 2019 visit any of the mines in India where Highwall Mining Technology is presently being deployed and submit a report to the Committee immediately thereafter.

9. Mr. K. A. Khieya, Commissioner Custom (Preventive), Office of the Commissioner of Customs, Shillong states that month-wise details (*viz.* name & full address) of the exporter for each consignment of the coal originated from the Meghalaya allowed to be exported to the Bangladesh from each of the seven Land Custom Stations in Meghalaya since the ban on rat hole coal mining in Meghalaya was imposed by the Hon'ble NGT in April, 2014, as sought by the Committee in the first day of its Sixteenth Sitting held on 22.07.2019, is still being compiled. He therefore requested the Committee to provide atleast one month additional time to place the said information before the Committtee. The Committee accepts the said request and directs Mr. K.A. Khieya to submit the said information to the Committee within one month positively. The Committee further directs that the information in respect of Gasuapara Land Custom Station for the month of May 2019 along with a copy of supporting documents shall positively be provided to the Committee within seven days.

10. Mr. T. Dkhar, IAS, Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department states that month-wise details (*viz.* name & full address) of the exporter for each consignment of the coal originated from the Meghalaya allowed to be exported to the Bangladesh from each of the seven Land Custom Stations in Meghalaya since the ban on rat hole coal mining in Meghalaya was imposed by the Hon'ble NGT in April, 2014, as sought by the Committee in the first day of its Sixteenth Sitting held on 22.07.2019, is still being compiled. He therefore requested the Committee to provide atleast one month additional time to place the said information before the Committtee. The Committee accepts the said request and directs the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department to submit the said information to the Committee within one month positively. The Committee further directs that the information in respect of Gasuapara Land Custom Station for the month of May 2019 along with a copy of supporting documents shall positively be provided to the Committee within seven days.

11. Mr. T. Dkhar, IAS, Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department states that an amount of Rs. 16,50,000/- has already been sanctioned on 01.08.2019 for payment of *ex-gratia* @ Rs. 1,00,000 to the next of kin of each of 14 (fourteen) coal mine workers who died while working in an illegal coal mine in South Garo Hills District in 2012 and @ Rs. 50,000 to 5 (five) coal mine workers who were injured in the said accident. He further states that said amount will be disbursed to the concerned beneficiary once they approach the Deputy Commissioner, South Garo Hills District along with requisite documents duly verified by the concerned competent authority. The Deputy Commissioner, South Garo Hills District by a WT Message dated 19.07.2019 has already requested the Deputy Commissioners of all concerned districts and Officer in-charge of the concerned Police Stations in Assam having jurisdiction over the last known place of residence of these beneficiaries to inform the beneficiaries to approach him along with duly verified documents to receive the compensation.

The Committee directs the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department to expedite disbursement of the aforesaid compensation to the concerned beneficiaries and submit a report to the Committee within one month.

12. Mr. T. Dkhar, IAS, Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department states that in response to a notice inviting applications for payment of *ex-gratia* published in local Dailies in compliance of a direction issued by this Committee, he received 11 (eleven) claims. These claims have been forwarded to Deputy Commissioners of the concerned districts (*viz.* East Jaintia Hills and South Garo Hills Districts) for verification. Report from Deputy Commissioners of both these districts is still awaited.

The Committee directs the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department to expedite verification of these claims and disbursement of *ex-gratia* to the genuine/eligible claimants and submit a report to the Committee within one month.

13. Mr. T. Dkhar, IAS, Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department states that an order has already been placed by the Deputy Commissioner, East Jaintia Hills District to purchase six vehicles, each mounted with a water tanker, from an amount of Rs. 96.97 lakh released in his favour from the MEPRF, as has been approved by the Hon'ble National Green Tribunal (NGT) by its order dated 11.04.2019. So far two such vehicles have already been delivered. Smti. R. Kynjing,

Executive Engineer, Rural Water Supply Division, Jowai states that so far these vehicles have not been used for supply of potable water to villages affected by acid mine drain.

The Committee directs the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department to expedite purchase and use of these vehicles, obtain from the Deputy Commissioner, East Jaintia Hills District a Utilisation Certificate (UC) for the said amount along with a report on use of these vehicles and provide a copy thereof to the Committee within fifteen days.

14. Mr. T. Dkhar, IAS, Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department states that the Government has taken up steps to introduce new transportation challans with security features lime watermark, hologram and QR code to prevent misuse of challans.

The Committee notes that in compliance of directions issued by the Hon'ble NGT by Order dated 11.04.2019, the Committee in its twelfth Sitting held on 25.04.2019 issued several directions to ensure detection and prevention of illegal mining and transportation of the coal in Meghalaya. The Committee further notes that keeping in view that majority of these directions recorded in para (5) of the Record of Minutes of the said Sitting have not been implemented so far, the Committee in its sixteenth sitting held on 22.07.2019 had directed the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department to submit a report on status of implementation of each of these directions in this Sitting. The said report is still awaited.

The Committee therefore directs the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department to expedite implementation of each of these directions and submit a report on status of implementation of each of these directions to the Committee within fifteen days positively.

15. Mr. T. Dkhar, IAS, Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department states that an order for supply and installation of Digital Display Boards at Headquarters of all the coal mining affected districts and sub-divisions in the State has been issued. Installation of these Boards is likely to be completed on 15.09.2019.

The Committee directs the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department to complete installation and display thereon the quality of ten worst polluted rivers and streams, of these Boards at headquarters of all coal mining affected districts and sub-divisions in State, at the earliest and to submit a report to the Committee within one month.

16. The Director of Mineral Resources, Government of Meghalaya states that contrary to what has been reported in records of minutes of proceedings of first day of Sixteenth Sitting of the Committee held at Shillong on 22.07.2019, out of the total ten (10) bore holes required for preparation of a Geological Report and Feasibility Report for 1 sq. km. area in Khliehriat-Sutnga area in East Jaintia Hills District, so far drilling of four (4) bore holes has only been initiated. Out of these, drilling of three (3) bore holes had to be abandoned mid-way due to jamming of drilling bits. Drilling of one bore hole, which has been completed, did not detect any coal seam. He further states that services of Mineral Exploration Corporation Limited (MeCL) are being availed to undertake drilling of requisite number of bore holes in the said area.

The Committee notes with concern the long delay in drilling of requisite number of bore-holes in the said area and directs the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department to expedite drilling of bore-holes and preparation of Geological Report, Feasibility Report and Environment Report for the said area. A report on updated current status of preparation of these Reports along with a definite timeframe for completion thereof, shall be intimated to the Committtee within fifteen days.

17. Prof. O.P. Singh, Department of Environmental Studies, North Eastern Hill University (NEHU) places before the Committee a status report of a project on neutralization of acid mine drain (AMD) contaminated water of some selected streams in coal mining areas of Meghalaya by constructing open limestone channel (OLC) using locally available limestone and intermittent wetlands with local aquatic plants, being undertaken in East Jaintia Hills district under his guidance. The Committee takes the same on record.

18. The Committee in first day of its Sixteenth Sitting held at Shillong on 22.07.2019 requested Prof. O.P. Singh to prepare a detailed protocol and year-wise cost –estimates for neutralization of acid mine drain (AMD) contaminated water of some selected streams in coal mining areas of Meghalaya by constructing open limestone channel (OLC) using locally available limestone and intermittent wetlands with local aquatic plants. It was also requested that the protocol and the cost-estimates may specifically provide for use of limestone with low sulphur content and expenditure to be incurred on periodic rejuvenation of limestone beds. Prof. O.P. Singh states that preparation of the said protocol is presently under progress. The Committee therefore, requests Prof. O.P. Singh to expedite preparation of the said protocol and submit a copy thereof to the Committee within fifteen days.

19. Dr. Manjunatha C., IFS, Secretary to the Government of Meghalaya, Forests and Environment Department states that decision on a proposal submitted by the Principal Chief Conservator of Forests & HoFF for payment of sitting fee to official members of the Committtee and various experts invited to attend meetings of the Committee is still under consideration of the State Government.

The Committee directs the Principal Secretary to the Government of Meghalaya, Forests and Environment Department to expedite decision on the said proposal and intimate the same to the Committee within one week.

20. Dr. Manjunatha C., IFS, Secretary to the Government of Meghalaya, Forests and Environment Department states that a proposal submitted by the Principal Chief Conservator of Forests & HoFF to enhance the rates of monthly honorarium payable to the Chairman of this Committee has been forwarded to the Mining and Geology Department for appropriate decision.

The Committee directs the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department to expedite decision on the said proposal and intimate the same to the Committee within one week.

21. The Committee during first day of its Sixteenth Sitting held on 22.07.2019 directed the Chairman, MSPCB to submit details of the regulatory regime presently in force to govern establishment and operation of coal depots in the State along with a proposal to fill gaps, if any, in such regime to ensure prevention and control of generation of acid mine drain (AMD) from such depots. The same is still awaited. The Committee therefore directs the Chairman, MSPCB to provide the above information to the Committee positively within one week.

22. The Committee in first day of its Sixteenth Sitting held on 22.07.2019 noted that establishment and operation of a coal mine in Meghalaya requires prior consent from the MSPCB under Section 25 of Water (Prevention and Control of Pollution) Act, 1974. The Committee also noted that it is an admitted position that all coal mines in the State had been established and operated without obtaining prior consent from the Board. The owners of all these mines are therefore, liable to be punished under Section 44 of the Water (Prevention and Control of Pollution) Act, 1974 for contravention of section 24 of the said Act, without a need to establish before the concerned Court of Law that establishment and operation of such mines have caused pollution of one or more water streams.

Keeping in view the above, the Committee in the said sitting directed the Chairman, MSPCB to initiate necessary penal actions in accordance with all relevant provisions of the Water (Prevention and Control of Pollution) Act, 1974 and all other Environmental Acts, rules and regulation against the persons involved in illegal mining of coal in the State. In response the Member Secretary, in a communication dated 13.08.2019 addressed to the Addl. Principal Chief Conservator of Forests (Planning, Development and Legal Matters), Government of Meghalaya stated that the MSPCB has sought advice of its Standing Legal Counsel on the matter. In response the Standing Legal Counsel gave his opinions as follows:-

(i) That a prior general public notice is necessary to be published in leading local news paper barring all mining operations, mining activities, coal depots, establishments, coal transportation, etc., from carrying out any activity without prior consent from the board. Failing which, legal actions may be followed.

(ii) That the Directorate of Mineral Resources, Forest Department, District Administration, etc., may immediately stop issuing challans, clearance, grating any permission or licence to any mine owner or miner or trader without prior consent from the Board.

(iii) That the Board on being approached for availing consent by the occupier will ensure by visiting the identified site/location/ETPs and will inspect it in the presence of the Stakeholders tested & mapped and further assure that no effluent or pollutant is allowed to leak in to the river or stream or land before granting consent.

(iv) That unless the aforesaid are initiated afresh and complied by all the stakeholders before granting consent, it would be too huge a task to identify any coal miner, or mine owner or trader spread out across the interiors of the State.

The Committee after examination of the matter is of the view that the name and address of the mine owners have already been provided to the MSPCB by the Directorate of Mineral Resources. It is also an admitted position that all coal mines in the State have been established and operated without obtaining prior consent from the Board. The Committee is also of the view that every power conferred on any person or any authority under any statute always cast a duty on such person or authority to exercise such power to achieve the intent and purpose under which such power has been conferred on such person or authority. The MSPCB is thus duty bound to exercise all the Powers conferred on it under relevant sections, including section 44 of the Water (Prevention and Control of

Pollution) Act, 1974 to initiate proceedings against all those persons who have undertaken mining of coal in contravention of the provisions of section 21 of the said Act.

The Committee therefore reiterates its earlier direction to the effect that the MSPCB shall initiate necessary penal actions in accordance with all relevant provisions of the Water (Prevention and Control of Pollution) Act, 1974 and all other environmental Acts, rules and regulation against the persons involved in illegal mining of coal in the State and submit a report to this Committee within one month.

23. The Committee after perusal of certain documents placed before it by the Member-Secretary, MSPCB in first day of its Sixteenth Sitting held at Shillong on 22.07.29019 observed that actions are proposed to be taken by the MSPCB against only a limited number of persons involved in illegal mining, storage and transportation of coal resulting in pollution of rivers, streams and other water bodies in the State. The Committee was of the view that the mining, storage and transportation of about 12 million metric tonnes of coal permitted to be transported by the Hon'ble Supreme Court and the Hon'ble NGT from time to time after ban on illegal rat hole coal mining in the State was imposed by the NGT in April, 2014 could not have been undertaken by these limited number of persons.

The Committee keeping in view the above, in the said Sitting directed the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department to furnish to the MSPCB and to this Committee a district-wise list of all persons involved in mining, storage and transportation of coal permitted to be transported by the Hon'ble Supreme Court and the Hon'ble NGT after the ban on illegal rat-hole coal mining was imposed by the Hon'ble NGT in April 2014. The said list is still awaited.

The Committee therefore, reiterates its direction to the effect that the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department shall positively furnish to the MSPCB and to this Committee within one week a district-wise list of all persons involved in mining, storage and transportation of coal permitted to be transported by the Hon'ble Supreme Court and the Hon'ble NGT after the ban on illegal rat-hole coal mining was imposed by the Hon'ble NGT in April 2014.

24. The Committee keeping in view that use of high sulphur local coal by Thermal Power Plants (TPPs) in the State may cause environmental pollution, in the first day of its Sixteenth Sitting held at Shillong on 22.07.2019 directed the Addl. Director General (Central), North Eastern Regional Office, MoEFCC, GoI to request the MoEFCC, GoI and the

State Environment Impact Assessment Authority (SEIAA), Meghalaya to stipulate an appropriate additional condition in Environment Clearances (ECs) granted to all the TPPs in the State to prohibit use of high sulphur local coal by these TPPs.

Mr. S.K. Agarwal, Addl. Director General of Forests (Central), North Eastern Regional Office, MoEFCC, GoI in a communication dated 08.08.2019 addressed to the Member-Secretary of this Committee stated that the Regional Office vide letters dated 06.08.2019 communicated a copy of the minutes of the said Sitting to the Member –Secretary, Impact Assessment –I (Thermal) Division in the MoEFCC, GoI and the Member –Secretary, SEIAA, Meghalaya with a request to impose an appropriate additional condition in the EC of TPPs operating in the State. The Committee takes a copy of the said letter on record.

It has also been stated in the said letter that the SEIAA, Meghalaya vide letter dated 29.07.2019 has already stipulated an additional condition to the effect that *"the PP shall not use coal in Thermal Power Plant procured from the local source, since illegal activities of coal mining is rampant in the State."* in the Environmental Clearance (EC) to the Meghalaya power Limited

The Committee notes that in case of the Meghalaya Power Limited a condition to the effect *"In case source of fuel supply is changed at a later stage (now proposed on imported coal from Indonesia the project proponent shall intimate the Ministry well in advance along with necessary requisite documents for its concurrence for allowing the change., In such a case the necessity for re-conducting public hearing may be decided by the Ministry in consultation with the Expert Appraisal Committee"* has already been stipulate in the EC to the said TPP. Stipulation of an additional condition in the EC to the said TPP by the SEIAA, Meghalaya by the said letter dated 29.07.2019 will therefore not serve purpose. In fact the Committee in its several previous meetings has directed the North Eastern Regional Office of the MoEFCC, GoI to take necessary actions to stipulate a similar condition in the ECs granted to other TPPs in the State. Instead of doing so, an additional condition in ECs granted to other TPPs, the SEIAA Meghalaya has stipulated an additional condition to EC granted to the Meghalaya Power Limited, which already had a condition to prohibit use of high sulphur local coal.

The Committee therefore, reiterates its earlier direction to the effect that the Addl. Director General of Forests (Central), North Eastern Regional Office, MoEFCC, GoI shall take immediate necessary actions to get an additional condition stipulated in ECs granted to all TPPs in the State to prohibit use of high sulphur local coal by all such TPPs and submit a report to the Committee within one month.

25. Mr. S.K. Agarwal, Addl. Director General of Forests (Central), North Eastern Regional Office, MoEFCC, GoI states that decision of the MoEFCC, GOI on the proceedings initiated against the Meghalaya Power Limited for use of locally sourced coal in violation of a condition stipulated in the EC to the said TPP is still awaited.

The Committee notes with great concern long delay in taking a decision in the matter and reiterates its earlier direction to the effect that the Addl. Director General in-charge North Eastern Regional Office of the MoEFCC, GoI shall ensure that appropriate punitive measure against the said TPP for violation of a condition stipulated in the EC shall be taken at the earliest and submit a report to the Committee within one month.

26. Smt. I. Mawlong, Joint Secretary to the Government of Meghalaya, Revenue and Disaster Management Department states that the State Government after examination of a draft Comprehensive Disaster Management Plan, both **"on-site"** and **"off-site"** received from the Deputy Commissioner, East Jaintia Hills District observed that the same is not up to the mark and needs further improvements. The State Government has therefore, recently requested the Deputy Commissioner, East Jaintia Hills District to submit a revised draft Plan. On receipt, the same will be placed before the State Disaster Management Authority for consideration and approval.

The Committee directs the Commissioner and Secretary to the Government of Meghalaya, Revenue and Disaster Management Department to take all possible measures to prepare an acceptable plan, get the same approved by the competent authority and provide a copy thereof duly approved by the competent authority to this Committee within fifteen days.

27. Mr. T. Dkhar, IAS, Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department states that necessary directions have been issued to the officers in the Mining and Geology Department and the District Administration who have been authorised under Section 22 of the Mines and Minerals (Development and Regulation) Act, 1957 to file complaint against the persons involved in illegal raising and transportation of coal to exercise power vested on them. He further states that till date no enquiry has been initiated by any of these Authorised Officers in the Mining and Geology Department and the District Administration to file complaint before the concerned competent Court of Law for violation of the Mines and Minerals (Development and Regulation) Act, 1957.

The Committee notes the above with great concern and directs the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department to ensure that all such officers exercise powers conferred on them to enquire into and file complaint against the persons involved in illegal raising and transportation of coal in the State. A monthly report on the enquiries initiated and complaints filed by such officers shall be submitted to this Committee every month. First such report shall be submitted to this Committee on or before 10.09.2019.

28. Mr. H. Nongpluh, IPS, Addl. Director General of Police (L &O/ TAP/ SB/Borders), Government of Meghalaya states that in the Nangal Bibra P.S. case No. 10 (03) of 2013, Post-Mortem Report has already been received from the District Medical and Health Officer, Williamnagar. Charge-sheet in the said case, which was pending so far due to non-receipt of the said post-mortem report, will be filed before the concerned Court of Law within one week. The Committee directs the Director General of Police, Meghalaya to submit a report on the same to the Committee within fifteen days.

29. Mr. H. Nongpluh, IPS, Addl. Director General of Police (L &O/ TAP/ SB/Borders), Government of Meghalaya states that in compliance of directions issued by the Committee in the first day of its Sixteenth Sitting held on 22.07.2019, Police Check Posts have already been set up at Dongkiingding in West Khasi Hills District and Nartiang in West Jaintia Hills District to effectively avert illegal transportation of coal by using vulnerable internal routes passing through these areas. The Committee notes the same.

30. The Committee in first day of its Sixteenth Sitting held on 22.07.2019 directed Mr. M.B.K. Reddy, IFS, Chief Executive Officer, the Meghalaya State Compensatory Afforestation Fund Management and Planning Authority (CAMPA) to place before the Committee a plan formulated by the Meghalaya State CAMPA to obtain approval of the competent authorities for execution of various activities from the CAMPA. He was also directed to the effect that details of activities to be undertaken in areas affected by coal mining shall separately be provided to the Committee. The same are still awaited.

The Committee therefore reiterates its earlier direction to the effect that Mr. M.B.K. Reddy, Chief Executive Officer, Meghalaya State CAMPA shall provide a copy of the said Plan to the Committee within one week. Details of activities to be undertaken in areas affected by the coal mining shall also be provided to the Committee separately within one week.

31. Mr. T. Dkhar, IAS, Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department states that the Government of Meghalaya vide Notification dated 13.03.2019 has notified 'Authorised Officers' to seize mineral raised or transported illegally along with the vehicles. He further states that the officers authorised by above notification shall also exercise power conferred under sub-section (5) of section 21 of Mines and Minerals (Development and Regulation) Act, 1957 to recover mineral raised unlawfully from such person or where such mineral has already been disposed to recover price thereof.

He further states that the Chief Secretary, Meghalaya convened a meeting on 07.01.2019 in connection with illegal mining and transportation of coal and a direction was issued to form a joint operation team of police, mining and transport Departments under the supervision of respective Deputy Commissioner/Superintendent of Police to seize coal and machineries/equipment in each mining districts of the State. Deputy Commissioner from time to time to have deputed Magistrate and Executive Magistrate, and police to conduct checking in mines to seize mineral, tools and vehicles used in illegal coal mining. The authorised officers under Section 21 and section 22 of the Mines and Minerals (Development and Regulation) Act, 1957 are enforcing the provisions of the Act.

The Committee directs the Commissioner and Secretary to the Government of Meghalaya to place before the Committee a copy of notification/communication wherein it has been stated that the officers authorised by the notification dated 13.03.2019 shall also exercise power conferred under sub-section (5) of section 21 of Mines and Minerals (Development and Regulation) Act, 1957 to recover mineral raised unlawfully or where such mineral has already been disposed to recover price thereof. The Committee further directs that the district-wise details of minerals or price thereof recovered by such Authorised Officers and the mineral, tools, and vehicles seized by the Joint Operation Teams shall also be placed before the Committee within one month.

32. Mr. T. Dkhar, IAS, Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department states that the State Government has initiated measures to frame Rules under Section 23 C of the Mines and Minerals (Development and Regulation) Act, 1957 for preventing illegal mining, transportation and storage of minerals and for the purposes connected therewith. He further states that these draft rules are yet to be placed before the Cabinet for approval.

The Committee reiterates its earlier direction to the effect that the Commissioner and Secretary to the Government of Meghalaya, Mining & Geology Department shall complete all necessary procedural requirements and notify these rules within one month. A copy of a Gazette Notification containing these rules shall be provided to the Committee within one month.

33. Mr. Z. Changsan, Regional Director, North Eastern Regional Directorate, CPCB states that he has received a communication from the Mining and Geology Department, Government of Meghalaya to the effect that Dr. Manjunatha C., IFS, Secretary to be Government of Meghalaya, Mining and Geology Department has been nominated to be a member of the Sub-Committee to be headed by Dr. Shantanu Kumar Dutta, Addl. Director, North Eastern Regional Directorate of the CPCB to scrutinise the proposal involving use of new technologies for restoration of environment in general and quality of water in particular, in areas affected by coal mining in Meghalaya.

The Committee directs the Principal Secretary to the Government of Meghalaya, Forest & Environment Department; the Chairman, Meghalaya State pollution Control Board and the Addl. Director General of Forests (Central), North Eastern Regional Office of the MoEFCC, GoI to nominate their representative to the said Sub-Committee within one week. The Committee further directs that on receipt of the nomination from all concerned, the Regional Director, North Eastern Regional Directorate, CPCB shall issue a formal notification to constitute the Sub-Committee. The notification shall clearly state the Terms of Reference (ToR) of the Sub-Committee. The representative of the Meghalaya State Pollution Control Board shall be the Member Secretary of the said Sub – Committee who shall from time to time issue notification for holding the meeting of the said Sub – Committee.

The Committee, in partial modification of its earlier directions, directs that recommendation of the Sub-Committee shall be placed before the Committee for its examination and approval.

34. Mr. M. Somorjit Singh, Scientist, North Eastern Space Application Centre (NESAC), Umiam provides a copy of the final draft of a report on a study assigned to NESAC to prepare geospatial inputs for planning and restoration of areas affected by coal mining in East and West Jaintia Hills districts in Meghalaya to the representatives of the CPCB, Meghalaya state Pollution Control Board (MSPCB), Forests and Environment Department and Mining and Geology Department and requests that the comments, if any, on the said report may

be provided to the NESAC within fifteen days, so that the same may be incorporated in the report before the same is finalised.

The Committee directs the Principal Secretary to the Government of Meghalaya, Forests and Environment Department; the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department; the Chairman, MSPCB and the Regional Director, North Eastern Regional Directorate, CPCB to examine the said draft report and communicate their comments, if any, on the report to the NESAC within fifteen days. The Committee also directs the NESAC to finalise the report and provide a copy thereof to the Committee within three weeks, The Committee further directs the NESAC to expedite preparation of similar reports for the remaining coal bearing districts in the State and submit a copy thereof to the Committee within one month.

The Committee also decided that decision of a proposal of the NESAC to undertake similar land-use Land –cover analysis of the areas having coal dumps/depots for the period immediately before the ban on coal mining was imposed by the Hon'ble NGT in April 2014 and once in a year thereafter (*i.e.* 2014, 2015, 2016, 2017 and 2019) at an estimated outlay of Rs. 24, 35, 500/- (rupees twenty four lakh thirty five thousand five hundred) only to ascertain that coal stated to be existing at these dumps/depots was continuously existing at each such dump/depot since ban on rat hole coal mining was imposed by the Hon'ble NGT in April, 2014 will be taken after the receipt of a copy of the draft policy being formulated by the Mining and geology Department, Government of Meghalaya for handing over and transportation of coal permitted to be transported by the Hon'ble Supreme, is received by the Committee.

35. The Committee directs the Commissioner and Secretary to Government of Meghalaya, Mining and Geology Department to submit monthly reports on safety measures including fencing of the abandoned and working coal pits as per the Coal Mines Regulations, 2017 and Mines and Minerals (Development and Regulation) Act, 1957 and all other applicable laws undertaken by the Mining & Geology Department, Government of Meghalaya in association with the Deputy Commissioners of the respective districts to prevent human and animal deaths due to accidental falling in unguarded coal mining pits/shafts. The first such report for the month of August 2019 shall be submitted to the Committee on or before 10.09.2019.

36. Mr. T. Dkhar, IAS, Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department states that a Policy for transportation and handing over of the coal available at various Depots in the State to the Coal India Limited for its disposal

through e-auction will shortly be placed before the Cabinet for approval. The Policy as approved by the Cabinet will be provided to the Committee.

The Committees directs the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department that the policy as approved by the Cabinet shall be placed before the Committee at the earliest. The Committee further directs that the Policy as approved by the Cabinet will be examined by the Committee it in its Second Special Sitting to be held at Guwahati on 07.09.2019.

37. Dr. A. Saraf, learned Senior Advocate along with Smti. N.N. Dutta, learned Advocate appears before the Committee on behalf of **State Cement Limited.** Mr. Pradeep Purohit, Vice President, Star Cement Limited is also present during the Sitting. Addl. Principal Chief Conservator of Forests (Planning, Development and Legal Matters), Government of Meghalaya places before the Committee documents relating to two cement plants (*viz.* Star Cement Limited and Star Cement Meghalaya Limited) and one Thermal Power Plants (*viz.* Meghalaya Power Limited) of Star Cement Limited received by him vide three separate communications, each dated 13.08.2019. The Committees takes these documents on record.

As per these documents, year wise details of clinker (MT)/power (kwh) produced and coal procured by each of these plants ,since the illegal rat hole coal mining was banned by the Hon'ble NGT in April 2014 (*viz,* 2014-15 to 2018-19), are as below:

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Star Cement Limited	Clinker produced (MT)	3,30,010	4,92,055	5,67,241	5,15,350	6,00,025	25,04,681
	Coal procured (MT)	13,417	47,628	10,192	25,267	10,989	1,07,493
Star Cement Meghalaya Limited	Clinker produced (MT)	15,49,349	16,29,025	15,79,345	15,41,945	14,36,600	77,36,264
	Coal procured (MT)	58,448	1,48,954	9,775	67,624	84,188	3,68,989
Meghalaya Power Limited	Power Produced (Million kwh)	167.923	183.114	201.624	190.059	170.116	912.836
	Coal procured (MT)	25,182	68,092	41,863	36,129	18,024	1,89,290

It has also been stated in these documents that these plants also purchased alternate fuels such as Mu Slate, Petcoke and Saw dust. Year-wise details quantity of alternate fuels stated to be used by each of these plants is as below:

(Metric Tonne)

Plant	Nature of Alternate Fuel	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Star Cement Limited	Mu Slate	50,042	91,556	82,969	1,92,859	1,01,129	**5,18,555**
Star Cement Meghalaya Limited	Mu Slate/ Pet Coke/ Saw Dust	1,87,631	3,01,027	2,03,188	4,45,209	1,86,032	**13,23,087**
Meghalaya Power Limited	Mu Slate	1,06,243	1,39,303	1,73,348	2,87,638	1,58,652	**8,65,184**

It has also been stated in these communications that average estimated requirement of coal and alternate fuel for production of clinker by these plants is 9% - 14% and 25% - 35% respectively. Similarly, it has also been stated in these communications that average estimated requirement of coal and alternate fuel for production of one kwh of power by the said Thermal Power Plant is 0.45 – 0.65 kg per kwh and 1.20 – 1.60 kg per kwh.

The Committee after examination of the Techno-Economic Feasibility Report of the Modernisation & Expansion of the then existing plant of the Cement Manufacturing Company Limited (now Stat Cement Limited) from 1800 TPD to 2400 TPD clinker and a similar report of 5300 TPD clinkerization plant (now State Cement Meghalaya Limited), both prepared by Holtec Consulting Private Limited, a copy of the which was provided to the Committee during the meeting by Mr. Pradeep Vyas, Vice Chairman, Star Cement Limited, the Committtee observes that both these plants have been designed to use 100% Meghalaya coal available locally from areas within the distance of 50 kms. Nowhere in these reports it is stated that any of these plants can be operated by any alternate fuel other than coal.

As per these reports, net calorific value of the local coal to be used in these clinker plants is 5,800 Kcal/kg. It has also been stated in these reports that specific heat consumption of these plants is 740 Kcal per kg of clinker. The average estimated requirement of coal as per these information given in these reports is 12.75 %. Keeping in view that the project proponent in

their own communication has stated that estimated requirement of coal for these plants is upto 14 % and both these plants are more than 10 years old, the Committee is of the view that actual requirement of coal for production of clinker by both these plants is atleast 14 %.

The Committee after examination of the Techno-Economic Feasibility Report of the Meghalaya Power Limited prepared jointly by Technical Consultant – Cethar Consulting Engineers (P) Ltd., Chennai and Financial Consultant- KBG Consultants Pvt. Ltd., Kolkata, a copy of the which was provided to the Committee during the meeting by Mr. Pradeep Vyas, Vice Chairman, Star Cement Limited, the Committtee observes that the said plant was designed to use coal sourced from nearby coal mines at Bapung and Khliehriat, Jaintia Hills, in Meghalaya & captive mines, Meghalaya. Requirement of the locally sourced Meghalaya coal at 100 % capacity for the said 43 MW TPP, as per the said report, is 720 MT per day. The specific fuel requirement for the said TPP, as per the information given in the said plant is therefore 0.70 kg/ kwh. Nowhere, in the said report it has been stated that it will be feasible to run the plant by using any alternate fuel other than coal.

Keeping in view the non-availability of a legal source of the local coal, Environmental Clearance (EC) to the said TPP was accorded subject to among others a condition that *"In case source of fuel supply is changed at a later stage (now proposed on imported coal from Indonesia the project proponent shall intimate the Ministry well in advance along with necessary requisite documents for its concurrence for allowing the change., In such a case the necessity for re-conducting public hearing may be decided by the Ministry in consultation with the Expert Appraisal Committee"*. The North Eastern Regional Office of the MoEFCC, GoI during routine monitoring of conditions stipulated in EC to the said TPP has observed that in contravention of the said condition, the plant has been operated by using locally sourced coal. For the said violation, the North Eastern Regional Office has requested the MoEFCC, GoI to initiate penal measures in accordance with the provisions of the Environment (Protection) Act, 1986 against the said TPP. In pursuance, a show cause notice has already been issued to the said TPP by the MoEFCC, GoI.

In the information provided by Mr. Pradeep Vyas, Vice-President, Star Cement Limited it has been stated that during the last five years Star Cement has procured 6,65,772 metric tonnes of coal and 27,06,862 metric tonne of alternate fuel. As per these information two of these plants (viz. Star Cement Limited and Meghalaya Power Limited) used only one type of alternate fuel (*viz.* Mu Slate). As per these information, one of these plants (*viz.* Star Cement Meghalaya Limited), apart from the Mu Slate, used pet coke and saw dust have also been used as alternate fuel.

Use of alternate fuel, in place of coal in these plants, which have been designed to use coal as an exclusive fuel, requires major modification/alteration in their design and operation. Nothing was placed before the Committee to the effect that design of these plants have been altered/modified to enable them to utilise fuel such as Mu slate having very low calorific value of about 1200 Kcal/ kg in place of the high calorific value local Meghalaya coal of about 5800 Kcal/kg calorific value. During the year 2016-17 as per the information provided Mr. Pradeep Vyas, the Star Cement Meghalaya Limited was operated by using 9,775 MT coal and 2,03,188 MT of alternate fuel. The Committtee is of the view that even with modifications, a clinker plant cannot attain the requisite kiln temperature with such a low calorie fuel mix.

The Committee also observes that paragraph 2 of the Environment Impact Assessment (EIA) Notification issued by the MOEFCC, GoI vide S.O. 1533 dated 16.09.2006 mandates prior EC in the cases involving change in product mix. Mr. Pradeep Vyas, Vice President, Star Cement Limited admits that no such EC has been obtained for any of these plants. Mr. H. Tynsong, Scientist D, North Eastern Regional Office of the MoEFCC, GoI draws attention of the Committee to specific condition no. (xi) (*viz. efforts shall be made to use low –grade lime, more fly ash and solid waste in cement manufacturing*) and no. (xii) (*viz. an effort shall be made to use of high calorific hazardous waste in the cement kiln and necessary provision shall be made accordingly*) stipulated in EC to Star Cement Meghalaya Ltd. issued by the MoEFCC, GoI vide letter dated 28.10.2009 and states that these conditions specifically provides for use of alternate fuel. He further states that keeping in the above, use of alternate fuel in place of coal by the said plant does not requires prior EC. The Committee after examination of six-monthly self-compliance reports to said EC, a copy of which is available on website of the Star Cement Limited, observes that in respect of the afore-mentioned condition no. (xi) it has been reported that *"SMCL is a clinkerization unit, no fly ash is used in the unit. The generated solid waste from the pollution control equipment has been recycled and re-used in the process and has been used for clinker manufacturing. Amount 8-10 % of low grade lime available in the mine has been used in the process"*. Similarly, in respect of the afore-mentioned specific condition no. (xii) it has been reported that *"Provision already made to use of high calorific waste i.e. waste oil in the kiln. The tank capacity is 1000 litres. The used oil disposal process along with photograph has been submitted along with CREP in MoEF&CC, Shillong & New Delhi."* Use of any alternate fuel, as is being claimed by Mr. Pradeep Vyas, Vice President, Star Cement Limited, has not been reported anywhere in these self-compliance report. Even for the used oil, merely making a provision for its use and not any actual use has been reported.

Apart from the revised EC, change in fuel for a plant also requires prior No objection Certificate approval of the MSPCB. The Member- Secretary, MSPCB places before the Committee a letter dated 24.09.2017 wherein the MSPCB communicated its no-objection certificate to M/s. Star Cement Meghalaya Limited for use of Petroleum Coke in its cement plant subject to conditions stipulated in the said letter. However, use of Petroleum Coke by the said Cement Plant is not reported in the Six Monthly self-compliance reports in respect of the said plant for the period after 24.09.2017.

The mining/ winning/ extraction of Mu slate claimed to be used by these plants requires prior mining lease. It also requires payment of royalty and other taxes to the State Government. Nothing is placed before the Committtee to indicate that any mining lease has been granted in the State for mining of Mu slate and the Mu slate, if any, used by these plants has been sourced from an area having valid mining] lease after payment of requisite royalty and other taxes payable to the State Government. Subject to confirmation within one week by the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department, committee is of the view that State of Meghalaya neither has a valid mining lease for Mu slate nor any royalty has so far been realised by the State on slate used by any of the cement plants or TPPs in the State.

Keeping in view the above, the Committee prima facie is of the view that the gap in coal required to produce reported quantity of clinker and power by the afore-mentioned plants of the Star Cements Limited in all probability has been met by illegally sourced local coal. Even if a part of it has been met by any alternate fuel, the same has been done in violation of the environmental and mining laws and also without payment of the requisite royalty and other taxes to the State Government.

Keeping in view the above, the Committee is of the view that neither it is technically feasible, nor it is legally possible to replace coal by alternate fuel by any of these cement and power plants

Year-wise details of clinker/power produced, coal required to produce reported quantity of clinker/power produced (@ 14% for clinker and 0.70 kg of coal per kwh of power produced) and gap in coal requirement which has in all probability been met from illegally sourced local coal in respect of each of the afore-mentioned three plants of the Star Cement Limited, since the ban on illegal rat-hole coal mining was imposed by the Hon'ble NGT in April 2014, are as below:

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	

1	2	3	4	5	6	7	8
Star Cement Limited	Clinker produced (MT)	3,30,010	4,92,055	5,67,241	5,15,350	6,00,025	**25,04,681**
	Coal required (MT)	46,201	68,888	79,414	72,149	84,004	**3,50,655**
	Coal procured (MT)	13,417	47,628	10,192	25,267	10,989	**1,07,493**
	Gap (MT)	32,784	21,260	69,222	46,882	73,015	**2,43,162**
Star Cement Meghalaya Limited	Clinker produced (MT)	15,49,349	16,29,025	15,79,345	15,41,945	14,36,600	**77,36,264**
	Coal required (MT)	2,16,909	2,28,064	2,21,108	2,15,872	2,01,124	**10,83,077**
	Coal procured (MT)	58,448	1,48,954	9,775	67,624	84,188	**3,68,989**
	Gap (MT)	1,58,461	79,110	2,11,333	1,48,248	1,16,936	**7,14,088**
Meghalaya Power Limited	Power Produced (Million kwh)	167.92	183.11	201.62	190.06	170.12	**912.84**
	Coal required (MT)	1,17,546	1,28,180	1,41,137	1,33,041	1,19,081	**6,38,985**
	Coal procured (MT)	25,182	68,092	41,863	36,129	18,024	**1,89,290**
	Gap (MT)	92,364	60,088	99,274	96,912	1,01,057	**4,49,695**
Total for above three plants	Coal required (MT)	3,80,656	4,25,131	4,41,659	4,21,063	4,04,209	**20,72,718**
	Coal procured (MT)	97,047	2,64,674	61,830	1,29,020	1,13,201	**6,65,772**
	Gap (MT)	**2,83,609**	**1,60,457**	**3,79,829**	**2,92,043**	**2,91,008**	**14,06,946**

38. Mr. R.K. Pareek, President, **Meghalaya Cement Limited** appears before the Committee and places before the Committee documents relating to one cement plant and one 10 MW capacity Captive Power Plant. The Committees takes these documents on record.

The Committee after examination of the Techno-Economic Feasibility Report of the Augmentation of the Clinkerization capacity of the plant from 900 TPD to 2,600 prepared by Holtec Consulting Private Limited, a copy of the which was provided to the Committee

during this Sitting by Mr. R.K. Pareek, observes that the said plant has been designed to use 100% Meghalaya coal available locally. As per the said report, net calorific value of the local coal to be used in the clinker plants is 5,800 Kcal/kg. It has also been stated in the said reports that specific heat consumption of these plants is 840 Kcal per kg of clinker. The average estimated requirement of coal as per the information given in the said report is 14.66 %.

The Committee after examination of the Techno-Economic Feasibility Report of the 10 MW capacity Captive Power Plant prepared by AKB Power Consultants Pvt. Ltd., a copy of the which was provided to the Committee during the Sitting by Mr. R.K. Pareek, observes that the said plant was envisaged to use coal sourced from Western Parts of Meghalaya Hills. The Annual requirement of the locally sourced Meghalaya coal at 100 % capacity for the said 10 MW TPP, as per the said report, is 63,072 MT. The specific fuel requirement for the said TPP, as per these information given in the said report, is therefore 0.72 kg/kwh. Nowhere, in the said report it has been stated that it will be feasible to run the plant by using any alternate fuel other than coal.

Year-wise details of clinker/power produced, coal required to produce reported quantity of clinker/power (@ 14.66% for clinker and 0.72 kg of coal per kwh of power produced) and gap in coal requirement which has, in all probability been met from illegally sourced local coal in respect of clinker/cement plant and captive TPP of the Meghalaya Cement Limited, since the ban on illegal rat-hole coal mining was imposed by the Hon'ble NGT in April 2014, are as below:

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Clinker/ Cement Plant	Clinker produced (MT)	7,98,378	8,43,815	6,96,071	8,39,931	8,38,237	40,16,432
	Coal required (MT)	1,17,042	1,23,703	1,02,044	1,23,134	1,22,886	5,88,809
	Coal procured (MT)	77,457	29,899	30,881	35,220	34,317	2,07,774
	Gap (MT)	39,585	93,804	71,163	87,914	88,569	3,81,035
Captive	Power Produced	27.738	54.472	58.191	68.590	69.887	278.88

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Thermal Power Plant (TPP)	(Million kwh)						
	Coal required (MT)	19,971	39,220	41,898	49,385	50,319	2,00,792
	Coal procured (MT)	19,076	14,787	15,087	18,792	19,670	87,412
	Gap (MT)	895	24433	26811	30593	30649	1,13,380
Total for the Clinker/ Cement and TPP	Coal required (MT)	1,37014	162923	143942	172519	173204	7,89,601
	Coal procured (MT)	96,533	44,686	45,968	54,012	53,987	2,95,186
	Gap (MT)	40,481	1,18,237	97,974	1,18,507	1,19,217	4,94,415

39. Mr. M.P. Sharma, Authorised Signatory, **Amrit Cement** appears before the Committee and places before the Committee some of the documents relating to one cement plant and one 12 MW capacity Captive Power Plant of Amrit Cement. The Committees takes these documents on record.

In the absence of Techno-Economic Feasibility Report of the Clinker/Cement and Captive Power Plant, a copy of which has not been submitted to the Committee, it is not feasible for the Committee to assess the estimated requirement of coal to produce a one MT of clinker and one unit of power by the said cement and power plants respectively. Subject to further correction on receipt of these reports from the Amrit Cement, the Committee assumes that specific requirement of coal for the Clinker/Cement and Thermal Power Plants of Amrit Cement Ltd. will be same as the corresponding unit requirement of coal by similar plants of the Meghalaya Cements Ltd.

The documents submitted by Mr. M.P. Sharma also does not contain year-wise details of coal consumed by these clinker and captive power plants. The Committee therefore, decides to utilise the year-wise quantity of coal consumed by these plants as indicated in a report submitted to the Committee by North Eastern Regional Directorate of CPCB for further analysis.

Year-wise details of clinker/power produced, coal required to produce reported quantity of clinker and power (@ 14.66% coal for clinker and 0.72 kg of coal per kwh of

power) and gap in coal requirement which has in all probability been met from been met from illegally sourced local coal in respect of Clinker/Cement plant and captive TPP of the Amrit Cement, since the ban on illegal rat-hole coal mining was imposed by the Hon'ble NGT in April 2014, are as below:

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Clinker/ Cement Plant	Clinker produced (MT)	3,07,286	4,03,205	4,25,842	4,01,497	5,40,902	20,78,732
	Coal required (MT)	45,048	59,110	62,428	58,859	79,296	3,04,742
	Coal procured (MT)	23,217	30,464	32,173	30,335	40,868	1,57,057
	Gap (MT)	21,831	28,646	30,255	28,524	38,428	1,47,685
Captive Thermal Power Plant (TPP)	Power Produced (Million kwh)	44.976	54.197	49.257	46.977	77.392	272.80
	Coal required (MT)	32,383	39,022	35,465	33,823	55,722	1,96,415
	Coal procured (MT)	16,773	20,212	18,369	17,519	28,861	1,01,734
	Gap (MT)	15,610	18,810	17,096	16,304	26,861	94,681
Total for the Clinker/ Cement and TPP	Coal requirement (MT)	77,431	98,132	97,893	92,683	1,35,018	5,01,157
	Coal procured (MT)	39,990	50,676	50,542	47,854	69,729	2,58,791
	Gap (MT)	**37,441**	**47,456**	**47,351**	**44,829**	**65,289**	**2,42,366**

40. Mr. G. S. Sodhi, Authorised Signatory, **Goldstone Cements Limited** appears before the Committee and places before the committee documents relating to one cement plant and one 10 MW capacity Captive Power Plant. The Committees takes these documents on record.

The Committee after examination of the Techno-Economic Feasibility Report for setting up of 2615 TPD Green Field Cement Plant of Goldstone Cements Ltd. at village

Musiang Lamare in East Jaintia Hills district, a copy of which was provided to the Committee during the Sitting by Mr. RG.S. Sodhi, observes that the said plant has been designed to use the coal available in command area of the site (i.e. local Meghalaya Coal). As per the said report, the average estimated requirement of coal for the said plant is 18% of the weight of clinker produced. Mr. G.S. Sodhi also states that the plant started operations in the year 2016-17.

It has also been stated in the documents provided by Mr. G.S. Sodhi to the Committee during the meeting that apart from the coal, alternate fuel such as Mu Slate/Saw dust etc. have also been utilised for production of clinker by the said plant. For the detailed reasons given in respect of similar claims made by Star Cement Limited, the Committee is of the view the neither it is technically feasible, nor it is legally possible to replace coal by alternate fuel. The Committtee therefore decides not to take into account the use of such alternate fuel while assessing the gap in the coal required to produce reported quantity of clinker.

Year-wise details of clinker/power produced, coal required to produce reported quantity of clinker power (@ 18.00%), gap in coal requirement which has in all probability been met from illegally sourced local coal and quantity of alternate fuel claimed to be purchased by the said cement plant of Goldstone Cement Limited, since the ban on illegal rat-hole coal mining was imposed by the Hon'ble NGT in April 2014, are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
2	3	4	5	6	7	8
Clinker produced (MT)	-	-	1,52,995	3,99,197	4,82,500	10,34,692
Coal required (MT)	-	-	27,539	71,855	86,850	1,86,245
Coal procured (MT)	-	-	5,918	21,295	4,946	32,159
Alternate fuel (Muslate/ Saw Dust etc.) claimed to be purchased	-	-	99,242	2,65,532	2,57,928	6,22,702

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
2	3	4	5	6	7	8
Gap (MT)	-	-	21,621	50,560	81,904	1,54,086

41. Ms. P. Bora, Legal Head, **Dalmia Bharat Cement Ltd (formerly known as Adhunik Cement Ltd),** who is present in today's Proceedings states that a part of the information and documents sought by the Committee have already been provided to the North Eastern Regional Directorate of the CPCB who is undertaking detailed fuel (coal) Audit of various cement plants and Thermal Power Plants in Meghalaya. She further states that the remaining information and documents will also be provided to the CPCB shortly.

The Committtee directs the Dalmia Bharat Cement Ltd. to provide all requisite information and documents to this Committee as well as to the CPCB within one week without fail.

Subject to further correction on receipt of information/documents from the Dalmia Bharat Cement Limited, the Committee decides to estimate gap in coal requirement for the above plant based on the data compiled by the CPCB and assuming that estimated requirement of coal to produce one MT of clinker and one unit of power is same as the corresponding requirement of coal for cement and TPP of the Meghalaya Cememt Limited.

Year-wise details of clinker/power produced, coal required to produce reported quantity of clinker and power (@ 14.66% for clinker and 0.72 kg of coal per kwh of power) and gap in coal requirement which has in all probability been met from illegally sourced local coal in respect of Clinker/Cement plant and 25 MW capacity captive TPP of the Dalmia Bharat Cememt Limited, as per data provided by Dalmia Bharat Cement Limited to CPCB, since the ban on illegal rat-hole coal mining was imposed by the Hon'ble NGT in April 2014, are as below:

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Clinker/ Cement	Clinker produced (MT)	6,68,239	7,32,700	7,92,075	9,00,686	10,84,883	41,78,583
	Coal required	97,964	1,07,414	1,16,118	1,32,041	1,59,044	6,12,580

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Plant	(MT)						
	Coal procured (MT)	25,400	62,789	35,165	63,851	79,203	2,66,408
	Gap (MT)	72,564	44,625	80,953	68,190	79,841	3,46,172
Captive Power Plant	Power Produced (Million kwh)	117.403	108.108	88.733	102.485	110.108	526.84
	Coal required (MT)	84,530	77,838	63,888	73,789	79,278	3,79,323
	Coal procured (MT)	14,225	34,167	16,960	15,770	13,570	94,692
	Gap (MT)	70,305	43,671	46,928	58,019	65,708	2,84,631
Total for the Clinker/ Cement and Power plants	Coal required (MT)	1,82,494	1,85,252	1,80,006	2,05,830	2,38,322	9,91,903
	Coal procured (MT)	39,625	96,956	52,125	79,621	92,773	3,61,100
	Gap (MT)	1,42,869	88,296	1,27,881	1,26,209	1,45,549	6,30,803

42. Mr. P. Kr. Jothi, Authorised Signatory of **Green Valley Industries Limited** appears before the Committee and places before the Committee a communication dated 14.08.2019 addressed to Addl. Principal Chief Conservator of Forests (Planning, Development and Legal Matters), Government of Meghalaya wherein it is stated that the invitation to attend this Sitting was received by them only on 12.08.2019. It is also stated in the said communication that invitation to attend previous Sitting of the Committee held on 23.07.2019 has also not been received by them. He further states that nature of information sought by the Committee is also not known to them. The Committee place a copy of the said communication on record.

Addl. Principal Chief Conservator of Forests (Planning, Development and Legal Matters) places before the Committee a document wherein receipt of the invitation to attend previous sitting of the Committee containing details of information/documents

sought by the committee has been duly acknowledged by a representative of Green Valley Industries Limited.

The Committee therefore directs Managing Director of Green Valley Industries Limited that all information/documents sought by the Committee shall positively be provided to the Committee within one week.

Subject to further correction on receipt of information/documents from the Green Valley Industries Limited, the Committee decides to estimate gap in coal requirement for the above cement plant based on the data compiled by the CPCB and assuming that estimated requirement of coal to produce one MT of clinker by the cement plant of Green Valley Industries Limited is same as the corresponding requirement of coal for cement plant of the Meghalaya Cememt Limited.

Year-wise details of clinker/power produced, coal required to produce reported quantity of clinker (@ 14.66% of clinker) and gap in coal requirement which has in all probability been met from illegally sourced local coal in respect of Clinker/Cement plant of the Green Valley Industries Limited, since the ban on illegal rat-hole coal mining was imposed by the Hon'ble NGT in April 2014, are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	3,88,036	3,68,412	3,83,369	4,31,151	4,35,984	20,06,952
Coal required (MT)	56,886	54,009	56,202	63,207	63,915	2,94,219
Coal procured (MT)	44,844	50,555	46,762	51,068	30,278	2,23,507
Gap (MT)	12,042	3,454	9,440	12,139	33,637	70,712

43. Mr. Y.S. Sharma, AGM, Accounts and Finance, **JUD Cements Limited** appears before the Committee and places before the Committee a communication dated 13.08.2019 addressed to Addl. Principal Chief Conservator of Forests (Planning, Development and Legal Matters), Government of Meghalaya wherein it is stated that their unit was not in operation in the recent past, hence most of their officials were on leave, under the circumstances, currently they are not in position to compile and provide the information

sought by the Committee. It has also been stated in the said communication that their officials are supposed to resume their duties in the last week of the current month i.e. August, 2019. Mr. Y.S. Sharma in the said communication requests that they may be allowed the time till first week of September, 2019 to compile and provide the requisite data to the Committee. The Committee places a copy of the said communication on record.

The Committee directs the Managing Director of JUD Cements Limited that all information/documents sought by the Committee shall positively be provided to the Committee within one week.

Subject to further correction on receipt of information/documents from the JUD Cements Limited, the Committee decides to estimate gap, if any, in coal requirement for the above cement plant based on the data compiled by the CPCB and assuming that estimated requirement of coal to produce one MT of clinker by the cement plant of JUD Cements Limited is same as the corresponding requirement of coal for cement plant of the Meghalaya Cememt Limited.

Year-wise details of clinker produced, coal required to produce reported quantity of clinker (@ 14.66% of clinker) and gap in coal requirement which has in all probability been met from illegally sourced local coal in respect of Clinker/Cement plant of JUD Cements Limited, since the ban on illegal rat-hole coal mining was imposed by the Hon'ble NGT in April 2014, are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Power Produced (Million kwh)	1,80,367	2,33,961	1,45,419	1,72,206	1,24,702	8,56,655
Coal required (MT)	26,442	34,299	21,318	25,245	18,281	1,25,586
Coal procured (MT)	22,729	17,788	8,512	24,529	16,332	89,890
Gap (MT)	3,713	16,511	12,806	716	1,949	35,696

44. Mr. A.B. Rajan from **Hill Cement Limited** appears before the Committee and requests the Committee to grant time till first week on November 2019 to provide requisite information/documents to the Committee. The Committee found the same unacceptable

and directs the Managing Director of Hill Cement Limited that all information/documents sought by the Committee shall positively be provided to the Committee within one week.

Subject to further correction on receipt of information/documents from the Hill Cement Limited, the Committee decides to estimate gap in coal requirement for the above cement plant based on the data compiled by the CPCB and assuming that estimated requirement of coal to produce one MT of clinker by the cement plant of Hill Cement Limited is same as the corresponding requirement of coal for cement plant of the Meghalaya Cememt Limited.

Year-wise details of clinker/power produced, coal required to produce reported quantity of clinker (@ 14.66% of clinker) and gap in coal requirement which has in all probability been met from illegally sourced local coal in respect of Clinker/Cement plant of the Hill Cement Limited, since the ban on illegal rat-hole coal mining was imposed by the Hon'ble NGT in April 2014, are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	1,22,646	2,14,389	2,56,984	2,03,999	2,33,902	10,31,920
Coal required (MT)	17,980	31,429	37,674	29,906	34,290	1,51,279
Coal procured (MT)	7,358	10,000	13,948	6,120	7,107	44,533
Gap (MT)	10,622	21,429	23,726	23,786	27,183	1,06,746

45. Mr. S. K. Patra and Mr. U. Das from **M/s Shyam Century Limited** appears before the Committee and places before the committee documents relating to their 13.80 MW capacity Captive Power Plant. The Committees takes these documents on record.

Committee after examination of the Detailed Project Report for the said 13.80 MW Captive Power Plant prepared by AKB Power Consultants Private Limited, a copy of which was provided to the Committee during the Sitting by Mr. S. K. Patra, the Committtee observes that the said plant was designed to use both biomass fuel (with estimated calorific value of 3500 K cal/kg) and locally sourced Meghalaya coal (with estimated calorific value of 5500 K cal/kg). The annual requirement of fuel by the said plant at 100%

capacity is 77,616 MT of biomass fuel and 14,256 MT of Meghalaya coal. The specific fuel requirement of the said plant as per the said report is 0.527 kg/kwh of coal or 0.827 kg/ kwh of biomass.

It has also been stated in the documents handed over to the Committee during the Sitting that specific fuel requirement of the said TPP is 0.50- 0.70 kg of coal per kwh and 1.00 -1.40 kg of alternate fuel such as coke fine, Tamilnadu Charcoal fines etc. per kwh. Keeping in view that the said TPP is about 15 years old and all other TPPs have also reported specific fuel requirement around 0.70 kg/kwh of coal, the Committee is of the view that actual specific fuel requirement of the said TPP is 0.70 kg / kwh of coal or 1.40 kg/kwh of the alternate fuel.

Year-wise details of power produced, fuel required to produce reported quantity of power (@ 0.70 kg of coal/kwh or 1.40 kg of alternate fuel/kwh) and gap in coal requirement which has in all probability been met from illegally sourced local coal in respect of captive TPP of the Shyam Century Limited is as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Power Produced (Million kwh)	64.117	55.246	104.403	68.898	34.702	327.366
Coal required (MT)	44,882	38,672	73,082	48,229	24,291	2,29,156
Coal procured (MT)	43576	32461	72086	13704	4960	1,66,787
Alternate fuel procured	446	-	-	-	29	475
Gap (MT)	1,083	6,211	996	34,525	19,317	62,132

46. Mr. S. Choudhury and Mr. V. Agarwal attends this Sitting of the on behalf of **Maithan Alloys Limited** and places before the Committee a copy of Detailed Project Report (DPR) of their 15 MW capacity captive Thermal Power Plant prepared by AKB Power Consultants Pvt. Ltd. .The Committee takes a copy of the said DPR on record. The remaining information/document sought by the Committee have already been provided during second day of Sixteenth Siting held on 23.07.2019.

The Committtee after examination of the Detailed Project Report observes that the said plant was designed to use both bamboo chips/dust (with estimated calorific value of 2914 K cal/kg) and locally sourced Meghalaya coal (with estimated calorific value of 7,142 K cal/kg). As per the said DPR, the annual requirement of fuel by the said plant at 100% capacity is 32,400 MT of bamboo chips and 37,800 MT of Meghalaya coal. The specific fuel requirement of the said plant as per the said report is therefore 0.527 kg/kwh of coal or 0.827 kg/ kwh of biomass.

It has also been stated in the documents handed over to the Committee during the meeting that specific fuel requirement of the said TPP is 0.72 kg/kwh. The same appears to be comparable to the specific fuel requirement for other TPPs.

As per the information provided by Maithan Alloys Limited, during the period of last five years 2014-15 to 2018-19) its captive TPP produced 331.823 Million units of power. At the afore-mentioned specific fuel requirement of 0.72 kg of coal per kwh, production of the above power required 2,35,527 MT of coal against which the above firm, as per these documents, purchased 3,13,785 MT coal. From the above, it appears that the above TPP did not use any illegally raised coal during these years.

The Committee further notes that the quantity of coal procured by Maithan Alloys Limited as per the Statement submitted to the Committee is substantially different than the quantity of coal reportedly consumed by the said Plant, as per the details given in a report on coal consumption by the Thermal Power Plants and Cement Industries submitted to the Committee by North Eastern Regional Directorate of CPCB. The Committee therefore, directs the North Eastern Regional Directorate of CPCB to re-examine the records relating to purchase and use of coal by above TPP and submit a report to the Committee within fifteen days.

47. Mr. A. K. Verma attends this Sitting of the Committee on behalf of **Shree Sakambari Ferro Alloys Pvt. Ltd.** and places before the Committtee information and documents sought by the Committee. The Committee takes a copy of these documents on record.

On perusal of these information and documents the Committee observes that unit of power produced by the said Thermal Power Plant stated in the Statement provided to the Committee does not appear to be in order. The Committee also observes that the quantity of coal reported to be consumed by Shree Sakambari Ferro Alloys Pvt. Ltd., as per the Statement submitted to the Committee in this Sitting is substantially different than the quantity of coal reportedly consumed by the said Plant as per details given in a report on

coal consumption by the Thermal Power Plants and Cement Industries submitted to the Committee by North Eastern Regional Directorate of CPCB. The Committee therefore directs the North Eastern Regional Directorate of CPCB to re-examine the records relating to purchase and use of coal by above TPP and submit a report to the Committee within fifteen days.

48. In compliance of directions issued by the Committee in the second day of Sixteenth Sitting held at Shillong on 23.03.2019 Mawmluh Cherra Cements Limited places before the Committee the Balance Sheet as on 31.03.2019. The Committtee place a copy of the said balance Sheet on record.

49. The Committee notes that a report on audit of each of the Coke Plants from which the coke has reportedly been sourced by the Jaintia Cement Limited, in the format stipulated by the Committee for resource (coal) audit of cement factories and Thermal Power Plants, is still awaited from North Eastern Regional Directorate of CPCCB. The Committee therefore reiterates its earlier direction to the effect that the North Eastern Regional Directorate of CPCB, Shillong shall undertake audit of each of the Coke Plants from which the coke has reportedly been sourced by the Jaintia Cement Limited in the format stipulated by the Committee for resource (coal) audit of cement factories and Thermal Power Plants in Meghalaya and submit a report to the Committee within one month.

50. The Committee further notes that a report on audit of each of the Coke Plants located in Meghalaya in the format stipulated by the Committee for resource (coal) audit of cement factories and Thermal Power Plants in Meghalaya is still awaited from North Eastern Regional Directorate of CPCCB. The Committee therefore reiterates its earlier direction to the effect that the North Eastern Regional Directorate of CPCB, Shillong shall undertake audit of each of the Coke Plants located in Meghalaya in the format stipulated by the Committee for resource (coal) audit of cement factories and Thermal Power Plants in Meghalaya and submit a report to the Committee within one month.

51. The Committee notes with great concern that the inspite of prior notice, one Cement Plant (*viz.* Virgo Cements Limited) and one Thermal Power Plant (*viz.* CMJ Breweries Limited) neither deputed a representative to attend this Sitting as well the Sixteenth Sitting of the Committtee held at Shillong on 23.07.2019, nor have provided information/documents sought by the Committee from them.

The Committee directs the Managing Director of these Plants to provide the requisite information to this Committee within one week without fail.

AGENDA ITEM NO. 3

52. Dr. C. Sawanliana, Sr. Principal Scientist, Council of Scientific and Industrial Research-Central Institute of Mining and Fuel Research (CSIR-CIMFR), Dhanbad made a presentation on progress made in study assigned to the CSIR-CIMFR to develop a protocol on closure of abandoned rat hole coal mines by controlled blasting. During the presentation Dr. Sawanliana stated that the CIMFR proposes to develop a protocol to close entry to coal seams by controlled blasting. The surface openings of the mines, including the box-cut shafts, are proposed to be closed either by filling it with debris or by construction of RCC slabs. The Committee observes that the proposed protocol appears to be different than what was envisaged while assigning the study to the CIMFR. The Committee also observes that due to non-availability of large quantity of debris in close vicinity of the mines it may not be cost-effective to close mines and box cut shafts of the existing mines by filling it with debris.

The Committee keeping in view the above advises Dr. C. Sawanliana to re-examine and suitably amend the proposed protocol. The amended protocol may provide for closure of the openings of the mines and box-cut shafts by controlled blasting at the suitable locations around periphery of such openings. The Committee also suggested that in the initial phase mines located in river beds and in close vicinity of rivers/ streams may be selected for closure by controlled blasting. The Committee also advices Dr. C. Sawanliana to re-examine and appropriately reduce the time-lines suggested for the study as majority of the secondary data required for the study are already available with the MSPCB, North Eastern Space Application Centre (NESAC) and other agencies.

53. Dr. A. Kr. Singh, Sr. Principal Scientist, CSIR – CIMFR, Dhanbad makes a brief presentation on progress made in a study assigned to the CSIR-CIMFR on development of a protocol for treatment of acid mine drain originating from coal mines. During the presentation Dr. Singh states that the study envisages design and development of a prototype plant having the capacity to treat acidic water originating from rat hole coal mines at the rate of 250 litres/hour. The estimated cost of the plant is likely to be about Rs. 15.00 lakh. He further states that operation of the plant will also involve expenditure on consumable, power, manpower, repair and maintenance.

The Committee observes that due to high capital and running costs it will not be feasible to use the proposed plant for restoration of the quality of acidic water in the

rivers/streams in the coal mining affected areas in the State. The plant can at best be used to meet requirement of drinking water in such areas.

The Committee keeping in view the above advises Dr. A.K. Singh to explore feasibility to reduce the cost of the proposed prototype. The Committee also advices Dr. A.K. Singh to re-examine and appropriately reduce the time-lines suggested for the study as majority of the secondary data required for the study are already available with the MSPCB, NESAC and other agencies.

AGENDA ITEM NO. 4

54. The Chairman of the Committee states that he received two similar representations dated 12.07.2019 and dated 11.07.2019 from Mr. Marthon Sangma, Hon'ble Member Legislative Assembly and Mr. Nizamuddin R. Marak respectively regarding use of rack loading infrastructure having an area of 2,34,455 sqm (23.45 hectare) at Mendipathar Railway Station for evacuation of coal allowed to be transported by the Hon'ble Supreme Court. He further states that keeping in view that the Mining and Geology Department in the Government of Meghalaya is preparing a policy for sale and transportation of already extracted coal, transportation of which has been permitted by the Hon'ble Supreme Court, he directed the Addl. Principal Chief Conservator of Forests (Planning, Development and Legal Matters), Government of Meghalaya to send a copy of these representations to the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department for consideration. The Committee takes a copy of these representations on record.

Mr. T. Dkhar, IAS, Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department confirms the receipt of these representations and states that availability of rake loading infrastructure at Mendipathar Railway Station will be kept in view while finalising a policy for handing over of the coal allowed to the transported by the Hon'ble Supreme Court to the Coal India Limited for its disposal through e-auction.

The Committee notes the same and directs the Addl. Principal Chief Conservator of Forests (Planning, Development and Legal Matters), Government of Meghalaya to invite Chief Commercial Manager, North East Frontier Railways to attend Second Special Sitting of the Committee to be held at Guwahati on 07.09.2019 to finalize modalities for transportation and disposal of coal allowed to be transported by the Hon'ble Supreme Court through e-auction by the Coal India Limited.

AGENDA ITEM NO. 5

55. The Chairman of the Committee states that he received a representation dated Nil from Mr. Rakbirthson D. Sangma regarding estimate of actual quantity of coal lying in the State of Meghalaya for auctioning in terms of the Hon'ble Supreme Court's final Order and Judgement dated 03.07.2019. . In the said representation it has been stated that quantity of coal stated to lying at various depots in the State reported to the Hon'ble Supreme Court by the State of Meghalaya may be 1,000 (one thousand) only times more than the actual quantity of coal lying at these depots.

He further states that keeping in view that the Mining and Geology Department in the Government of Meghalaya is preparing a policy for sale and transportation of already extracted coal, transportation of which has been permitted by the Hon'ble Supreme Court, he directed the Addl. Principal Chief Conservator of Forests (Planning, Development and Legal Matters), Government of Meghalaya to send a copy of these representations to the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department for consideration. The Committee takes a copy of these representations on record. The Committee takes a copy of the said representations on record.

Mr. T. Dkhar, IAS, Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department confirms receipt of the said representation and states that complete details of all the depots and coal available at each such depot in the State has been placed before the Hon'ble Supreme Court. A copy thereof is also being provided to the Committee. He further states that allegations made in the said representation is baseless, frivolous and devoid of any merit.

The Committee takes note of the seriousness of the allegations made in the said representation and directs the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department that to counter such allegations in an effective and transparent manner, video recording of all the coal depots where the coal to be handed over to the Coal India Limited is presently lying, to be recorded by joint teams consisting of a representative from the Mining and Geology Department, Meghalaya State Pollution Control Board and the Coal India Limited, as directed by the Committee in its First Special Sitting held at Shillong on 12.07.2019 and use of high resolution satellite imageries for different time-intervals since the imposition of ban on coal mining by the Hon'ble NGT to ascertain continuous existence of all such coal dumps since imposition of ban on coal mining by the Hon'ble NGT in April 2014, shall be essential components of the

Policy being formulated for handing over of the coal to the Coal India Limited for disposal through e-auction.

AGENDA ITEM NO. 6

56. The Chairman of the Committee states that he received a proposal from a concerned Authority in the Indian Army on involvement of Eco Task Force (ETF) Battalions for restoration of environment in areas affected by illegal rat hole coal mining in Meghalaya. The Committee takes a copy of the said proposal on record.

Mr. C.P. Marak, IFS, Principal Secretary to the Government of Meghalaya, Mining and Geology Department states that a proposal seeking raising of an ETF Battalion in the State is presently pending before the Government. Decision on the said proposal is awaited mainly due to inability of the State to make available the requisite funds to meet infrastructural and operational needs of the Battalion. The State is also finding it difficult to make available requisite land for establishment of the headquarters and other operational units of the EFT Battalion.

The Committee directs that the said proposal may first be deliberated by the Sub-Committee constituted under Chairmanship of Dr. Shantanu Kr. Dutta, Addl. Director, CPCB. A report of the Sub-committee on the matter may be placed before the Committee within two months. Representative of the Forests and Environment Department in the said Sub-Committee shall make available all relevant information on the matter to the Sub-Committee.

AGENDA ITEM NO. 7

57. The Chairman of the Committee states that he received a copy of a communication dated 02.08.2019 from Dr. Manjunatha C. IFS, Secretary to the Government of Meghalaya, Mining and Geology Department addressed to the Director of Mineral Resources, Government of Meghalaya containing approval of the Government of Meghalaya for transportation of 38,340 MT coal seized and auctioned under section 21 (4A) of the Mines and Minerals (Development and Regulation) Act, 1957 in favour of Mr. Erantis Sympli, Byndihati Village, East Jaintia Hill district. The Committee takes a copy of the said communication on record.

Mr. T. Dkhar, IAS, Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department states that the said illegally mined coal was seized by the officers duly authorised by the State Government. The Competent Court by an order dated 12.07.2019 has confiscated the said coal in favour of the State Government.

The Committee directs the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department to provide to the Committee within a week a copy of the Order(s) made by the concerned Court to confiscate the said coal along with the following information:

Name and full address of person(s) from whose possession the seizure has been made	Date of seizure	Quantity seized (MT)	Name and designation of the Officer(s) who has made the seizure	Case/ Complaint No.	Punishment awarded to the person(s) from whose possession the seizure has been made
(1)	(2)	(3)	(4)	(5)	(6)

Date of publication of Notice Inviting Bids for disposal of the coal	Last date for receipt of Bids	No. of Bids Received	The base Rate (Rs/MT) at which the bid has been accepted
(7)	(8)	(9)	(10)

Taxes and other levies to be paid by the successful bidder (Rs./MT)					Gross Amt. payable by successful bidder (Rs./MT)
Royalty	DMF	MEPRF	GST	Any other amt. (pl. specify)	
(11)	(12)	(13)	(14)	(15)	(16)

The Committee also notes that in compliance of direction issued to the Committee by the Hon'ble NGT by order dated 11.04.2019, the Committee in its Twelfth Sitting held at Shillong on 25.04.2019 issued a direction to the effect that to regulate the transportation of coal, the State Government shall follow the procedure similar to one stipulated in Appendix XII of the EIA Notification 2006, inserted vide Notification bearing No. S.O. 141 (E) dated 15.01.2016 for monitoring of sand mining and river bed mining, so that the transportation of coal is regulated. The system provides for adequate security features of Transit Pass (TP)/ Challans to prevent their counterfeiting or multiple use, scanning and uploading of TPs/ Challans on a centralised server to facilitate checking of

TPs/Challans to check their validity, GPS tracking of vehicles and generation of reports and alerts in case of detection of any anomaly. The Committee further notes that to ensure expeditious disposal (after obtaining prior approval of the concerned court) of seized coal in a transparent manner the Committee in the said Sitting directed that the Mining and Geology Department, Government of Meghalaya shall explore the feasibility to dispose of such coal through e-auction conducted by the Coal India Limited. The State Government while allowing transportation of such a huge quantity of the coal has appeared to have ignored these directions. The Committee directs the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department to apprise the Committee the reasons for ignoring the afore-mentioned directions of the Committee while disposing off the said seized coal.

58. The Committee proposes to have its Second Special Sitting at 11.00 AM onwards on 07.09.2019 in the Conference Hall at Guest House of the North Eastern Coalfields Coal India Limited located at Black Diamond Towers, GS Rd, ABC, Post Office, Christian Basti, Guwahati, Assam 781 005 to examine the Policy being formulated by the State for handing over of the coal available at such depots to the Coal India Limited for disposal through e-auction.

To have meaningful discussions in the said Sitting, the Committee directs the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department that a copy of the said Policy as approved by the Cabinet shall be provided to all members of the Committee atleast one week before the said Special Sitting.

The Member-Secretary of the Committee shall invite all concerned to attend the said Special Sitting.

The meeting ended with a vote of thanks from the Chair.

(Justice Brojendra P. Katakey)
Chairman

ANNEXURE R/9

Shyam Century Ferrous Ltd.

Regd. Office : Vill. : Lumshnong, PO : Khalichriat, Dist. East Jaintia Hills, Meghalaya – 793210, Phone No : 03655-278215/16/18,
Fax : 03655-278217, E-mail ID : investors@shyamcenturyferrous.com, Website : www.shyamcenturyferrous.com
CIN : L27310ML2011PLC008578

SCFL/NGT/2/2019-20 September 24, 2019

To
The Hon'ble Chairman
NGT Committee constituted by the order dated 31.8.2018 of
hon'ble NGT Shillong, Meghalaya

Sub: Record of the minutes of 17th sitting of the Committee constituted by the hon'ble NGT under the Chairmanship of hon'ble Justice Mr. B.P. Katakey, former Judge, Guwahati High Court, held on 14.8.2019 at Shillong, Meghalaya - Observations made at para 45, page nos. 37-38 therein.

Respected Sir,

1. At para 45, page nos. 37-38 of the above said record of Minutes of the 17th sitting of the Committee, the details regarding the coal used by Shyam Century Ferrous Ltd.(SCFL) have been dealt with and it has been conclude that during the years 2014-15 to 2018-19 there is a gap of a total quantity of 62,132 MT of coal between the coal required by the plant as fuel and that procured from illegal sources. The above observation was based on the following:-

a) On examination of the Detailed Project Report of SCFL the Committee observed that the plant was designed to use both biomass fuel (with estimated calorific value of 3500 Kcal/kg) and locally sourced Meghalaya coal (with estimated calorific value of 5500 Kcal/kg). The annual requirement of fuel by the plant at 100% capacity is 77,616 MT of Biomass fuel and 14,256 MT of Meghalaya coal. The specific fuel requirement of the plant as per DPR is 0.527 kg/kwh of coal or 0.827 kg/kwh of biomass.

b) Committee observed in submitted documents by SCFL mentioned that specific fuel requirement of the SCFL TPP in range of 0.50 – 0.70 kg of coal per kwh and in range of 1.0 – 1.4 kg of alternate fuel such as coke fines, Tamilnadu charcoal fines etc. per kwh.

c) Keeping in view that SCFL TPP is about 15 years old and all others TPPs have also reported specific fuel requirement around 0.70 kg/kwh of coal, the Committee is of the view that actual specific fuel requirement of the SCFL TPP is 0.70 kg/kwh of coal or 1.40 kg/kwh of the alternate fuel.

Received by Govt.
26/9/19

OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS & HOFF * SHILLONG *

Office : EPIP, Rajabagan, Byrnihat, Meghalaya - 793101, Ph. No. : 9436108851
Corporate Office : Satyam Towers, 3 Alipore Road, 1st Floor, Unit No. 9B, Kolkata – 700 027, Ph. No. : 033 2448 4169/170/693, Fax : 033 2448 4168
Guwahati Office : C/o Cement Manufacturing Co. Ltd., Mayur Garden, 2nd Floor, Opp. Rajiv Bhawan, G.S. Road, Guwahati - 781005
Ph. No. : 0361 2461221S/16/17, Fax : 0361 2462217
AN ISO 9001 Certified Company

Shyam Century Ferrous Ltd.

Regd. Office : Vill. : Lumshnong, PO : Khaliehriat, Dist. East Jaintia Hills, Meghalaya – 793210, Phone No : 03655-278215/16/18, Fax : 03655-278217, E-mail ID : investors@shyamcenturyferrous.com, Website : www.shyamcenturyferrous.com
CIN : L27310ML2011PLC008578

2. In this regard it is respectfully submitted that:

i) DPR is prepared with a view to take a considered decision regarding technical and financial viability of undertaking a project and also is a requirement for funding by financial institutions/banks. The DPR is prepared on the basis of available data and certain assumptions. The details given in the DPR and that actual found on the ground at the time of implementation of the project may widely vary. The biomass fuels availability and viability was an issue after few days of project commissioned.

ii) Regarding illegal sourced coal issue;

Each and every payment for purchase of coal and alternate fuel has been made by cheque by us. The details of the payments made by us can easily be verified. There is no way we could have made any payment in cheque for purchase of illegal coal and no cash transaction has ever taken place for purchase of coal at all. On examination of our books of accounts and Annual reports, the date-wise details of the payment made by us can be easily be verified.

ii) Regarding the GAP in coal issue;

In para 45, page no 38 the tabular format year wise report the gap quantity calculation is based on coal procured is considered as coal consumption during the said five years, but in actual is different, because we have 23849.42 MT of coal in opening stock of FY 2014-15, which we have already submitted to you in other submission of reports.

iii) Regarding the specific coal consumption issue;

First of all we cannot fix all TPPs specific coal consumption is 0.70 kg of coal/kwh without considering the relative factors, which is stated below;

The Specific fuel/coal consumption per unit of power production in TPP is depend on the following factors;

i) Design of the plant. Type of Boiler, Turbine and other equipments.
ii) Quality of the fuel/coal; Ash% MR%, GCV are varies from trader to traders, mines to mines, rainy to dry seasons etc.
iii) Operation efficiency of the plant. Proper maintenance (Preventive, corrective, breakdown maint.) for availability.
iv) Unburnt Carbon in Fly ash.

Shyam Century Ferrous Ltd.

Regd. Office : Vill. : Lumshnong, PO : Khaliehriat, Dist. East Jaintia Hills, Meghalaya – 793210, Phone No : 03655-278215/16/18,
Fax : 03655-278217, E-mail ID : investors@shyamcenturyferrous.com, Website : www.shyamcenturyferrous.com
CIN : L27310ML2011PLC008578

v) Size of the fuel/coal(Sometimes -1 mm are getting more which effects the Sp. Fuel consumption)

vi) Plant load Factor(Partial/Full capacity utilization)

vii) Leakages in steam line/any other leakages in the plant.

viii) Condenser efficiency (Vacuum high/low effects Sp. Fuel consumption)

ix) Boiler efficiency, Turbine efficiency effects.

3. It is respectfully submitted that the observations made by the Committee that prima facie we have used illegal coal for power generation is not based on the factual information. So, it is requested that the observations of the Committee may kindly be reviewed in the light of the factual details as stated above.

4. In case any additional information/ details are required in the matter we amy kindly be informed accordingly. We assure that we will make all possible efforts to provide the required information at the earliest.

Thanking you,

Yours faithfully,
For Shyam Century Ferrous Limited

Authorised Signatory

Dated Byrnihat, the 24th September 2019

Copy To:

1. Shri H.C. Chaudhary, IFS, Additional Principal Chief Conservator of Forests (Planning, Development and Legal Matters) Government of Meghalaya, Shillong.

ANNEXURE R/10

THE FIFTH INTERIM REPORT

of

The Independent Committee

Consisting of

JUSTICE BROJENDRA PRASAD KATAKEY
FORMER JUDGE, GUWAHATI HIGH COURT, GUWAHATI

PROF. S. C. BHOWMIK
RUNGTA CHAIR PROFESSOR, DEPARTMENT OF MINING ENGINEERING
REPRESENTATIVE OF THE INDIAN INSTITUTE OF TECHNOLOGY- INDIAN SCHOOL OF MINES (IIT -ISM), DHANBAD 826 004

DR. SHANTANU KUMAR DUTTA, ADDL. DIRECTOR
REPRESENTATIVE OF THE CENTRAL POLLUTION CONTROL BOARD

On

RESOURCE (COAL) AUDIT OF CEMENT INDUSTRIES AND THERMAL POWER PLANTS IN MEGHALAYA

Submitted To

The Hon'ble National Green Tribunal, Principal Bench, New Delhi

On 02.12.2019

Constituted vide order dated 31.08.2019 to go into the issues arising out of the coal mining in the State of Meghalaya

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CHAPTER-1: BACKGROUND

1.1 On 12.11.2018, the Committee visited some coal mine areas in East Jaintia Hills District. The Committee on the said day also visited two Cement Plants (*viz.* Star Cement Limited and Star Cement Meghalaya Limited) and a Thermal Power Plant (*viz.* Meghalaya Power Limited) of the Star Cement Limited located at Lumshnong village in East Jaintia Hills District. The Committee during the visit to these plants made following observations:-

(i) M/s Meghalaya Power Limited is a 43 MW Coal Based Power Plant. The Unit stands beside M/s Star Cement Limited, which is an integrated cement plant. M/s Meghalaya Power Limited, M/s Star Cement Limited and another cement plant, namely, M/s Star Cement Meghalaya Limited, are Units of same group of Companies. The cement plants are branded as 'Star Cement'.

(ii) Huge quantity of coal is lying in open coal storage areas. The representative of the cement plants, present during the visit, claims that they procure coal for the plant from North East Coalfields Limited, Margherita and from Eastern Coal Fields as well as from the State of Nagaland. It has also been stated that they procured coal from local market when the transportation of the coal from mines in the State of Meghalaya was allowed by the Hon'ble Supreme Court and Hon'ble National Green Tribunal. They also claimed import of about 20,000 MT of coal from Malaysia during the last financial year.

(iii) As per the record of the Central Pollution Control Board, the Star Cement Group of Companies, which has 2(two) power plants of 1 X 43 MW and 1 X 8 MW capacity, which need considerable amount of coal for operating the power plants. It has 2(two) integrated cement Units, *viz.* Star Cement Limited and Star Cement Meghalaya Limited, which use coal of about 15% of total clinker production.

(iv) Moreover, as per the record of Central Pollution Control Board, there are few other Coal Based Power Plants in Lumshnong areas of East Jaintia Hills District. The capacity of captive power plants of various cement producing mills, as is available with the Central Pollution Control Board, is given below –

Sl. No.	*Name of the Cement Plant*	*Capacity of Captive Power Plants*
1.	*Adhunik Cement Limited*	*25 MW*
2.	*Meghalaya Cements Limited*	*12 MW*
3.	*Amrit Cements Limited*	*10 MW*
4.	*Goldstone Cements Limited*	*10 MW*

1.2 The Committee in its Fourth Sitting held on 13.11.2019 took note of the above observations and directed the North Eastern Regional Directorate of the Central Pollution Control Board (CPCB) to prepare and submit a report on the coal consumption in the Captive Power Plants of the Cement Manufacturing Units of East Jaintia Hills District and also in the clinker production for the last 4 (four) years (*viz.* 2014–15, 2015–16, 2016–17 and 2017-18) based on technical data on average coal requirement per MT of clinker production and coal consumption per million units of power generation.

1.3 During Fifth Sitting of the Committee held on 07.12.2019 the North Eastern Regional Directorate of the CPCB assured the Committee that based on compilation of the data, a report on coal consumption as sought by the Committee in its Fourth Sitting will be submitted to the Committee within a week.

1.4 During Sixth Sitting of the Committee held on 20.12.2019 the North Eastern Regional Directorate of the CPCB informed the Committee that the report as asked for relating to year – wise requirement, source of procurement and consumption of coal by the Cement Industries, Power Plants and Captive Power Plants in the State of Meghalaya, shall be submitted to the Committee in its next meeting

1.5 The Committee through its First Interim Report dated 31.12.2018 placed its observations on the matters as contained in paragraph 1.1 above, before the Hon'ble National Green Tribunal (NGT). The Hon'ble NGT in Order dated 04.01.2019 took note of these observations and directed that the Committee may consider the

resource (coal) audit of Meghalaya Power Limited and Star Cement Limited to ascertain the legitimate procurement of coal and its source.

1.6 During Seventh Sitting of the Committee held on 11.01.2019 the North Eastern Regional Directorate of the CPCB informed that out of 7 (seven) Captive Power Plants in the State of Meghalaya, the relevant data relating to coal consumption from 6 (six) Plants have been collected. It was also informed that the data from the remaining 1 (one) Plant *viz.* Goldstone Cement Limited will be collected soon and the consolidated data for all these 7 (seven) plants will be submitted to the Committee in its next Sitting.

1.7 During Eighth Sitting of the Committee held on 11.02.2019 the North Eastern Regional Directorate of the CPCB submitted a report on coal consumption by Thermal Power Plants and Cement Industries in the State of Meghalaya. As per the said report the State of Meghalaya is home to sixteen (16) Cement Industries and 9 nine (9) Thermal Power Plants. Except one standalone Thermal Power Plants (*viz.* Meghalaya Power Limited), all other Thermal Power Plants are Captive Power Plants of the Cement and other Industries. Out of these sixteen (16) Cement Industries, one (1) Cement Industry (*viz.* Billenium Cement Limited) is a clinker grinding unit which does not use any coal. It has also been stated in the said report of the North Eastern Regional Directorate of the CPCB that three (3) Cement Industries (*viz.* H.M. Cement Limited, RNB Cement Limited and Megatech Engineers Limited) did not consume any coal since the year 2014-15 as these industries were under shutdown. It has also been stated in the said report that out of these sixteen (16) Cement Industries, two industries (*viz.* Jaintia Cement Limited and Virgo Cement Limited) are vertical shaft Kiln (VSK) based cement producing units. These units use coke breeze/low ash metallurgical coke (LAMC) as a fuel. No coal has been used by any of these industries since ban on rat hole mining was imposed by the Hon'ble NGT in the month of April, 2014.

1.8 The Committee took a copy of the said Report on record for further examination and directed the North Eastern Regional Directorate of the CPCB to submit a report to the Committee as to whether the procurement of coal from Meghalaya by the Thermal Power Plants and Cements Industries has violated any

condition set forth in the licence/ permission granted for setting up of such power plants and cement industries and if so, the required action to be taken against those Thermal Power Plants and Cement Industries. The Committee further directed that the said report shall be submitted on 25.02.2019.

1.9 During Ninth Sitting of the Committee held on 25.02.2019 the North Eastern Regional Directorate of the CPCB sought more time to submit a report relating to the violation or otherwise of any condition set forth in the license/ permission granted to the thermal power plants and cement industries by procuring coal locally from the State of Meghalaya and also the action required to be taken against those thermal power plants and cement industries. The Committee allowed the North Eastern Regional Directorate of the CPCB to submit the report till its next Sitting to be held on 25.03.2019.

1.10 During Eleventh Sitting of the Committee held on 25.03.2019 the North Eastern Regional Directorate of CPCB submitted an updated report on coal consumption by Cement Industries and Thermal Power Plants in the State of Meghalaya. The Committee after examination of the said Report observed that year-wise details of coal reported to be consumed by various Cement and Thermal Power Plants have only been provided in the said report. The Committee further noted that in the absence of year-wise details of cement or the power produced by each of the Cement Industries and Thermal Power Plants and the quantity of coal required to produce such quantity of cement or power, it is not possible for the Committee to ascertain that quantity of coal reported to be procured by these plants was sufficient to produce reported quantity of cement/power. The Committee further noted that difference between the quantity of coal reportedly consumed by each of the Cement Industries and Thermal Power Plant and the quantity of coal required to produce such reported quantity of cement or power by each such plant, if any, could have been met by illegally mined coal. The Committee therefore directed the North Eastern Regional Office of the CPCB to revise the report keeping in view the above observations and submit the same to the Committee during its next Sitting to be held on 25.04.2019.

1.11 The Hon'ble NGT by order dated 11.04.2019 directed that the Committee may also consider requiring audit of the sources of coal acquired by the power generation and cement plants in the State of Meghalaya.

1.12 The Committee in its twelfth Siting held on 25.04.2019 formulated a format for undertaking resource (coal) audit of each Cement Industry and Thermal Power Plant in the State of Meghalaya by North Eastern Regional Directorate of the CPCB in compliance of the directions issued by the Hon'ble NGT's by the said Order dated 11.04.2019.

1.13 During Fourteenth Sitting of the Committee held on 03.06.2019 representative of the CPCB informed the Committtee that information in respect of resource (coal) audit of Cement Industries and Thermal Power Plants in the State of Meghalaya to be undertaken by them in compliance of directions issued by the Hon'ble NGT by order dated 11.04.2019 has been received from only two such units. Information received from these units also does not appears to be correct. The Committee during the said Sitting noted that reluctance of these Cement Industries and Thermal Power Plants to provide requisite information not only amounts to total disregard and disrespect to the Hon'ble NGT and to the CPCB but also creates a suspicion about use of illegally mined coal by these plants. The Committee further noted that continuous defiance of these units is highly unacceptable and cannot be tolerated any further. The Committee, keeping in view the above, directed that in case any of these units continues to wilfully disobey the requests made by the North Eastern Regional Directorate of CPCB to provide the data/information required by them to conduct the resource (coal) audit, the North Eastern Regional Directorate of CPCB shall initiate appropriate punitive action, as per law, against each such defaulting units.

1.14 The Committee during its Fourteenth Sitting held on 03.06.2019 also noted that year-wise details of coal purchased by each of these units since imposition of ban on mining of coal in the State by the Hon'ble NGT are already available in the first report prepared by the North Eastern Regional Directorate of the CPCB. The Committtee further noted that other information such as annual production of coal/ power and specific fuel consumption by each such units are available in the Annual Reports and Detailed Project Report (DPR) of these units, a copy of which is either

available in the public domain or is already available with North Eastern Regional Directorate of the CPCB. The Committee keeping in view the above directed that the North Eastern Regional Directorate CPCB shall complete resource (coal) audit of each cement/power plant in the State and submit a report to the Committee within a month, without fail.

1.15 The Committee in its Fifteenth Sitting held on 28.06.2019 noted that from perusal of information on the clinker and power produced by some of these plants available in their annual reports, a copy of which is available in the public domain *prima facie* it appears that quantity of coal reported to be procured by some of these plants is grossly insufficient to produce reported quantity of cement and/or power by such plants. The Committee further noted that the gap has, in all probability, been met by illegally mined coal. The same, if found to be true, has not only resulted in gross violation of the orders of the Hon'ble NGT and the Hon'ble Supreme Court but has also resulted in enormous loss of revenue to the State. To have a preliminary assessment of illegally sourced coal, if any, used by any of these plants/industries after ban on mining of coal was imposed by the Hon'ble NGT in April, 2014, the Committee directed the Managing Directors/ Chief Executive Officers of all Cement Industries and Thermal Power Plants in the State of Meghalaya to depute their duly authorised representative(s) to remain present before the Committee in its sitting to be held on 23.07.2019 and produce before the Committee, along with supporting documentary evidence, the following information /documents:

(i) Year-wise details of clinker and / or power produced since imposition of ban on coal mining in the State in April 2014;

(ii) Year-wise details of coal and / or any other alternate fuel procured since imposition of ban on coal mining in the State in April 2014;

(iii) Year-wise details of the quantity of cement/ clinker on which transport subsidy, if any, has been claimed by the plant since imposition of ban on coal mining in the State in April 2014;

(iv) A copy of annual report for each of the years since imposition of ban on coal mining in the State ;

(v) Average estimated quantity of coal and / or any other alternate fuel(s) required to produce one tonne of clinker and / or one unit (kwh) of power; and

(vi) A copy of Detailed Project Reports (DPRs) submitted to the Bank(s) / Financial Institution(s) to obtain loan for establishment / expansion / modernization of the plant.

1.16 During Sixteenth Sitting of the Committee representiaves of 9 (nine) Cement Industries (*viz.* Amrit Cement, Cosmos Cement Limited, Dalmia Bharat Cement Limited, Jaintia Cement Limited, JUD Cement Limited, Mawmluh Cherra Cement Limited, Meghalaya Cement Limited, Star Cement Limited and Star Cement Meghalaya Limited) and four (4) Thermal Power Plants (*viz.* Maithan Alloys Limited, Meghalaya Power Limited, Shree Sakambari Ferro Alloys Pvt. Ltd. and Shyam Century Ferrous Ltd.) appeared before the Committee. A summary of deliberations held on the matter during the said Sitting of the Committee is as below:

(i) Representatives of Mawmluh Cherra Cement Limited, Jaintia Cement Limited, Maithan Alloys Limited and Shree Sakambari Ferro Alloys Pvt. Ltd. submitted information and documents sought by the Committee. The Committee observed certain discrepancies in information submitted by Maithan Alloys Limited and Shree Sakambari Ferro Alloys Pvt. Ltd and requested them the depute a representative to attend next sitting of the Committee to be held on 14.08.2019 along with the corrected information. The Committee also noted that the information provided by the Mawmluh Cherra Cement Limited does not contain Annual Report for the year 2018-19.

(ii) Representative of Jaintia Cement Limited informed that they do not use coal as a fuel. He further stated that the entire fuel requirement for the said plant is met from the Coke Breeze sourced from Assam. The Committee directed the North Eastern Regional Directorate of the CPCB to undertake audit of each of the Coke Plants from which the coke has reportedly been sourced by the Jaintia Cement Limited in the format stipulated by the Committee for resource (coal) audit of cement factories and Thermal Power Plants in Meghalaya and submit a report to the Committee within one month. The said Report is still awaited from the North Eastern Regional Directorate of CPCB.

(iii) The representative of Cosmos Cement informed that they have not yet installed the plant and machineries of the Cement Plant and have therefore neither commenced production of the cement nor have purchased any coal.

(iv) Dr. Shantanu Kumar Dutta, Addl. Director, North East Regional Directorate of the CPCB who is also a member of the Committee informed that the RNB Cement Limited will not be able to provide any information or document as the plant has been taken over by the National Company Law Tribunal (NCLT) and is managed by an Interim Resolution Professional (IRP).

(v) Representatives of Amrit Cement, Meghalaya Cememt Limited, Meghalaya Power Limited, Star Cement Limited and Star Cement Meghalaya Limited initially questioned the jurisdiction of the Committee to seek information from them. Later on they agreed to provide the information and documents sought by the Committee provided additional time is granted to them. Similarly representatives of Dalmia Bharat Cement Limited, JUD Cement and Shyam Century Ferrous Limited requested the Committee to provide additional time for submission of the information and documents sought by the Committee. Inspite of prior notice, five Cement Industries (*viz.* Greenvalley Industries Limited, Goldstone Cements Limited, Hills Cements Limited, RNB Cement Limited and Virgo Cements Limited) and one Thermal Power Plant (*viz.* CMJ Breweries Limited) did not depute a representative to attend Sixteenth Sitting of the Committee. The Committee directed the afore-mentioned defaulting Industries to depute a representative to attend next Sitting of the Committee to be held at Shillong on 14.08.2019 along with all information and documents sought by the Committtee, without fail.

1.17 During Seventeenth Sitting of the Committee held on 14.08.2019, representiaves of nine (9) Cement Industries (*viz.* Amrit Cement, Dalmia Bharat Cement Limited, Goldstone Cement Limited, Green Valley Industries Limited, Hill Cement Limited, JUD Cements Limited, Meghalaya Cement Limited, Star Cement Limited and Star Cement Meghalaya Limited) and four (4) Thermal Power Plants (*viz.* Maithan Alloys Limited, Meghalaya Power Limited, Shree Sakambari Ferro Alloys Pvt. Ltd. and Shyam Century Limited) appeared before the Committee. A learned Senior Counsel along with one other Counsel appeared before the Committee on behalf of Star Cement Limited and two of its subsidiaries (*viz.* Star

Cement Meghalaya Limited and Meghalaya Limited). A summary of deliberations held on the matter during the said Sitting of the Committee is as below:

(i) The Mawmluh Cherra Cement Limited provided a copy of Annual Report for the year 2018-19. The Committee took the same on record.

(ii) Three (3) Cement Industries (*viz.* Goldstone Cement Limited, Meghalaya Cement Limited, Star Cement Limited and Star Cement Meghalaya Limited) and four (4) Thermal Power Plants (*viz.* Maithan Alloys Limited, Meghalaya Power Limited, Shree Sakambari Ferro Alloys Pvt. Ltd. and Shyam Century Limited) submitted information and documents sought by the Committee.

(iii) One (1) Cement Industry (*viz.* Amrit Cement) provided some of the information/document sought by the Committee. Four (4) Cement Industries (*viz.* Dalmia Bharat Cement Limited, Greenvalley Industries Limited, Hill Cement Limited and JUD Cement Limited) sought additional time to provide information/documents sought by the Committee. Inspite of prior notice, one Cement Industry (*viz.* Virgo Cements Limited) and one Thermal Power Plant (*viz.* CMJ Breweries Limited) neither deputed a representative to attend meeting of the Committee nor provided the information/documents to the Committee. The Committee directed all these defaulting Industries to provide the information/documents to the Committee within one week positively.

(iv) The Committee noted that the quantity of coal procured by Maithan Alloys Limited and Shri Sakambari Ferro Alloys Pvt. Ltd, as per the statements submitted to the Committee, is substantially different than the quantity of coal reportedly consumed by the these Plants, as per the details given in a report on coal consumption by the Thermal Power Plants and Cement Industries submitted to the Committee by North Eastern Regional Directorate of CPCB. The Committee therefore, directed the North Eastern Regional Directorate of CPCB to re-examine the records relating to purchase and use of coal by above Thermal Power Plants and submit a report to the Committee within fifteen days.

(v) The Committee noted that *prima-facie* the quantity of coal purchased by majority of Cement Industries and Thermal Power Plants is much lower than the quantity of coal required to produce reported quantity of clinker and/or electricity.

(vi) Many of the Cement Industries and Thermal Power Plants claimed that they have used large quantity of slate in place of coal. The Committee noted that it is neither technically feasible nor legally permissible to use large quantity of slate in place of coal.

1.18 The Star Cement Meghalaya vide letter dated 26.08.2019 submitted a representation wherein, among others, it has been stated that observations made by the Committee that *prima-facie* they have used illegal coal for production of clinker/power is not based on the factual information but on the premise that use of alternate fuel by them is not technically feasible and that no royalty on the same was paid. The Committee sent a copy of the said representation to the MSPCB, the North Eastern Regional Directorate of the CPCB and North Eastern Regional Office of the Ministry of Environment, Forest and Climate Change (MoEFCC), Government of India (GoI) for their comments.

1.19 During Eighteenth Sitting of the Committee held on 16.09.2019, the MSPCB, the North Eastern Regional Directorate of the CPCB and North Eastern Regional Office of the MoEFCC, GoI submitted their comments on submissions made by the Star Cement in their said letter dated 26.08.2019. The Committee took a copy of these comments on record and directed as below:

(i) The MSPCB shall provide to the Committee a copy of Environmental Statements submitted to them by all Cement Industries and Thermal Power Plants in the State of Meghalaya for the period from 20014-15 to 2018-19.

(ii) The MSPCB shall provide to the Committee a copy of all authorizations/ no objection certificates granted by them to Cement Industries and Thermal Power Plants in the State of Meghalaya for use of any fuel other than coal.

(iii) The MSPCB shall provide to the Committee a copy of 'Consent to Establish' and/or 'Consent to Operate', if any, granted for mining of slate or muslate in the State of Meghalaya. In case no such consent has been granted, the same shall also be intimated to the Committee within one week

(iv) The North Eastern Regional Office of the MoEFCC, GoI and the State Environmental Impact Assessment Authority (SEIAA), Meghalaya shall provide to the Committee a copy of Environmental Clearance(s), if any, granted for mining of slate in the State of Meghalaya. In case no such EC has been issued by them the same shall also be intimated to the Committee.

(v) The North eastern Regional Directorate of the CPCB shall provide to the Committee a copy of data which formed the basis for making a submission before the Committee while preparing its First Interim Report to the effect that the two integrated cement units of State Cement Limited (*viz.* Star Cement Limited and Star Cement Meghalaya Limited) use coal of about 15% of total clinker production. The CPCB may also provide the reasons for discrepancy between the said information provided in December 2018 and the information provide vide letter dated 13.09.2019 wherein it has been stated that actual requirement of coal by these cement plants is even less that self-declared quantity of 12.75% of clinker production.

1.20 During Eighteenth Sitting of the Committee held on 16.08.2019, the Commissioner and Secretray to the Government of Meghalaya, Mining and Geology Department informed the Committee that no mining lease has been granted so far for extraction of slate in the State of Meghalaya. He further stated that local suppliers have supplied muslate or slate sourced from overburden of coal mining carried out prior to ban imposed by Hon'ble NGT. He also stated that six (6) Cement Industries (*viz.* Dalmia Bharat Cement Limited, Goldstone Cement Limited, Green Valley Industries Limited, Meghalaya Cements Limited, Star Cement Limited and Star Cement Meghalaya Limited) and one (1) Thermal Power Plant (*viz.* Meghalaya Power Ltd.) have paid royalty on slate used by them.

1.21. Later on, the Committee received requisite information/documents sought from all defaulting Cement Industries and Thermal Power Plants. The Committee also received information/documents sought from the MSPCB, North Eastern Regional Directorate of CPCB and North Eastern Regional Office of the MoEFCC, GoI in its Eighteenth Sitting held on 16.09.2019.

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CHAPTER 2: ANALYSIS OF INFORMATION PROVIDED BY INDUSTRIES AND REGULATORY AUTHORITIES

2.1 Mawmluh Cherra Cement Limited

2.1.1 The Mawmluh Cherra Cement Limited was initiated incorporated as a private enterprise under the Indian Companies Act, 1913 in the name of the 'Assam Cement Limited' on 20.05.1955 to establish first cement plant of the entire North East India at a place named Mawmluh located near Cherrapunjee at about 56 km from Shillong. Keeping in view the inability of the original promoters to raise requisite funds for establishment of the plant, the Government of Assam decided to take-over the enterprise. Accordingly, on 01.01.1964 the Assam Cement Limited became a Government of Assam undertaking with very small and token percentage of share given to private sector. The Cement Plant having installed capacity of 85,000 tones of cement per annum was commissioned in November 1964. With the reorganization of the composite State of Assam resulting in creation of a new State of Meghalaya on 22.01.1972 the control and management of the above enterprise formally passed over to the State of Meghalaya. On 07.05.1974 the above enterprise was rechristened as Mawmluh-Cherra Cement Limited (hereinafter referred to as "MCCL").

2.1.2 The Committee examined the Techno-Economic Feasibility Report for expansion of existing cement plant of MCCL consisting of three long wet process kilns (Kiln 1 of 250 tons per day (TPD) and Kiln 2 and 3 of 340 TPD each) by addition of 600 TPD dry process kiln in the existing cement plant prepared by Holtec Consulting Private Limited in 2004. The said report envisages coal sourced from nearby areas as a fuel for the said plant. List of raw materials for the said plant given in the said Report does not include any other fuel. It has also been stated in the Said Report that specific coal requirement (*i.e.* percentage of coal required to produce a unit quantity of clinker) for the said plant is 16%.

2.1.2 Presently, the dry process kiln of 600 tpd capacity is only operational in the MCCL. The all three wet process kilns have been de-commissioned in 2014. Foundation stone of the said dry process kiln was laid in 2004. The same however,

could be commissioned in the month of September 2016. Hence, after the imposition of ban on illegal rat-hole coal mining was imposed by the Hon'ble NGT in April 2014 the cement plant of the MCCL was in operation for a period of about three years (*viz.* from September 2016 to March 2019).

2.1.3 Year-wise details of clinker produced and the coal procured by the MCCL to produce such clinker, since the ban on illegal rat hole coal mining was imposed by the Hon'ble NGT in April 2019 (*viz.* from the year 2014-15 to the year 2018-19) (hereinafter referred to as 'Audit Period') is as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	-	-	32,505	40,440	38,530	1,11,475
Coal procured (MT)			10,196	10,192	11,802	32,190

2.1.4 The representative of North Eastern Regional Directorate of CPCB informed the Committee that after due scrutiny of all requisite documents, they have found that the entire afore-mentioned quantity of 32,190 MT coal has been procured by MCCL from legal sources.

2.1.5 The Committee notes that as per the afore-mentioned information, the reported specific coal consumption (*i.e.* percentage of coal consumed to produce a unit quantity of clinker) for the MCCL during the Audit Period is 28.876 %. The Committee also notes that in paragraph 1 of the 'Guidelines on Co-processing in Cement/Power/ Steel Industry' issued by the CPCB in February, 2010, a copy of the which has been placed before the Committee by North Eastern Regional Directorate of the CPCB, it has been stated that 40 million tones of coal is required to produce 200 million tomes of cement in the entire country. The specific coal consumption for the cement industry for the country as a whole, as per the said Guidelines, is 20%.

2.1.6 The Committee notes that the reported specific coal consumption by the MCCL during the Audit Period (*i.e.* 28.876%) is substantially higher than the

average specific coal consumption of the Cement Industry for the country as a whole (i.e. 20 %). The Committee further notes that the reported specific coal consumption of the MCCL is also substantially higher than the same for other Cement Industries in Meghalaya. **The Committee is therefore; of the view that during the Audit Period the entire requirement of coal for the MCCL has been met from legal sources.**

2.2 Star Cement Limited and its Two Subsidiaries (*viz.* Star Cement Meghalaya Limited and Meghalaya Power Limited)

2.2.1 The Star Cement Limited (formerly known as Cement Manufacturing Company Limited) is the largest cement manufacturer of the North-East India. The first cement plant of the Star Cement Limited, having installed capacity to produce 1,800 TPD clinker was commissioned TPD at Lumshnong village in East Jaintia Hills District in the year 2005. Later on the installed capacity of the said plant was enhanced to produce 2400 TPD clinker. During, 2013, Star Cement Meghalaya Limited, a wholly owned subsidiary of the Star Cement Limited, commissioned a cement plant having installed capacity to produce 5,300 TPD clinker. The Meghalaya Power Limited, a fully owned subsidiary of the Star Cement Limited established 8 MW Thermal Power Plant. The said plant was commissioned in 2009. Later on the installed capacity of the said Thermal Power Plant was enhanced to 51 MW by addition of an eight 43 MW unit. The said Thermal Power Plant having installed capacity of 43 MW was commissioned in 2013. All these Cement Plants and Thermal Power Plant of the Star Cement Limited and its afore-mentioned subsidiaries are located in Lumshnong village in close vicinity to each other. All these plants were in operation before the ban on illegal rat-hole coal mining was imposed by the Hon'ble NGT in April 2014.

2.2.2 The Committee in its Sixteenth Sitting held on 23.07.2019 examined a Techno-Economic Feasibility Report (TEFR) of the Modernization & Expansion of the then existing plant of the Cement Manufacturing Company Limited (now Star Cement Limited) from 1800 TPD to 2400 TPD clinker and a similar report of 5300 TPD clinkerization plant of the Star Cement Meghalaya Limited, both prepared by Holtec Consulting Private Limited, a copy of the which was provided to the

Committee by representatives of the Star Cement Limited, and observed that both these plants have been designed to use 100% Meghalaya coal available locally from areas within the distance of 50 kms. Nowhere in these reports is it stated that any of these plants can be operated by any alternate fuel other than coal. It has also been stated in these Reports that net calorific value of the local coal to be used in these clinker plants is 5,800 Kcal/kg. It has also been stated in these Reports that specific heat consumption of these plants is 740 Kcal per kg of clinker. The specific coal requirement for both these plants, as per the aforementioned information given in these Reports, is 12.75 %.

2.2.3 The Committee in its Sixteenth Sitting held on 23.07.2019 also examined TEFR of the Meghalaya Power Limited prepared jointly by Technical Consultant – Cethar Consulting Engineers (P) Ltd., Chennai and Financial Consultant- KBG Consultants Pvt. Ltd., Kolkata, a copy of the which was provided to the Committee by a representative of the Star Cement Limited, and observed that as per the said Report the said plant has been designed to use coal sourced from nearby coal mines at Bapung and Khliehriat, Jaintia Hills, in Meghalaya & captive mines, Meghalaya. Requirement of the locally sourced Meghalaya coal at 100 % capacity for the said 43 MW TPP, as per the said Report, is 720 MT per day. The specific fuel requirement for the said TPP, as per the information given in the said Report, is therefore 0.70 kg/ kwh. Nowhere, in the said Report it has been stated that it will be feasible to run the plant by using any alternate fuel other than coal.

2.2.4 The Committee in its Sixteenth Sitting held on 23.07.2019 also noted that Environmental Clearance (EC) to the said TPP has been accorded by the Ministry of Environment and Forests, Government of India subject to, among others, a condition that *"In case source of fuel supply is changed at a later stage (now proposed on imported coal from Indonesia the project proponent shall intimate the Ministry well in advance along with necessary requisite documents for its concurrence for allowing the change., In such a case the necessity for re-conducting public hearing may be decided by the Ministry in consultation with the Expert Appraisal Committee".* The Committee also noted that the North Eastern Regional Office of the MoEFCC, GoI during routine monitoring of conditions stipulated in EC to the said TPP has

observed that in contravention of the said condition, the plant has been operated by using locally sourced coal. For the said violation, the North Eastern Regional Office has requested the MoEFCC, GoI to initiate penal measures in accordance with the provisions of the Environment (Protection) Act, 1986 against the said TPP. In pursuance, a show cause notice has been issued to the said TPP by the MoEFCC, GoI. No action has however been taken against the Meghalaya Power Limited for continuous violation of the said condition stipulated in the EC for last several years.

2.2.5 The Committee after examination of documents submitted by representatives of the Star Cements Limited in its Sixteenth Sitting held on 23.07.2019 noted that year-wise details of clinker (in MT) or power (in kwh) produced and coal procured by each of the afore-mentioned three plants of the Star Cements Limited during the Audit Period are as below:

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Star Cement Limited	Clinker produced (MT)	3,30,010	4,92,055	5,67,241	5,15,350	6,00,025	25,04,681
	Coal procured (MT)	13,417	47,628	10,192	25,267	10,989	1,07,493
Star Cement Meghalaya Limited	Clinker produced (MT)	15,49,349	16,29,025	15,79,345	15,41,945	14,36,600	77,36,264
	Coal procured (MT)	58,448	1,48,954	9,775	67,624	84,188	3,68,989
Meghalaya Power Limited	Power Produced (Million kwh)	167.923	183.114	201.624	190.059	170.116	912.836
	Coal procured (MT)	25,182	68,092	41,863	36,129	18,024	1,89,290
Total	Clinker produced (MT)	18,79,359	21,21,080	21,46,586	20,57,295	20,36,625	102,40,945
	Power Produced (Million kwh)	167.923	183.114	201.624	190.059	170.116	912.836
	Coal procured (MT)	97,047	2,64,674	61,830	1,29,020	1,13,201	6,65,772

2.2.6 During sixteenth Sitting of the Committee representatives of the Star Cement Limited also placed before the Committee a document stating therein that during the Audit Period, apart from the coal these plants also purchased alternate fuels such as Mu Slate, Petcoke and Saw dust. Year-wise details of the quantity of alternate fuels stated to be purchased by each of these plants are as below:

(Metric Tonne)

Plant	Nature of Alternate Fuel	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Star Cement Limited	Mu Slate	50,042	91,556	82,969	1,92,859	1,01,129	5,18,555
Star Cement Meghalaya Limited	Mu Slate/ Pet Coke/ Saw Dust	1,87,631	3,01,027	2,03,188	4,45,209	1,86,032	13,23,087
Meghalaya Power Limited	Mu Slate	1,06,243	1,39,303	1,73,348	2,87,638	1,58,652	8,65,184
Total		**3,43,916**	**5,31,886**	**4,59,505**	**9,25,706**	**4,45,813**	**27,06,826**

2.2.7 The Committee during its Sixteenth Sitting also noted that it has also been stated in the documents submitted to the Committee by representatives of the Star Cements Limited that average estimated requirement of coal and alternate fuel for production of clinker by these plants is 9% - 14% and 25% - 35% respectively. Similarly, it has also been stated in these communications that average estimated requirement of coal and alternate fuel for production of one kwh of power by the said Thermal Power Plant is 0.45 – 0.65 kg per kwh and 1.20 – 1.60 kg per kwh.

2.2.8 The Committee during its Sixteenth Sitting also noted that keeping in view that the project proponent in their own communication has stated that estimated requirement of coal for these plants is upto 14 % and both these plants are more than 10 years old, the actual requirement of coal for production of clinker by both these plants is atleast 14 % of the clinker produced. The Committee in the said

Sitting held on 23.07.2019 also noted that specific coal requirement for the Meghalaya Power Limited is atleast 0.70 kg/kwh as has been stated in its TEFR.

2.2.9 The Committee in its Sixteenth Sitting also noted that use of alternate fuel, in place of coal in these plants, which have been designed to use coal as an exclusive fuel, requires major modification/alteration in their design and operation. The Committee in the said Sitting also noted that nothing was placed before the Committee to the effect that design of these plants have been altered/modified to enable them to utilise fuel such as slate having very low calorific value in place of the high calorific value local Meghalaya coal of about 5800 Kcal/kg calorific value. The Committee also noted that as per documents provided to the Committee, during the year 2016-17, the clinker plant of the Star Cement Meghalaya Limited was operated by using 9,775 MT coal and 2,03,188 MT of alternate fuel. The Committtee in the said Siting noted that even with modifications, a clinker plant cannot attain the requisite kiln temperature with such a low calorie fuel mix.

2.2.10 The Committee in its Sixteenth Sitting also noted that paragraph 2 of the Environment Impact Assessment (EIA) Notification issued by the MoEFCC, GoI vide S.O. 1533 dated 16.09.2006 mandates prior EC in the cases involving change in product mix. A representative of Star Cement Limited admitted before the Committee that no such EC has been obtained for any of these plants. Mr. H. Tynsong, Scientist D, North Eastern Regional Office of the MoEFCC, GoI during the said Sitting drawn attention of the Committee to specific condition no. (xi) (*viz. efforts shall be made to use low -grade lime, more fly ash and solid waste in cement manufacturing*) and no. (xii) (*viz. all efforts shall be made to use of high calorific hazardous waste in the cement kiln and necessary provision shall be made accordingly*) stipulated in EC to Star Cement Meghalaya Ltd. issued by the MoEFCC, GoI vide letter dated 28.10.2009 and stated that these conditions specifically provides for use of alternate fuel. He further stated that keeping in the above, use of alternate fuel in place of coal by the said plant does not requires prior EC. The Committee after examination of six-monthly self-compliance reports to said EC, a copy of which is available on website of the Star Cement Limited, observed that in respect of the afore-mentioned condition no. (xi) it has been reported that *"SMCL is*

a clinkerization unit, no fly ash is used in the unit. The generated solid waste from the pollution control equipment has been recycled and re-used in the process and has been used for clinker manufacturing. Amount 8-10 % of low grade lime available in the mine has been used in the process". Similarly, in respect of the afore-mentioned specific condition no. (xii) it has been reported that *"Provision already made to use of high calorific waste i.e. waste oil in the kiln. The tank capacity is 1000 litres. The used oil disposal process along with photograph has been submitted along with CREP in MoEF&CC, Shillong & New Delhi."* The Committee further noted that use of any alternate fuel, as was claimed by a representative of the Star Cement Limited, has not been reported anywhere in these self-compliance reports. The Committee also noted that even for the used oil, merely making a provision for its use and not any actual use has been reported in these self -compliance reports.

2.2.11 The Committee in its Sixteenth Meeting also noted that apart from the revised EC, change in fuel for a plant also requires prior No Objection Certificate (NoC) from the MSPCB. The Member- Secretary of the MSPCB, during the said Meeting placed before the Committee a letter dated 24.09.2017 wherein the MSPCB communicated its no-objection certificate to M/s. Star Cement Meghalaya Limited for use of Petroleum Coke in its cement plant subject to conditions stipulated in the said letter. The Committee in the said Siting further noted that use of Petroleum Coke by the said Cement Plant is not reported in any of the six monthly self-compliance for the period after 24.09.2017.

2.2.12 The Committtee in the Sixteenth Sitting also noted that the mining/ winning/ extraction of slate claimed to be used by these plants requires prior mining lease. It also requires payment of royalty and other taxes to the State Government. Nothing was placed before the Committee during the said sitting to indicate that any mining lease has been granted in the State for mining of slate and the slate, if any, used by these plants has been sourced from an area having valid mining lease after payment of requisite royalty and other taxes payable to the State Government.

2.2.13 The Committee in the Sixteenth Sitting noted that year-wise details of clinker/power produced, coal required to produce reported quantity of

clinker/power produced (@ 14% for clinker and 0.70 kg of coal per kwh of power produced) and gap in coal requirement in respect of each of the afore-mentioned three plants of the Star Cement Limited during the Audit Period are as below:

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Star Cement Limited	Clinker produced (MT)	3,30,010	4,92,055	5,67,241	5,15,350	6,00,025	**25,04,681**
	Coal required (MT)	46,201	68,888	79,414	72,149	84,004	**3,50,655**
	Coal procured (MT)	13,417	47,628	10,192	25,267	10,989	**1,07,493**
	Gap (MT)	32,784	21,260	69,222	46,882	73,015	**2,43,162**
Star Cement Meghalaya Limited	Clinker produced (MT)	15,49,349	16,29,025	15,79,345	15,41,945	14,36,600	**77,36,264**
	Coal required (MT)	2,16,909	2,28,064	2,21,108	2,15,872	2,01,124	**10,83,077**
	Coal procured (MT)	58,448	1,48,954	9,775	67,624	84,188	**3,68,989**
	Gap (MT)	1,58,461	79,110	2,11,333	1,48,248	1,16,936	**7,14,088**
Meghalaya Power Limited	Power Produced (Million kwh)	167.92	183.11	201.62	190.06	170.12	**912.84**
	Coal required (MT)	1,17,546	1,28,180	1,41,137	1,33,041	1,19,081	**6,38,985**
	Coal procured (MT)	25,182	68,092	41,863	36,129	18,024	**1,89,290**
	Gap (MT)	92,364	60,088	99,274	96,912	1,01,057	**4,49,695**
Total for above three plants	Coal required (MT)	3,80,656	4,25,131	4,41,659	4,21,063	4,04,209	**20,72,718**
	Coal procured (MT)	97,047	2,64,674	61,830	1,29,020	1,13,201	**6,65,772**
	Gap (MT)	**2,83,609**	**1,60,457**	**3,79,829**	**2,92,043**	**2,91,008**	**14,06,946**

2.2.14 The Committee in its Sixteenth Sitting noted that prima-facie it appears that the gap in coal required to produce reported quantity of clinker and power by the afore-mentioned plants of the Star Cements Limited has been met by illegally sourced local coal. The Committee in the said Sitting also noted that even if a part of it has been met by any alternate fuel, the same has been done in violation of the environmental and mining laws and also without payment of the requisite royalty and other taxes to the State Government. The Committee also noted that neither it is technically feasible, nor it is legally permissible to replace coal by alternate fuel by any of these cement and power plants.

2.2.15 The Star Cement Limited vide letter dated 26.07.2019 submitted a representation stating therein that observations made by the Committee that *prima facie* they have used illegal coal for production of clinker/ power is not based on the factual information but on the premise that use of alternate fuel by them is not technically feasible and that no royalty on the same was paid. Among others, the following has also been stated in the said representation:

(i) TEFRs are prepared with a view to take a considered decision regarding technical and financial viability of undertaking a project and also is a requirement for funding by financial institutions/ banks. The TEFRs are prepared on the basis of available data and certain assumptions. The details given in the TEFRs and that actual found on the ground at the time of implementation of the project may widely vary. The energy requirement for production of clinker and power given in these Reports cannot be the ground for deciding the actual energy/ coal/ alternate fuel used by them. They had stated that the coal requirement for the plants is 9 -14 %. Based on the above the coal requirement cannot be taken as at least 14%. The age of the plants has nothing to do with the energy required to produce clinker/ power. In fact with passage of time and experience gained, the efficiency of the plants by and large improves.

(ii) No major or even minor modification/ alteration in the plant design is required at all for using alternate fuel such as slate and pet coke by their plants. The plants can use coal as well as alternate fuel (slate).

(iii) Revised EC is required only when product mix is changed and not for change in the use of fuel.

(iv) The EC granted in respect of MPL specifically observes that "*imported coal from Indonesia will be used until domestic coal is available*". It is relevant to mention that none of the ECs granted after 3.6.2011 (when they were granted the EC), the MoEF & CC has prescribed the condition that only imported coal will be used. Similarly in the EC granted earlier to that date also, no such condition was prescribed. In any case for alleged violation of the conditions of the EC, the issue is under consideration of the competent authority and it is not linked with whether they have used legal coal or otherwise. Moreover, on their own they have approached SEIAA seeking change in the EC condition and this matter is yet to be decided.

(v) Each and every payment for purchase of coal and alternate fuel has been made by cheque by them. The details of the payments made by them can easily be verified. There is no way they could have made any payment in cheque for purchase of illegal coal and no cash transaction has ever taken place for purchase of coal at all. On examination of their books of accounts and Annual Reports, the date – wise details of the payment made by them can easily be verified.

(vi) Full royalty on purchase of alternate fuel by them has been paid on behalf of the suppliers by them.

(vii) The alternate fuel is primarily overburden dumps produced during excavation of coal and does not require a separate mining lease at all. Like coal the alternate fuel (slate) was also produced as overburden during rat hole mining of coal – subsequently banned by the Hon'ble NGT.

(viii) They have never been involved in illegal mining operations. The coal/ alternate fuel has been purchased by them from various local suppliers and royalty for the same has been paid. The Hon'ble Supreme Court has also held only that quantity of coal which was found to be illegally being transported as illegal coal. The ownership of the entire balance quantity lying on ground and already disposed of has been held to be that legally belonging to the concerned land owners/miners. In any case they have neither been involved in illegal mining (because they have not been involved in mining activity of coal/muslate) nor purchase of any illegal coal/ alternate fuel at all.

(ix) Use of slate in the power plant results in generation of additional fly ash on account of it containing high ash content. The fly ash produced is used in manufacturing of PPC cement by them as well as by others. In fact they have been purchasing fly ash from other sources to meet their full requirement. The use of alternate fuel for production of power by the power plants is environmentally desirable, financially viable and results in use of the by product (fly ash) for further use as a raw material. Similarly in the cement plants use of alternate fuel, which has low sulphur content, is beneficial from the point of view of production process and is also environmentally desirable. However, it results in higher cost of production by way of additional transportation costs, handling cost, storage costs etc., due to which whenever coal at a reasonable rate is available, the same is not preferred by cement plants and power plants etc.

(x) In fact the Meghalaya Power Limited has used slate during the years 2012 – 13 and 2013 – 14 also.

(xi) The letter dated 24.11.2017 of the Divisional Mining Officer addressed to the Director of Mineral Resources, Meghalaya, a copy of the which was enclosed to the said representation, shows that alternate fuel (Slate / Muslate) was extensively being used by them as substantial quantity of the same were found to be physically available at their plants.

2.2.16 The Committee vide letter dated 28.09.2019 sent a copy of the said representation to the MSPCB, North Eastern Regional Office of the MoEFCC, GoI and North Eastern Regional Directorate of the CPCB for comments.

2.2.17 In reply, the MSPCB vide letter dated 13.09.2019 informed the Committee that revised Consent to Operate under the Air/ Water Act is not required for use of alternate fuel. It was also informed by the MSPCB that *prima facie* the use of alternate fuel by the cement and power plants is technically feasible and is in fact encouraged by the Pollution Control Board. A copy of Environmental Statement of the afore-mentioned plants of the Star Cement Limited was also provided to the Committee.

2.2.18 Similarly, the North Eastern Regional Directorate of the CPCB vide letter dated 13.09.2019 submitted following comments on the said representation of the Star Cements Limited:

(i) As per the literature available in published journal of repute (*Ref: Mishra, H. K. and Ghosh, R. K, 1996, Geology, Petrology and Utilization Potential of some Tertiary coals of the North-eastern Region of India. International Journal of Coal Geology, 30: 65 - 100)* the calorific value of Eocene and Oligocene coal deposit of Meghalaya is in the range of 6500 - 8500 and 6255 - 8650 kcal/kg respectively. If we go with the published literature it could be assumed the coal requirement in actual clinker production in these cement plants of Star Cement Limited could be even less than the percentage (12.75%) requirement of coal as indicated in the TEFR assuming that calorific value of the Meghalaya coal at 5800 kcal/kg.

(ii) If the industries use Pet Coke or slate as alternate fuel resource (AFR) it is not required to modify or attach a new fuel/ material feeding system. AFRs are generally used together with coal. As the physical characteristics of the Pet Coke and slate are similar to the coal these alternate fuel can be used in the existing coal mills for pulverization before feeding into the Kilns or the boilers after blending with coal. The CPCB has been working on use of AFR, Hazardous Wastes (HW) and Refused Derived Fuel (RDF) in the cement mills, power

plants and also in the blast furnaces so as to use the resources inherited in the wastes generated by various industries or municipalities. It is already established that disposal of wastes in the cement kilns, power plants, blast furnaces, etc. could be best possible method to dispose of the wastes in an environmentally sound manner in one hand and also to recover the resources inherited in the wastes by these industries so that use of conventional fuel is reduced significantly.

(iii) The CPCB has published guidelines for use of AFR/ HW/ RDF in these industries. The CPCB has been conducting workshops, seminars *etc.*, amongst the stakeholders to promote the use of these AFR/ HW/ RDF in Cement Kiln or boilers.

(iv) Besides the encouragement by CPCB, MoEF & CC, of late, has been stipulating specific condition to a few cement mills in Meghalaya to use HW/ RDF/ AFR in kilns. The EC granted to various cement industries in the region stipulates such conditions.

(v) To use AFR/ RDF/ HW in the kilns, amendment in the EC by the concerned project is not required as per the provisions of the EC Notification, 2006. Amendment of EC is required for expansion, modification of projects and also changing in product mix. Using of AFR/ HW/RDF is only a change in fuel mix but not a change in product mix. By using AFR/ HW/RDF in a kiln/ boiler/ furnace, use of conventional fuel like coal is reduced. The arrangement helps in reducing the consumption of conventional fuel like coal and this brings in reduction in greenhouse gas emission. Thus, the use of AFR/ HW/RDF in cements kilns/ power plants/ blast furnace, etc., have significant environmental benefits and therefore such industries are encouraged to use AFR/ HW/RDF. Moreover, as the country is facing lot of problems in managing the solid wastes, use of these wastes in kilns shall also minimize the waste disposal problems in the country.

(vi) As per provisions of the Hazardous Wastes and Other Wastes (Management and Transboundary Movement) Rules, 2016, an industry has to apply to SPCB

for authorization under the Rules for using Hazardous Wastes (HW) in its kiln/ boiler/ furnace. As per the provisions of the said Rules, CPCB prepares guidelines for use of HW in cement kiln/ boiler/ furnace. Such guidelines for various types of HW are available in the website of CPCB.

(vii) Cement industries and power plants in Meghalaya, the industries are using slate as AFR in the cement kilns and the power plants. It is understood that slate are also mined together with coal in the coalfields of Meghalaya. Slates are differentiated from coal from their appearance and structure. It is learnt that slates commonly occur as overburdens together with the coal deposits. Slates are having less calorific value than the coal and therefore have less market values. Though data is not available regarding calorific value of slate in the State of Meghalaya, during field visit to the industries, use of slate/ Muslate by the industries were observed. When coal mining was in operation before the mining ban, various small crushers were observed in the coal depots. These crushers used to crush/ pulverize the slate into powder form and used to mix with the coal.

(viii) From the sample documents supplied by the industries, it is observed that the industries are paying royalty on the slate being procured. The CPCB in general does not go into the detail of the royalty payment by the industries.

(ix) The CPCB agrees to the point that the Cement Industries/ Power Plants are not involved in illegal mining of coal or slate. Documentary evidences have been submitted by the industries that the fuel/ AFR are procured after payment or royalty.

2.2.19 The North Eastern Regional Office of the MoEFCC vide letter dated 12.09.2019 submitted, among others, the following comments on the said representation of the Star Cements Limited:

(i) The EC is required only when product mix is changed and not for change in the use of fuel. Even though the project has used alternate fuel in their cement manufacturing process, there is no change in product mix as the produce produced is cement. The specific condition No. 12 in EC accorded to Star

Cement Limited by the MoEFCC, GoI vide letter dated 28.10.2009 specifically provides that all efforts shall be made to use of high calorific hazardous waste in the cement kiln and necessary provision shall be made accordingly

(ii) Para 3 of the guidelines for Pre-processing and Co-Processing of the Hazardous Waste and other wastes in Cement Plants as per Hazardous and Other Waste (Management and Trans-Boundary Movement) Rules, 2016 issued by the CPCB provides that utilization of hazardous and other waste for co-processing or for any other use shall be carried out only after obtaining authorisation from the State Pollution Control Board in respect of wastes on the basis of standard operating procedure or guidelines provided by the CPCB. The Star Cement Limited has obtained NoC for use of pet-coke in cement plants, and no record is available in the North Eastern Regional Office of the MoEFCC for use of slate as alternate fuel.

(iii) A Note given in col. 5 of the item 3 (b) pertaining to cement industries in Schedule to the Environment Impact Assessment (EIA) Notification, 2016 substituted by the Notification bearing S.O. No. 3518 (E) dated 23.11.2016 of the MoEFCC, GoI provides that fuel for cement industry be coal, pet coke, waste provided it meets the emission standard.

2.2.20 During Eighteenth Sitting of the Committee held on 16.09.2019, the Committee took on record the afore-mentioned communications from the MSPCB, the North Eastern Regional Directorate of the CPCB and North Eastern Regional Office of the MoEFCC, GoI containing their comments on submissions made by the Star Cement in their said representation dated 26.08.2019 and directed as below:

(i) The MSPCB shall provide to the Committee a copy of Environmental Statements submitted to them by all Cement Industries and Thermal Power Plants in the State of Meghalaya for the period from 20014-15 to 2018-19.

(ii) The MSPCB shall provide to the Committee a copy of all authorizations/ no objection certificates granted by them to Cement Industries and Thermal Power Plants in the State of Meghalaya for use of any fuel other than coal.

(iii) The MSPCB shall provide to the Committee a copy of 'Consent to Establish' and/or 'Consent to Operate', if any, granted for mining of slate or muslate in

the State of Meghalaya. In case no such consent has been granted, the same shall also be intimated to the Committee within one week

(iv) The North Eastern Regional Office of the MoEFCC, GoI and the State Environmental Impact Assessment Authority (SEIAA), Meghalaya shall provide to the Committee a copy of Environmental Clearance(s), if any, granted for mining of slate in the State of Meghalaya. In case no such EC has been issued by them the same shall also be intimated to the Committee.

(v) The North eastern Regional Directorate of the CPCB shall provide to the Committee a copy of data which formed the basis for making a submission before the Committee while preparing its First Interim Report, to the effect that the two integrated cement units of Star Cement Limited (*viz.* Star Cement Limited and Star Cement Meghalaya Limited) use coal of about 15% of total clinker production. The CPCB may also provide the reasons for discrepancy between the said information provided in December 2018 and the information provided vide letter dated 13.09.2019 wherein it has been stated that actual requirement of coal by these cement plants is even less that self-declared quantity of 12.75% of clinker production.

2.2.21 The North Eastern Regional Office of the MoEFCC, GoI vide a communication dated 11.10.2019 informed the Committee that as per records available with them no EC has been issued by the MoEFCC or SEIAA for mining of Slate in the State of Meghalaya.

2.2.22 The North Eastern Regional Directorate of the CPCB vide a communication dated 11.10.2019 informed the Committee as below:

(i) While preparing the Interim Report about the coal consumption by the cement plants in Meghalaya, Mr. P. Chakraborty, Unit Head of Calcom Cement India Ltd. (CCIL), a subsidiary of Dalmia Cement (Bharat) Limited, located at Umrangsoo, Assam was consulted for getting a neutral feedback. He was consulted because of his working experience and vast knowledge about clinker production in North East. It was reported by him that the coal requirement for clinker production stands at about 15% of total clinker production in general. This figure may vary about depending on the calorific value of the coal being used. Similar percentage coal consumption figure data is also supported by data available in the internet.

(ii) During the detailed audit of cement plants in the State of Meghalaya regarding coal consumption, it was observed that the units started using alternate fuel to a significant extent which would bring down the consumption of coal further. Moreover, published paper by *Mishra & Ghosh (1996)* reported very high calorific value of Eocene and Oligocene coal found in Meghalaya in the range of 6500 - 8500 and 6255 - 8650 Kcal/ Kg respectively. It is understood that if coal with such high calorific value is used for clinker production together with other alternate fuel like slate, plastic waste, wood-dust etc., the coal consumption percentage will come down even below 12.75%, as reported in their earlier report.

2.2.23 The MSPCB vide a communication dated 30.09.2019 provided to the Committee Environmental Statement of nine cement plants (*viz.* Amrit Cement Limited, Green Valley Industries Limited, Hills Cements Company Limited, Jaintia Cements Limited, JUD Cements Limited, Meghalaya Cements Limited, Dalmia Cements (Bharat Limited), Gold Stone Cements Limited and Mawmluh Cherra Cements Limited). Environmental Statement of both Cement Manufacturing Plants and a Thermal Power Plant of the Star Cement Limited and its subsidiaries had already been provided to the Committee by the MSPCB vide letter dated 13.09.2019.

2.2.24 During Eighteenth Sitting of the Committee held on 16.08.2019, the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department informed the Committee that slate is a minor mineral. He further stated that collection and sharing of royalty on minor minerals in the Autonomous District was done under the power of the Executive Order No. TAD/FR/22/55 dated 22.01.1962 till framing of Meghalaya Minor Mineral Concession Rules, 2016 (MMMCR). The said rules came into force on 12.09.2016. He further stated that grant of mining lease/quarry permit for slate was not there till Meghalaya Minor Mineral Concession Rules, 2016 came into force.

2.2.25 The Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department further informed the Committee that no mining lease has been granted so far for extraction of slate in the State. He further stated that local suppliers have supplied the slate sourced from overburden of coal mining carried out prior to ban imposed by Hon'ble NGT to the Cement plants. The Cement plants

have paid royalty on slate used by them. He further stated that the amount of royalty paid by the Star Cement Limited and its subsidiaries for slate is as below:

Name and address of Cement or Thermal Power Plant	Date of Payment	Amount Paid (Rs.)	Qty. of Slate (MT)
Star Cement Limited	08.10.2018	1,84,14,900	4,09,220.000
	12.02.2019	43,75,111	97,224.690
	12.02.2019	12,12,000	12,120
	TOTAL	**2,40,02,011**	**5,18,564**
Star Cement Meghalaya Limited	10.08.2018	4,82,26,500	10,71,700.000
	12.02.2019	1,23,13,667	2,73,637.060
	12.02.2019	21,32,000	21,320.00
	TOTAL	**6,26,72,167**	**13,66,657.060**
Meghalaya Power Ltd.	08.10.20118	3,14,18,100	6,98,180.010
	12.02.2019	8,32,100	8321.000
	18.02.2019	93,27,040	2,07,267.550
	TOTAL	**4,15,77,240**	**9,13,768.560**
GRAND TOTAL		**12,82,51,418**	**27,98.989.62**

2.2.26 The Committee after examination of the matter frames following questions:

1. Whether the specific coal requirement of afore-mentioned Cement Manufacturing Plants and a Thermal Power Plant of the Star Cement Limited and its subsidiaries is substantially lower than specific coal requirement stated in the respective TEFRs?
2. What is the actual specific coal requirement for the afore-mentioned Cement Manufacturing Plants and a Thermal Power Plant of the Star Cement Limited?
3. Whether it is technically feasible to use huge quantity of slate in lieu of coal without making any modification in design of these Plants?
4. Whether the afore-mentioned Plants of Star Cement Limited and its subsidiaries have actually used huge quantity of alternate fuel (*i.e.* Slate) in lieu of coal?

5. Whether slate, if used, has been used after obtaining all requisite regulatory approvals?

Question No. 1.

2.2.27 As per the TEFR, the specific coal requirement of Mawmluh Cherra Cement Limited is 16%. However, as per details given in para 1.2.3 and 1.2.5 above, the actual specific coal requirement of the Mawmluh Cherra Cement Limited (MCCL), which uses the same relatively high calorific value Meghalaya coal, as is being used by Cement Manufacturing Plants and Thermal Power Plants of the Star Cement Limited and its subsidiaries is 28.876%. Specific coal requirement of Cememt Plants of Star Cement Limited which uses the coal of almost similar quality as is being used by MCCL located in Meghalaya can-not be much lower than the specific coal requirement for the MCCL.

2.2.28 As per the TEFR, the specific coal requirement of the 43 MW unit of the Meghalaya Power Limited is 0.70 kg/kwh. However, as per the Environmental Statement submitted by the Meghalaya Power Limited to the MSPCB, the actual specific fuel consumption for the said 43 MW Thermal Power Plant during the year 2015-16, 2016-17 and 2017-18 is 0.909 kg/kwh, 0.986 kg/kwh and 0.717 kg/kwh respectively. Similarly, as per the Environmental Statement submitted to the MSPCB by the Meghalaya Power Limited, the actual specific fuel consumption for the 8 MW unit of their Thermal Power Plant during the year 2014-15 and 2015-16 is 0.799 kg/kwh and 0.800 kg/kwh respectively. As per the Environmental Statement submitted by the Star Cement Limited to the MSPCB, during the year 2016-17 its cement plant consumed 1,21,803.193 MT of coal to produce 5,67,241 MT tonnes of clinker. The specific coal requirement for its cement plant during 2016-17 was 21.47%.

2.2.29 Calorific value of Eocene and Oligocene coal deposit of Meghalaya in the range of 6500 – 8500 and 6255 – 8650 kcal/kg respectively reported in a published Journal, which formed the main basis for the North Eastern Regional Directorate of the CPCB to suggest that the actual specific coal requirement for cement manufacturing plants of the Star Cement Limited is less than the same stated in the respective TEFR, is for a coal sample collected on dry mineral-matter-free basis (*i.e.* for a sample of dry coal free from moisture and any other impurity). The coal actually available in the market does contain substantial quantity of moisture as

well as impurities, including the slate. The actual average calorific value of the Meghalaya coal available in the market is therefore; much lower than the calorific value reported in the said journal.

2.2.30 While preparing the First Interim Report of the Committee in December 2018, the North Eastern Regional Directorate of the CPCB, after consulting one Mr. P. Chakraborty, Unit Head of Calcom Cement India Ltd. (CCIL), a subsidiary of Dalmia Cement (Bharat) Limited, located at Umrangsoo, Assam, which also uses the comparatively higher calorific value coal available in the North Eastern India, as is being used by Cement Plants of Star Cement Limited and other cements plants including a Cement Manufacturing plant of the Dalmia Cement (Bharat) Limited located in Meghalaya, has reported to the Committee that actual specific coal requirement for Cements Plants of Star Cement Limited is 15%.

2.2.31 In paragraph 1 of the 'Guidelines on Co-processing in Cement/Power/ Steel Industry' issued by the CPCB in February, 2010, a copy of the which has been placed before the Committee by North Eastern Regional Directorate of the CPCB, it has been stated that 40 million tonnes of coal is required to produce 200 million tomes of cement in the entire country. The specific coal consumption for the cement industry for the country as a whole, as per the said Guidelines, is 20%.

2.2.32 Keeping in view the above, the Committee is of the view that actual specific coal requirement of Cement Manufacturing Plants and a Thermal Power Plant of the Star Cements Limited and its subsidiaries is higher than the same stated in the respective TEFRs.

Question No. 2

2.2.33 As per details given in para 2.28, the Meghalaya Power Limited in the Environmental Statement submitted to the MSPCB has reported that specific coal consumption of its Thermal Power Plant varied from 0.717 kg/kwh to 0.986 kg/kwh, the Committee is of the view that average actual specific coal requirement of the Thermal Power Plants of the Meghalaya Power Limited is about 0.850 kg/kwh.

2.2.34 For assessment of actual specific coal consumption of the Cement Plants of the Star Cement Limited and it subsidiary, the Committee took note of the followings:

(i) Specific coal consumption for the cement industry for the country as a whole, as per information available in the Guidelines on Co-processing in Cement/Power/ Steel Industry' issued by the CPCB in February, 2010 is 20%;

(ii) Average specific coal consumption for a similar Cement Plant of MCCL located in Meghalaya using almost similar quality of coal as is being used by cement plants of the Star Cement Limited and its subsidiaries, is 28.876%;

(iii) As per the Environmental Statement submitted by the Star Cement Limited to the MSPCB, during the year 2016-17 its cement plant consumed 1,21,803.193 MT of coal to produce 5,67,241 MT tonnes of clinker. The specific coal requirement for the said cement plant of the Star Cement Limited during 2016-17, as per the information by Star Cement Limited itself was 21.47%;

(iv) As per information obtained by North Eastern Regional Directorate of CPCB from one Mr. Mr. P. Chakraborty, Unit Head of a similar cement plant located in adjoining areas of Assam using almost similar quality of coal as is being used by cement plants of Star Cement Limited and its subsidiaries, average specific coal consumption of cement plants in the Region is about 15%.

2.2.35 The Committee after examination of facts given in para 2.234 above, is of the view that the actual specific coal consumption for dement plants of Star Cement Limited and its subsidiaries located in Meghalaya is atleast 15% of the weight of clinker produced.

Question No. 3:

2.2.36 All the cement manufacturing plants and thermal power plants of Star Cement Limited and its subsidiaries in Meghalaya have been designed to use locally sourced coal from the Meghalaya as a fuel. Even if the physical characteristics of the slate are similar to coal, use of slate having very low calorific value in place of high calorie coal requires modifications/changes in design of the plant, especially the components of the plants dealing with handing, processing, grinding and storage of fuel. The Star Cement Limited in their representation dated 26.07.2019 has categorically stated that no such modifications have been made in design of their cement and power plants. As per the information provided by Star Cement Limited during the year 2018-19 their cement plant used 10,989 MT coal and 1,01,129 MT slate. The Committee is of the view that even after modifications it is not feasible to achieve the required kiln temperature with such a low calories fuel mix.

2.2.37 Keeping in view the above, the Committee is of the view that except the small quantity of slate already mixed in the locally mined coal, it is not feasible to run the cement and thermal power plants of the Star Cement Limited by replacing about three-fourth of their coal requirement by a non-fuel mineral such as slate, as is being claimed by the Star Cement Limited.

Question No.4

2.2.38 The Star Cement Limited has claimed that huge quantity of slate has been used in-lieu of coal by all its Cement Manufacturing and Thermal Power Plants located in the State of Meghalaya. However, use of slate has not been reported in majority of Environmental Statements submitted by them to CPCB. In majority of these reports, use of coal as a fuel has only been reported. The Committee during its visit to fuel depot of the Meghalaya Power Limited on 12.11.2019 did not see any slate. During the visit, representative of the Meghalaya Power Limited also did not report to the Committee that a major part of the energy requirement of their plants is met from slate, as is now being claimed by them.

2.2.39 The Star Cement Limited at page 13 of their Annual Report for the year 2017-18 has prominently highlighted that its coal is accessed from 10-20 kilometres. Nowhere in any of the Annual Report it has been stated that about three-fourth of the energy requirement of their huge Cement Manufacturing Plants and Thermal Power Plants has been met by a non-fuel mineral (*viz.* slate).

2.2.40 It has also been claimed by the Star Cement Limited in their said representation dated 26.07.2019 that slate has been sourced from overburden dumps produced during excavation of coal. Except for a small quantity of overburden generated during creation of box-cutting, rat-hole mining does not involve generation of overburden. The Winning of lakhs of metric tonnes of slate from the overburden dumps, as has been claimed by the Star Cement Limited and other Cement Manufacturers and Thermal Power Plants, does not seem feasible. No such large overburden dumps having the capacity to allow extraction of several lakh tonnes of slates have been detected by the North Eastern Space Application Centre (NESAC) while undertaking land-use land-cover analysis of coal mining affected areas in Jaintia Hill districts.

2.2.41 Specific conditions no. (xi) (*viz. efforts shall be made to use low -grade lime, more fly ash and solid waste in cement manufacturing* and no. (xii) (*viz. all efforts*

shall be made to use of high calorific hazardous waste in the cement kiln and necessary provision shall be made accordingly) in the EC to Star Cement Meghalaya Ltd. issued by the MoEFCC, GoI vide letter dated 28.10.200 stipulates use of waste the said plant. The Committee after examination of six-monthly self-compliance reports to said EC, a copy of which is available on website of the Star Cement Limited, observed that in respect of the afore-mentioned condition no. (xi) it has been reported that *"SMCL is a clinkerization unit, no fly ash is used in the unit. The generated solid waste from the pollution control equipment has been recycled and re-used in the process and has been used for clinker manufacturing. Amount 8-10 % of low grade lime available in the mine has been used in the process".* Similarly, in respect of the afore-mentioned specific condition no. (xii) it has been reported that *"Provision already made to use of high calorific waste i.e. waste oil in the kiln. The tank capacity is 1000 litres. The used oil disposal process along with photograph has been submitted along with CREP in MoEF&CC, Shillong & New Delhi."* The Committee further noted that use of any alternate fuel, as is being claimed by the Star Cement Limited has not been reported anywhere in these self-compliance reports. The Committee also noted that even for the used oil, merely making a provision for its use and not any actual use has been reported in these self -compliance reports.

2.2.42 Keeping in view the above, the Committee is of the view that **except for a small quantity of slate found mixed in the locally mined coal, the Cement Manufacturing Plants and Thermal Power Plants of the Star Cement Limited have not used slate as a fuel in lieu of coal.**

Question No. 5

2.2.43 Slate is a fine-grained, foliated metamorphic rock that is created by the alteration of shale or mudstone by low-grade regional metamorphism. It is mainly used for roofing, flooring, and flagging because of its durability and attractive appearance. Slate is mainly a non-fuel mineral. As far as cement industries are concerned, the slate being originated from the shale may be used, to some extent, in place of shale. The composition of the slate does not make it possible to use it as a fuel in place of coal.

2.2.44 Till the declaration of the slate as a minor mineral by the Ministry of Mines, Government of India vide Notification bearing S.O. No. 423 (E) dated 10.02.2015, the slate was classified as a major mineral. The slate along with shale is listed at Sl. No. (7) in Schedule II of the Meghalaya Minor Mineral Concession Rules, 2016 (MMMCR).

2.2.45 Clause (d) in Section 3 of the Mines and Mineral (Development and Regulation) Act, 1957 provides that "mining operation" means any operations undertaken for the purpose of winning any mineral. Winning or obtaining of slate from any area, even from overburden dump, as has been claimed by the Star Cement Limited in their representation dated 26.07.2019, as per the said definition, attracts provisions of Section 4 of the MMDR Act, which mandates prior mining lease for any operation undertaken for the purpose of winning any mineral.

2.2.46 The Meghalaya Minor Mineral Concession Rules, 2016, which came into force on 12.09.2016, provide an elaborate mechanism for grant of mining lease or quarry permit for mining/winning of minor mineral for use in an industry. A mining lease or a quarry permit for winning of a minor mineral, including slate, as per the MMMCR, can be granted only after a prior Environmental Clearance and 'Consent to Establish' is obtained from the concerned regulatory Authorities. Grant of mining lease also requires preparation of a detailed mining plan duly approved by the concerned competent authority in the Mining and Geology Department in Government of Meghalaya. It also requires prior approval of Central Government under the Forest (Conservation) Act, 1980 in case mining/winning of such mineral involves any forest land. Actual winning/mining of slate requires 'Consent to Operate' from the State Pollution Control Board. As per Rule 29 of the MMMCR, a person who undertakes mining operations (viz. respective lessee or the holder of quarry permit) is responsible for payment of royalty. As per the said rule, in case of a mining lease royalty is to be paid by the concerned lessee on a quarterly basis. Similarly, in case of a quarry, royalty is to be paid before transportation.

2.2.47 The Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department has informed the Committee that no mining lease has been granted so far for extraction of slate in the State of Meghalaya. The North Eastern Regional Office of the MoEFCC, GoI has informed the Committee that the MoEFCC, GoI and the Meghalaya SEIAA have not granted any EC for mining of slate in the State. Similarly, the MSPCB has informed the Committee that so far no 'Consent to

Operate' or 'Consent to Establish' has been granted by them to any person, firm or company for mining of Slate in the State of Meghalaya.

2.2.48 The Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department has informed the Committee that the Star Cement Limited and its subsidiaries has paid an amount of Rs. 12.82 crore as royalty on 27.98 lakh MT state claimed to be used by their Cement Manufacturing Plants and Thermal Power Plant located in the State of Meghalaya. The entire royalty on slate has been paid during the year 2018 and 2019, much after the MMMCR came into force. Majority of the said royalty has been paid during the month of February 2019 after the resource (coal) audit of these companies was started by this Committee.

2.2.49 The North Eastern Regional Directorate of CPCB, MSPCB and North Eastern Regional Office of the MoEFCC stated that the slate has been used by these plants in lieu of the coal in pursuance of (i) Guidelines on Co-processing in Cement/Power/ Steel Industry' issued by the CPCB in February, 2010; (ii) guidelines for Pre-processing and Co-Processing of the Hazardous Waste and other wastes in Cement Plants as per Hazardous and Other Waste (Management and Trans-Boundary Movement) Rules, 2016; and (iii) specific condition no. (xi) and (xii) as per details given in para 2.239 above stipulated in EC to Star Cement Meghalaya Ltd. issued by the MoEFCC, GoI vide letter dated 28.10.2009.

2.2.50 The Committee after examination of the Guidelines on Co-processing in Cement/Power/ Steel Industry' issued by the CPCB in February, 2010 noted that the said guidelines contains an exhaustive list of waste materials covered by these guidelines. The slate does not find a place in the said list. Similarly, the Committee after examination of the guidelines for Pre-processing and Co-Processing of the Hazardous Waste and Other Wastes in Cement Plants as per Hazardous and Other Waste (Management and Trans-Boundary Movement) Rules, 2016 noted that these guidelines are applicable to the use of only the 'hazardous waste' and 'other waste' respectively defined in clause 17 and 23 of sub-rule (1) of rule 3 of the said rules. The slate, as per these definitions, is neither a 'hazardous waste' nor an 'other waste'. No Authorization from the MSPCB for use of slate, as is required for use of any hazardous or other waste has been obtained by the Star Cement for any of its Cement Manufacturing Plants and a Thermal Power Plant. **In any case, the slate**

being listed in schedule-II to the MMMCR, which as per the Star Cements Limited has the potential to replace three-fourth of the coal requirement for their huge Cement Manufacturing Plants and a Thermal Power Plant, can-not be classified as a waste.

2.2.51 As far as use of slate in compliance of the conditions stipulated in EC to Star Cement Meghalaya Ltd. issued by the MoEFCC, GoI vide letter dated 28.10.2009 is concerned, as stated in para 2.2.39 above, use of any alternate fuel, as is being claimed by the Star Cement Limited has not been reported anywhere in the six-monthly self-compliance reports to the said EC, a copy of which is available on website of the Star Cement Limited.

2.2.52 Keeping in view the above, the Committee is of the view that, the slate, if used, by the Cement Manufacturing Plants and Thermal Power Plant of the Star Cement Limited and its subsidiaries located in the State of Meghalaya, the same has been used in flagrant violation and contravention of the mining, environmental and pollution control laws as all such slate has admittedly been extracted without obtaining requisite Mining Lease, Consent to Establish, Consent to Operate and Environmental Clearance. If such use of slate, as claimed by Star Cement Limited has happened in the State, it must have caused huge damage to flora, fauna, rivers, streams, water bodies and the environment in general as all such slate has admittedly been extracted in a totally unregulated manner without any measure to mitigate its adverse impacts on the environment.

Conclusion

2.2.53 After examination of the afore-mentioned questions, the Committee is of the view that it is neither technically feasible nor legally permissible to replace more than seventy percent of the coal required to produce reported quantity of clinker and the electricity by Cement Manufacturing Plants and Thermal Power Plants of the Star Cement Limited and its subsidiaries located in the State of Meghalaya during the Audit Period by a non-fuel mineral (*viz.* slate), as is being claimed by the Star Cements Limited. The Committee is of the view that the Star Cement Limited and its subsidiaries have purchased illegally mined coal in the name of slate to

circumvent the ban imposed by the Hon'ble NGT on illegal rat-hole coal mining in the State of Meghalaya and also to evade payment of Royalty, Contribution to Meghalaya Environment Protection and Restoration Fund (MEPRF), Goods and Service Tax, Contribution to District Mineral Fund (DMF) and other statutory duties.

2.2.54 Even for the sake of an argument it is assumed that the claim of these plants that more that 72% of their coal requirement during the audit period has been met by a non-fuel mineral slate without making any change/modification in the design of these plants is true, it would have caused equal, if not more, damage to the flora, fauna, rivers, streams, water bodies and the environment in general in the State of Meghalaya as all such slate has admittedly been mined in an unscientific and haphazard manner without any mitigative measures and without obtaining mandatory mining lease, consent to establish, consent to operate, environmental clearance and authorisation/no-objection certificate from the State Pollution Control Board in a flagrant violation of the existing mining, environmental and labour safety laws

2.2.55 Year-wise gaps in quantity of coal required to produce the reported quantity of clinker (@ 15 % as given in para 2.2.35 above) and electricity power (@ 0.850 kg/kwh as given in para 2.2.33 above) and the coal procured by Star Cement Limited and its subsidiaries from legal sources are as below:

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Star Cement Limited	Clinker produced (MT)	3,30,010	4,92,055	5,67,241	5,15,350	6,00,025	**25,04,681**
	Coal required (MT)	49,502	73,808	85,086	77,303	90,004	**3,75,702**
	Coal procured (MT)	13,417	47,628	10,192	25,267	10,989	**1,07,493**
	Gap (MT)	36,085	26,180	74,894	52,036	79,015	**2,68,209**

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Star Cement Meghalaya Limited	Clinker produced (MT)	15,49,349	16,29,025	15,79,345	15,41,945	14,36,600	**77,36,264**
	Coal required (MT)	2,32,402	2,44,354	2,36,902	2,31,292	2,15,490	**11,60,440**
	Coal procured (MT)	58,448	1,48,954	9,775	67,624	84,188	**3,68,989**
	Gap (MT)	1,73,954	95,400	2,27,127	1,63,668	1,31,302	**7,91,451**
Meghalaya Power Limited	Power Produced (Million kwh)	167.92	183.11	201.62	190.06	170.12	**913.00**
	Coal required (MT)	1,42,732	1,55,644	1,71,377	1,61,551	1,44,602	**7,75,906**
	Coal procured (MT)	25,182	68,092	41,863	36,129	18,024	**1,89,290**
	Gap (MT)	1,17,550	87,552	1,29,514	1,25,422	1,26,578	**5,86,616**
Total for above three plants	Coal required (MT)	4,24,636	4,73,806	4,93,365	4,70,145	4,50,096	**23,12,047**
	Coal procured (MT)	97,047	2,64,674	61,830	1,29,020	1,13,201	**6,65,772**
	Gap (MT)	3,27,589	2,09,132	4,31,535	3,41,125	3,36,895	**16,46,275**

2.3 Amrit Cement Limited and its Captive Thermal Power Plant

2.3.1 An Integrated Clinker cum Cement Manufacturing Plant of Amrit Cement Limited having installed capacity to produce 2,000 TPD clinker is located at Umlaper Village in East Jaintia Hills District in Meghalaya. It also has a Captive Thermal Power Plant having 12 MW installed capacity. Both these Clinker Manufacturing Plant and the Captive Thermal Power Plant were commissioned in the year 2012.

2.3.2 As per the information/documents provided to the Committee by the Amrit Cement Limited, year-wise quantities of clinker and power produced and the coal procured by the Amrit Cement Limited to produce such clinker and thermal power during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	3,07,286	4,03,205	4,25,842	4,01,497	5,40,902	**20,78,732**
Power Produced (in Million kwh)	44.976	54.197	49.257	46.977	77.392	**272.799**
Coal Procured (MT)	3,861	88,165	38,785	74,978	31,833	**2,37,622**

2.3.3 The Amrit Cement Limited has informed the Committee that during the Audit Period they have also procured alternate fuel. Except slate, nature of any other alternate fuel purchased by the Amrit Cement Limited has however been not intimated to the Committee. The MSPCB has informed the Committee that no authorization/non-objection certificate has been granted by the Board to the Amrit Cement Limited for use of any alternate fuel. The Commissioner and Secretray to the Government of Meghalaya, Mining and Geology Department informed the Committee that no royalty has been paid by Amrit Cement Limited on the slate claimed to be used by them during the Audit period. Year-wise quantities of the slate claimed to be purchased by the Amrit Cement Limited during the Audit Period are as below:

(Metric Tonne)

Year					Total
2014-15	2015-16	2016-17	2017-18	2018-19	
23,033	28,977	1,29,698	-	-	**1,81,708**

2.3.4 The Committee, based on a detailed analysis of a similar claim of the Star Cement Limited on use of slate as an alternate fuel in lieu of coal, as given in para 2.2.26 to 2.2.52, is of the view that it is neither technically feasible nor legally permissible for the Amrit Cement Limited to replace more than half of their coal requirement by a non-fuel mineral such as slate.

2.3.5 The Committee after examination of a Techno-Economic Feasibility Report (TEFR) for the said 0.61 million tonnes per annum (MTPA) clinker and 0.66 MTPA cement (PPC) greenfield cement project with 1 X 12 MW Captive Thermal Power Plant of Amrit Cement Limited prepared by RCV Consulting noted that the said clinker production unit, as per the said TEFR, has been designed to use Meghalaya coal having the estimated net calorific value of 6,000 Kcal/kg as fuel. It has also been stated in the said TEFR that several small collieries are in operation in the Khliehriat and Sutnga coalfields which are at a distance of about 25-30 km from the proposed plant site. The specific heat consumption, as per the said TEFR, for the said clinker production unit is, 750 kcal/ kg of clinker produced. The specific coal requirement for the said clinker manufacturing plant, as per the said TEFR is therefore 12.50 % of the weight of the clinker produced. After examination of the Environmental Statements submitted by the Amrit Cement Limited to the MSPCB, a copy of which has been provided to the Committee by the MSPCB, the Committee observed that quantity of coal actually consumed by the said Cement Manufacturing Plant and Thermal Power Plant has not been indicated in any of these Statements. For the detailed reasons given in para 2.2.35 above, the Committee is of the view that actual specific coal consumption for clinker manufacturing plant of the Amrit Cement Limited is atleast 15%.

2.3.6 The Committee further noted that it has been stated in the said TEFR that 100 % fuel proposed for the captive power plant shall be coal from Khliehriat/ Sutnga area in Meghalaya. The boiler of the said captive power plant, as per the said TEFR, is suitable to accept E-grade coal with ash content upto 45 %. It has also been stated in the said TEFR that for every fifteen days the said plant will require about 4,000 MT of coal. The specific coal requirement for the said Captive Power Plant, as per the said information, is therefore about 1.20 kg/kwh. The Committee however is

of the view that the actual specific coal requirement for the said Captive Thermal Power Plant is same as the specific coal requirement of the Thermal Power Plant of the Star Cement Limited *i.e.* 0.850 kg/kwh.

2.3.7 Year-wise gaps in the quantity of coal required to produce the reported quantity of clinker (@ 15 % as given in para 2.3.5) and electricity power (@ 0.850 kg/kwh as given in para 2.3.6) and the coal procured by Amrit Cement Limited from legal sources during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	3,07,286	4,03,205	4,25,842	4,01,497	5,40,902	**20,78,732**
Power Produced (Million kwh)	44.976	54.197	49.257	46.977	77.392	**272.799**
Coal required to produced clinker (MT)	46,093	60,481	63,876	60,225	81,135	**3,11,810**
Coal required to produce Power (MT)	38,230	46,067	41,868	39,930	65,783	**2,31,879**
Total Coal Required (MT)	84,323	1,06,548	1,05,745	1,00,155	1,46,919	**5,43,689**
Coal Procured (MT)	3,861	88,165	38,785	74,978	31,833	**2,37,622**
Gap (MT)	80,462	18,383	66,960	25,177	1,15,086	**3,06,067**

2.4 Dalmia Cement (Bharat) Limited and its Captive Thermal Power Plant

2.4.1 An Integrated Clinker cum Cement Manufacturing Plant having an installed capacity to 1.30 MTPA clinker and 1.50 MTPA Cement was established by M/s. Adhunik Cement Ltd. at Thangskai Village in East Jaintia Hills District. It also has a Captive Thermal Power Plant of 25 MW installed capacity. Both Clinker Manufacturing Plant and the Captive Thermal Power Plant were commissioned in

the year 2010. Later on, both the Cement Manufacturing Plant and the captive Thermal Power Plant were acquired by the Dalmia Cements (Bharat) Limited.

2.4.2 As per the information/documents provided to the Committee by the Dalmia Cement (Bharat) Limited, year-wise quantities of the clinker and the power produced and the coal procured by the Dalmia Cement (Bharat) Limited to produce such clinker and thermal power during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
Clinker produced (MT)	6,68,239	7,32,700	7,92,075	9,00,686	10,84,883	**41,78,583**
Power Produced (in Million kwh)	117.403	108.108	88.733	102.485	110.108	**526.84**
Coal and Pet Coke Procured (MT)	17,433	98,296	56,208	1,07,092	54,478	**3,33,507**

2.4.3 It has also been stated in documents submitted to the Committee by the Dalmia Cement (Bharat) Limited that in addition to the above, alternate fuel has also been used. These alternate fuels, as per the information provided by the Dalmia Bharat Cement Limited, include saw dust, agro-waste, slate *etc.* Quantity of these alternate fuels claimed to be used by the Dalmia Bharat Cement Limited during the Audit Period has not been provided to the Committee.

2.4.4 It has also been stated in documents provided to the Committee by the Dalmia Bharat Cement Limited that applicable taxes, duties and royalties have been paid on these alternate fuel. The Commissioner and Secretray to the Government of Meghalaya, Mining and Geology Department informed the Committee that Dalmia Cement (Bharat) Limited on 08.02.2019 paid an amount of Rs. 4.10 crore to the Mining and Geology Department, Government of Meghalaya as royalty on 9.12 lakh metric tonnes of slate claimed to be consumed by them. It is worthwhile to note that the entire royalty on the slate claimed to be consumed by the Dalmia Cement (Bharat) Limited was paid on 08.02.2019 after the resource (coal) audit of Cement

Manufacturing Plants and Thermal Power Plants in Meghalaya was initiated by the Committee. The MSPCB has informed the Committee that the MSPCB vide letter dated 01.12.2017 has granted authorization/ no-objection certificate for use of pet-coke by the Dalmia Cement (Bharat) Limited. The Same was renewed on 27.11.2018. Apart from the pet-coke, the MSPCB vide letter dated 19.04.2017 granted authorization to the Adhunik Cement Ltd. (now Dalmia Cement (Bharat) Limited) for use of eight non-hazardous waste (viz. rice hay, rice husk, whole tyre, tyre chips, wood chips, saw dust, textile paper and paper waste). The MSPCB informed the Committee that the Dalmia Cement (Bharat) Limited neither sought nor received any authorization from the MSPCB for use of slate in its Cement Manufacturing Plant and Thermal Power Plant.

2.4.5 The Committee, based on a detailed analysis (given in para 2.2.26 to 2.2.52) of a similar claim of the Star Cement Limited on use of alternate fuel in lieu of coal is of the view that it is neither technically feasible nor legally permissible for the Dalmia Cement (Bharat) Limited to replace more than two-third of their coal requirement, as is being claimed by them, by any alternate fuel.

2.4.6 The Dalmia Cement (Bharat) Limited informed the Committee that copy of the Detailed Project Report (DPR) of Adhunik Cement Limited, which now stand merged with Dalmia Cement (Bharat) Limited, is not available with them. It was also informed by the Dalmia Cement (Bharat) Limited that they are trying to obtain a copy of the same from the concerned banker. Though the Dalmia Cement (Bharat) Limited assured the Committee that they will submit the DPRs as and when the same can be obtained, the Committee till the finalization of this report did not receive a copy of the said DPR. The Dalmia Cement (Bharat) Limited also informed the Committee that average estimated quantity of coal and/or any other alternate fuel(s) required to produce one tone of clinker and one unit (kwh) of power will primarily depend on the calorific value of coal/any other alternate fuel. They further informed that there is very high variation in various kinds of fuel used and therefore there is no standard per ton usage which can be estimated as it varies from year to year.

2.4.7 In the absence of the DPR and input on specific fuel consumption from the Dalmia Cement (Bharat) Limited, it is not possible for the Committee to correctly assess the specific fuel requirement for the Cement Manufacturing Plant and Thermal Power Plant of the Dalmia Cement (Bharat) Limited. The Committee therefore is of the view that specific fuel requirements of the Cement Manufacturing Plant and Captive Thermal Power Plant of the Dalmia Cement (Bharat) Limited are same as the specific fuel requirements of the similar plants the Star Cement Limited (*viz.* 15 % of the clinker produced and 0.850 kg/kwh of the power produced).

2.4.8 Year-wise gaps in quantity of coal required to produce the reported quantity of clinker (@ 15 % as given in para 2.4.7) and electricity power (@ 0.850 kg/kwh as given in para 2.4.7) and the coal procured by the Dalmia Cement (Bharat) Limited from legal sources during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	6,68,239	7,32,700	7,92,075	9,00,686	10,84,883	**41,78,583**
Power Produced (Million kwh)	117.403	108.108	88.733	102.485	110.108	**526.837**
Coal required to produced clinker (MT)	1,00,236	1,09,905	1,18,811	1,35,103	1,62,732	**6,26,787**
Coal required to produce Power (MT)	99,793	91,892	75,423	87,112	93,592	**4,47,811**
Total Coal Required (MT)	2,00,028	2,01,797	1,94,234	2,22,215	2,56,324	**10,74,599**
Coal and Pet Coke Procured (MT)	17,433	98,296	56,208	1,07,092	54,478	**3,33,507**
Gap (MT)	1,82,595	1,03,501	1,38,026	1,15,123	2,01,846	**7,41,092**

2.5 Goldstone Cement Limited and its Captive Thermal Power Plant

2.5.1 An Integrated Clinker cum Cement Manufacturing Plant having an installed capacity of 0.56 MTPA clinker and 0.88 MTPA cement was established by M/s. Goldstone Cements Limited in Musiang Lamare (Old) village in East Jaintia Hills District. It also has a Captive Thermal Power Plant of 10 MW installed capacity. Both the Clinker Manufacturing Plant and the Captive Thermal Power Plant were commissioned on 02.07.2016.

2.5.2 As per the information/documents provided to the Committee by the Goldstone Cements Limited, year-wise quantity of clinker and power produced and the coal procured by the Goldstone Cements Limited to produce such clinker and thermal power during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
2	3	4	5	6	7	8
Clinker produced (MT)	Nil	Nil	1,52,995	3,99,197	4,82,500	**10,34,692**
Power Produced (in Million kwh)	Nil	Nil	14.251	50.881	71.846	**136.978**
Coal Procured (MT)	Nil	Nil	5,918	21,295	4,946	**32,159**

2.5.3 The Goldstone Cements Limited has informed the Committee that during the Audit Period they have also procured alternate fuel such as Muslate/Saw Dust etc. The MSPCB has informed the Committee that the no authorization/non-objection certificate has been granted by the Board to the Goldstone Cement Limited for use of any alternate fuel. The Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department informed the Committee that the Goldstone Cements Limited has paid an amount of Rs. 2.93 crores to the State of Meghalaya as a royalty on 6,51,134 MT slate claimed to be consumed by them. The Committee noted that the entire amount of royalty was paid on 15.02.2019 after resource (coal) Audit of Cement Manufacturing Plants and Thermal Power Plants in

the State of Meghalaya was initiated by the Committee. Year-wise details of alternate fuel claimed to be purchased by the Goldstone Cements Limited during the Audit Period are as below:

(Metric Tonne)

Year					Total
2014-15	2015-16	2016-17	2017-18	2018-19	
Nil	Nil	99,242	2,65,532	2,57,928	**6,22,702**

2.5.4 The Committee, based on a detailed analysis of a similar claim of the Star Cement Limited on use of alternate fuel in lieu of coal, as given in para 2.2.26 to 2.2.52, is of the view that it is neither technically feasible nor legally permissible for the Amrit Cement Limited to replace about ninety percent of their coal requirement by any alternate fuel.

2.5.5 The Committee after examination of the Techno-Economic Feasibility Report for setting up of the 2615 TPD Green Field Cement Plant of Goldstone Cements Ltd. at village Musiang Lamare in East Jaintia Hill district observed that the said plant has been designed to use the coal available in command area of the site (i.e. local Meghalaya Coal). As per the said report, the average estimated requirement of coal for the said plant is 18% of the weight of clinker produced.

2.5.6 Even after a specific request, the Goldstone Cement Limited did not provide a copy of the Techno-Economic Feasibility Report (TEFR) for their Captive Thermal Power Plant. The Goldstone Cements Limited informed the Committee that specific fuel requirements for their captive Thermal Power Plant is 0.50 to 0.70 kg of coal per kwh and 1.25 to 1.60 kg of alternate fuel such as slate, bamboo, saw dust, wood chips etc. per kwh. No documentary evidence in support of these claims regarding specific fuel requirement were provided to the Committee by the Goldstone Stone Cement Limited. The Committee is therefore of the view that specific fuel requirement of the Captive Thermal Power Plant of the Goldstone Cement Limited is same as the specific fuel requirement of the similar plant of the Star Cement Limited (*viz.* 0.850 kg/kwh of the power produced).

2.5.7 Year-wise gaps in quantity of coal required to produce the reported quantity of clinker (@ 18 % as given in para 2.5.5) and electricity power (@ 0.850 kg/kwh as given in para 2.5.6) and the coal procured by Goldstone Cement Limited from legal sources during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	Nil	Nil	1,52,995	3,99,197	4,82,500	**10,34,692**
Power Produced (Million kwh)	Nil	Nil	14.251	50.881	71.846	**136.978**
Coal required to produced clinker (MT)	Nil	Nil	27,539	71,855	86,850	**1,86,245**
Coal required to produce Power (MT)	Nil	Nil	12,113	43,249	61,069	**1,16,431**
Total Coal Required (MT)	Nil	Nil	39,652	1,15,104	1,47,919	**3,02,676**
Coal Procured (MT)	Nil	Nil	5,918	21,295	4,946	**32,159**
Gap (MT)	Nil	Nil	33,734	93,809	1,42,973	**2,70,517**

2.6 Green Valley Industries Limited

2.6.1 An Integrated Clinker cum Cement Manufacturing Plant having an installed capacity of 1300 TPD Cement (expandable to 2600 TPD cement) was established by Green Valley Industries Limited at Nongsning village in East Jaintia Hills District. The said plant was commissioned in the year 2010.

2.6.2 As per the information/documents provided to the Committee by the Green valley Industries Limited, year-wise quantities of the clinker produced and the coal procured by the Green Valley Industries Limited to produce such clinker during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	3,88,036	3,68,412	3,83,369	4,31,151	4,35,984	**20,06,952**
Coal procured (MT)	44,844	50,555	46,762	51,068	30,278	**2,23,507**

2.6.3 It has also been stated in documents submitted to the Committee by the Green Valley Industries Limited that apart from the coal they have also used slate as an alternate fuel. Year-wise details of alternate fuel claimed to be purchased by the Green Valley Industries Limited during the Audit Period are as below:

(Metric Tonne)

Year					Total
2014-15	2015-16	2016-17	2017-18	2018-19	
17,105	18,280	28,221	35,020	49,122	**1,12,363**

2.6.4 The MSPCB has informed the Committee that the no authorization/non-objection certificate has been granted by the Board in favour of the Green Valley Industries Limited for use of slate as an alternate fuel. The Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department informed the Committee that the Green Valley Industries Limited has paid an amount of Rs. 78.80 lakh to the State of Meghalaya as a royalty on 1.62 lakh MT slate claimed to be consumed by them. The Committee noted that the entire amount of royalty was paid in the month of July 2019 much after resource (coal) Audit of Cement Manufacturing Plants and Thermal Power Plants in the State of Meghalaya was initiated by the Committee.

2.6.5 The Committee, based on a detailed analysis (given in para 2.2.26 to 2.2.52) of a similar claim of the Star Cement Limited on use of alternate fuel in lieu of coal, is of the view that it is neither technically feasible nor legally permissible for the Green Valley Industries Limited to replace more than thirty percent of their coal requirement, as is being claimed by them, by a non-fuel mineral such as slate.

2.6.6 The Committee after examination of a Techno-Economic Feasibility Report (TEFR) for the said 1300 TPD expandable to 2600 TPD Greenfield Cement Project of the Green Valley Industries Limited prepared by Holtec Consulting Private Limited, observed that the said clinker cum cement manufacturing plant of the Green Valley Industries Limited has been designed to use 100 % Meghalaya coal having a net calorific value of 6,000 Kcal/kg being exploited by locals in the areas around Khliehriat and Sutnga, which are located at a distance of about 18 km and 28 km respectively from the plant site as a fuel. The specific heat consumption, as per the said TEFR, for the said clinker production unit is 780 kcal/ kg of clinker produced. The specific coal requirement for the said clinker manufacturing plant, as per the said TEFR is 13.00 %.

2.6.7 After examination of the Environmental Statements submitted by the Green Valley Industries Limited to the MSPCB, a copy of which has been provided to the Committee by the MSPCB, it has been observed that quantity of coal actually consumed by the said Cement Manufacturing Plant has not been indicated in any of these Statements. For the detailed reasons given in para 2.2.35 above, the Committee is of the view that actual specific coal consumption for clinker manufacturing plant of the Green Valley Industries Limited is atleast 15%.

2.6.8 Year-wise gaps in quantity of coal required to produce the reported quantity of clinker (@ 15 % as given in para 2.6.7) and the coal procured by Green Valley Industries Limited from legal sources during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	3,88,036	3,68,412	3,83,369	4,31,151	4,35,984	**12,50,504**
Coal required to produced clinker (MT)	58,205	55,262	57,505	64,673	65,398	**1,87,576**
Coal Procured (MT)	44,844	50,555	46,762	51,068	30,278	**1,28,108**
Gap (MT)	13,361	4,707	10,743	13,605	35,120	**59,468**

2.7 Hill Cement Company Limited

2.7.1 An Integrated Clinker cum Cement Manufacturing Plant having an installed capacity of 2,500 TPD clinker and 3,000 TPD Cement was established by Hill Cement Company Limited at Mynkree village in East Jaintia Hills District. The said plant was commissioned in the year 2007.

2.7.2 As per the information/documents provided to the Committee by the Hill Cement Company Limited, year-wise quantities of the clinker produced and the coal procured by the Hill Cement Company Limited to produce such clinker during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	1,22,646	2,14,389	2,56,984	2,03, 999	2,33,902	**10,31,920**
Coal procured (MT)	-	11,989	9,797	2,248	13,347	**37,381**

2.7.3 It has also been stated in documents submitted to the Committee by the Hill Cement Company Limited that apart from the coal they have also used slate as an alternate fuel. Year-wise quantities of slate claimed to be purchased by the Hill Cement Company Limited during the Audit Period are as below:

(Metric Tonne)

Year					Total
2014-15	2015-16	2016-17	2017-18	2018-19	
29,228	-	1,61,688	-	-	**1,90,916**

2.7.4 The MSPCB has informed the Committee that the no authorization/non-objection certificate for use of slate has been granted by the Board in favour of the Hill Cement Company Limited. The Commissioner and secretary to the Government of Meghalaya, Mining and Geology Department informed the Committee that the Hill Cement Company Limited did not make payment of royalty to the State of Meghalaya on the slate claimed to be utilized by them.

2.7.5 The Committee, based on a detailed analysis (given in para 2.2.26 to 2.2.52) of a similar claim of the Star Cement Limited on use of alternate fuel in lieu of coal, is of the view that it is neither technically feasible nor legally permissible for the Hill Cement Limited to replace more than three-fourth of their coal requirement, as is being claimed by them, by a non-fuel mineral such as slate.

2.7.6 The Committee after examination of a Detailed Project Report of the afore-mentioned Cement Manufacturing Plant of the Hill Cement Company, a copy of which was provided to the Committee, noted that it does not contain anything on the nature as well as per unit requirement of the fuel for the said plant. The Committee after examination of the Environmental Statements of the said Cement Manufacturing Plant of the Hills Cement Company Limited for the years 2013-14, 2014-15 and 2014-15, a copy of which was provided to the Committee by the MSPCB, observed that quantity of coal actually consumed by the said Cement Manufacturing Plant and Thermal Power Plant has not been indicated in any of these Statements. For the detailed reasons given in para 2.2.35 above, the Committee is of the view that actual specific coal consumption for clinker manufacturing plant of the Hill Cement Company Limited is atleast 15%.

2.7.8 Year-wise gaps in quantity of coal required to produce the reported quantity of clinker (@ 15 % as given in para 2.7.7) and the coal procured by Hill Cement Company Limited from legal sources during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	1,22,646	2,14,389	2,56,984	2,03,999	2,33,902	**10,31,920**
Coal required to produced clinker (MT)	18,397	32,158	38,548	30,600	35,085	**1,54,788**
Coal Procured (MT)	0	11,989	9,797	2,248	13,347	**37,381**
Gap (MT)	18,397	20,169	28,751	28,352	21,738	**1,17,407**

2.8 Jaintia Cement Limited

2.8.1 An Integrated Clinker cum Cement Manufacturing Plant having an installed capacity of 150 TPD cement was established by Jaintia Cements Limited in Latyrke village in East Jaintia Hills District. Commercial production in the said cement plant started in the year 1992.

2.8.2 During sixteenth Sitting of the Committee held on 23.07.2019 a representative of the Jaintia Cement Limited informed the Committee that the Jaintia Cement Limited does not use coal as a fuel. He informed the Committee that the entire fuel requirement for the said plant is met from the coke breeze sourced from Assam. He further informed the Committee that during the Audit Period the Jaintia Cement Limited produced 1,00,153 MT clinker by consuming 26,203.11 MT Coke Breeze. The average per unit requirement of Coke Breeze is 26.163 % (i.e. 261.63 kg Coke Breeze per tonne of Clinker).

2.8.3 The Committee in the said Meeting advised the North Eastern Regional Directorate of the CPCB to undertake audit of each of the Coke Plants from which the coke has reportedly been sourced by the Jaintia Cement Limited and submit a report to the Committee within one month. The said report is awaited from North Eastern Regional Directorate of the CPCB.

2.9 JUD Cements Limited

2.9.1 An Integrated Clinker cum Cement Manufacturing Plant having an installed capacity of 900 TPD clinkerization facility and 1,350 TPD cement grinding unit was established by JUD Cement Limited at Wahiajer (Narpuh) village in East Jaintia Hills District. The said plant commenced its production in November 2009.

2.9.2 As per the information/documents provided to the Committee by the JUD Cement Limited, year-wise quantities of the clinker produced and the coal reportedly consumed by the JUD Cement Limited to produce such clinker during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	1,80,367	2,33,961	1,45,419	1,71,206	1,24,702	**8,55,655**
Coal consumed procured (MT)	-	16,348	2,099	377	370	**19,194**

2.9.3 It has also been stated in documents submitted to the Committee by the JUD Cement Limited that apart from the coal they have also used Coke Breeze, soft coke and diesel as alternate fuels. Year-wise quantities of coke breeze, soft coke and diesel claimed to be consumed by the JUD Cements Limited during the Audit Period are as below:

Nature of Fuel	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
Coke Breeze (MT)	9,120	0	0	23	67	**9,210**
Soft Coke (MT)	0	0	6,055	10,875	8,560	**25,490**
Diesel (KL)	37.40	21.45	21.01	24.92	34.34	**139.12**

2.9.4 The MSPCB has informed the Committee that the no authorization/non-objection certificate has been granted by the Board in favour of the JUD Cement Limited for use of the coke breeze or the soft coke or the diesel as an alternate fuel. In none of the Environmental Statement of the JUD Cement Limited for the years 2013-14, 2014-15 and 2015-16, a copy of which was provided to the Committee by the MSPCB, use of diesel as an alternate fuel has been reported by the JUD Cements Limited.

2.9.5 The Committee after examination of a Techno-Economic Feasibility Report (TEFR) for the said Cement cum Clinker manufacturing plant of the JUD Cement Limited prepared by West Bengal Consultancy organization Limited, Kolkata, a copy

of which was provided to the Committee by JUD Cements Limited, noted that the said clinker production unit, as per the said TEFR, has been designed to use Meghalaya coal to be procured from locally available coal base. It has also been stated in the said TEFR that these are locally owned small mines available in the area and substandard in quality compared to coal available in ECL, BCCL, CCL, MCL etc. It has also been stated in the said TEFR that coal is the main fuel for manufacture of cement in India. The consumption of coal in a typical dry process system, as per the said TEFR, ranges from 20-25% of clinker production. In the documents submitted to the Committee by the JUD Cements Limited it has been stated that specific fuel requirement of the said clinker manufacturing plant of the JUD Cement Limited is 16.50 %. The Committee is therefore of the view that specific coal requirement of the said Clinker Manufacturing Plant of the JUD Cements Limited is 16.50%.

2.9.6 Year-wise gaps in quantity of coal required to produce the reported quantity of clinker (@ 16.50 % as given in para 2.9.5) and the coal procured by the JUD Cement Limited during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	1,80,367	2,33,961	1,45,419	1,71,206	1,24,702	**8,55,655**
Coal required to produced clinker (MT)	29,761	38,604	23,994	28,249	20,576	**1,41,183**
Coal consumed (MT)	0	16,348	2,099	377	370	**19,194**
Gap (MT)	29,761	22,256	21,895	27,872	20,206	**1,21,989**

2.10 Meghalaya Cements Limited and its Captive Thermal Power Plant

2.10.1 An Integrated Clinker cum Cement Manufacturing Plant of Meghalaya Cement Limited having installed capacity to produce 2,600 TPD cement is located at

Thangskai village in in East Jaintia Hills District of Meghalaya. The original plant having installed capacity to produce 900 TPD cement was commissioned in 2006. Later on, in the year 2011 installed capacity of the said plant was enhanced to 2,600 TPD. A Captive Thermal Power Plant of the Meghalaya Cement Limited having 10 MW installed capacity is also located adjacent to its said Cement Manufacturing Plant.

2.10.2 As per the information/documents provided to the Committee by the Meghalaya Cement Limited, year-wise quantities of clinker and power produced and the coal procured by the Meghalaya Cements Limited to produce such clinker and the electrical power during the Audit Period are as below:

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Clinker/ Cement Plant	Clinker produced (MT)	7,98,378	8,43,815	6,96,071	8,39,931	8,38,237	**40,16,432**
	Coal procured (MT)	77,457	29,899	30,881	35,220	34,317	**2,07,774**
Captive Thermal Power Plant (TPP)	Power Produced (Million kwh)	27.738	54.472	58.191	68.590	69.887	**278.88**
	Coal procured (MT)	19,076	14,787	15,087	18,792	19,670	**87,412**
Total for the Clinker/ Cement and TPP	Coal procured (MT)	96,533	44,686	45,968	54,012	53,987	**2,95,186**

2.10.3 The Meghalaya Cement Limited has informed the Committee that during the Audit Period they have also procured alternate fuel slate. Year-wise quantities of slate used by Meghalaya Cements Limited in its Cement Manufacturing Plant and the Captive Thermal Power Plant were however not provided to the Committee.

The MSPCB informed the Committee that the Meghalaya Cements Limited neither sought nor received any certificate of registration/authorization from the MSPCB for use of slate in its Cement Manufacturing Plant and Thermal Power Plant. The Commissioner and Secretary to the Government of Meghalaya, Mining and Geology informed the Committee that the Meghalaya Cement Limited, during the months of March and July 2017 has paid an amount of Rs. 1.00 crore to the State of Meghalaya as a royalty on 2.23 lakh MT slate claimed to be consumed by them.

2.10.4 The Committee, based on a detailed analysis of a similar claim of the Star Cement Limited on use of slate as an alternate fuel in lieu of coal, as given in para 2.2.26 to 2.2.52, is of the view that it is neither technically feasible nor legally permissible for the Amrit Cement Limited to replace more than half of their coal requirement by a non-fuel alternate fuel such as slate..

2.10.5 The Committee after examination of the Techno-Economic Feasibility Report of the Augmentation of the Clinkerization capacity of the plant from 900 TPD to 2,600 prepared by Holtec Consulting Private Limited, a copy of the which was provided to the Committee by the Meghalaya Cement Limited, observed that the said plant has been designed to use 100% Meghalaya coal available locally. As per the said report, net calorific value of the local coal to be used in the clinker plants is 5,800 Kcal/kg. It has also been stated in the said reports that specific heat consumption of these plants is 840 Kcal per kg of clinker. The average estimated requirement of coal as per the information given in the said report is 14.66 %. For the detailed reasons given in para 2.2.35 above, the Committee is of the view that actual specific coal consumption for clinker manufacturing plant of the Meghalaya Cement Limited is at-least 15%.

2.10.6 The Committee after examination of the Techno-Economic Feasibility Report of the 10 MW capacity Captive Power Plant prepared by AKB Power Consultants Pvt. Ltd., a copy of the which was provided to the Committee by the Meghalaya Cement Limited, observed that the said plant was envisaged to use coal sourced from Western parts of Meghalaya Hills. The Annual requirement of the locally sourced Meghalaya coal at 100 % capacity for the said 10 MW TPP, as per the said

report, is 63,072 MT. The specific fuel requirement for the said TPP, as per these information given in the said report, is therefore 0.72 kg/kwh. Nowhere, in the said report it has been stated that it will be feasible to run the said Thermal Power Plant by using any alternate fuel other than coal. The Committee is of the view that specific fuel requirement of the Captive Thermal Power Plant of the Meghalaya Cement Limited is same as the specific fuel requirement of the similar plant of the Star Cement Limited (*viz.* 0.850 kg/kwh of the power produced).

2.10.7 The year-wise gaps in quantity of coal required to produce the reported quantity of clinker (@ 15 % as given in para 2.10.5) and electricity power (@ 0.850 kg/kwh as given in para 2.10.6) and the coal procured by the Meghalaya Cements Limited from legal sources during the Audit Period are as below:

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Clinker/ Cement Plant	Clinker produced (MT)	7,98,378	8,43,815	6,96,071	8,39,931	8,38,237	**40,16,432**
	Coal required (MT)	1,19,757	1,26,572	1,04,411	1,25,990	1,25,736	**6,02,465**
	Coal procured (MT)	77,457	29,899	30,881	35,220	34,317	**2,07,774**
	Gap (MT)	42,300	96,673	73,530	90,770	91,419	**3,94,691**
Captive Thermal Power Plant (TPP)	Power Produced (Million kwh)	27.738	54.472	58.191	68.59	69.887	**278.878**
	Coal required (MT)	23,577	46,301	49,462	58,302	59,404	**2,37,046**
	Coal procured (MT)	19,076	14,787	15,087	18,792	19,670	**87,412**
	Gap (MT)	4,501	31,514	34,375	39,510	39,734	**1,49,634**
Total for the Clinker/ Cement and TPP	Coal required (MT)	1,43,334	1,72,873	1,53,873	1,84,291	1,85,140	**8,39,511**
	Coal procured (MT)	96,533	44,686	45,968	54,012	53,987	**2,95,186**
	Gap (MT)	46,801	1,28,187	1,07,905	1,30,279	1,31,153	**5,44,325**

2.11 Virgo Cements Limited

2.11.1 An Integrated Clinker cum Cement Manufacturing Plant having an installed capacity of 1,060 TPD clinker and 1,452 TPD of Cement has been established by Virgo Cements Limited at Dams village in North Garo Hill district of Meghalaya.

2..11.2 The Vigo Cements Limited informed the Committee that no coal is used in their said plant as it has a Vertical Shaft Kiln (VSK) where low ash metallurgical (LAM) coke or coke breeze is used as a fuel.

2.11.3 The Committee after examination of the Techno-Economic Feasibility Report for expansion of the said plant to 1060 TPD capacity prepared by Ercom Engineers Pvt. Limited, a copy of which was provided to the Committee by the Vigo Cements Limited, observed that the said plant was envisaged to use coke breeze to be sourced from nearby area of the Guwahati as a fuel. Specific fuel requirement for the said plant, as per the said report, is 0.289 tonnes of coke breeze per tonne of clinker or 28.90 %.

2.11.4 The Committee after examination of the matter is prima-facie of the view that Virgo Cement Limited did not use illegally mined local coal during the Audit Period. The Committee however advised the North Eastern Regional Directorate of the CPCB to undertake an audit to ascertain that coke breeze or LAM coke originating from legal source has only been used by the said Plant.

2.12 RNB Cement Limited

2.12.1 An Integrated Clinker cum Cement Manufacturing Plant having an installed capacity of 600 TPD cement along with a 10 MW capacity Captive Thermal Power Plant was established by RNB Cement Limited at Barapani Industrial area in Ri-Bhoi District of Meghalaya in the year 2008.

2.12.2 The North East Regional Directorate of the CPCB informed the Committee that the RNB Cement Limited will not be able to provide any information or document as the plant has been taken over by the National Company Law Tribunal (NCLT) and is present managed by an Interim Resolution Professional (IRP) *w.e.f.*

13.06.2019. Information about the quantities of clinker and thermal power produced and the quantity of coal purchased by the RNB Cement Limited during the Audit Period could not be obtained by the Committee. In the absence of these information it is not feasible for the Committee to undertake Resource (coal) Audit of the RNB Cements Limited.

2.13 Captive Thermal Power Plant of Shyam Century Ferrous Limited

2.13.1 A Captive Thermal Power Plant of the Shyam Century Ferrous Limited having installed capacity of 13.80 MW is located in Export Promotion Industrial Park (EPIP) Byrnihat in Ri-Bhoi district of Meghalaya.

2.13.2 As per the information/documents provided to the Committee by the Shyam Century Ferrous Limited, year-wise quantities of power produced and the coal procured by the Shyam Century Ferrous Limited to produce such power during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Power Produced (Million kwh)	64.117	55.246	104.403	68.898	34.702	327.366
Coal procured (MT)	43576	32461	72086	13704	4960	1,66,787

2.13.3 The Shyam Century Ferrous Limited has informed the Committee that during the Audit Period they have also procured and utilised in the said Captive Thermal Power Plant alternate fuel. Year-wise quantities of alternate fuel claimed to be purchased by Shyam Century Ferrous Limited during the audit period are as below:

(metric tonne)

Year					Total
2014-15	2015-16	2016-17	2017-18	2018-19	

1	2	3	4	5	6
446	-	-	-	29	475

2.13.4 Keeping in view that quantity of alternate fuel claimed to be purchased by Shyam Century Ferrous Alloy Limited is very low, the Committee decided to ignore the same in this resource (coal) audit.

2.13.5 The Committee after examination of the Detailed Project Report (DPR) for the said 13.80 MW Captive Power Plant prepared by AKB Power Consultants Private Limited, a copy of which was provided to the Committee by Shyam Century Limited, observed that the said plant was designed to use both biomass fuel (with estimated calorific value of 3,500 Kcal/kg) and locally sourced Meghalaya coal (with estimated calorific value of 5,500 Kcal/kg). The annual requirement of fuel by the said plant at 100% capacity is 77,616 MT of biomass fuel and 14,256 MT of Meghalaya coal. The specific fuel requirement of the said plant, as per the said report, is thus 0.527 kg/kwh of coal or 0.827 kg/ kwh of biomass.

2.13.6 It has also been stated in the documents handed over to the Committee by the Shyam Century Ferrous Limited that specific fuel requirement of their said Captive Thermal Power Plant is 0.50- 0.70 kg of coal per kwh and 1.00 -1.40 kg of alternate fuel such as coke fine, Tamilnadu Charcoal fines etc. per kwh.

2.13.7 Keeping in view the detailed analysis given in para 2.2.33 and also keeping in view that though the said Thermal Power Plant has been designed to use alternate fuels other than coal, the Shyam Century Ferrous Alloy Limited has himself reported that during the entire Audit Period 475 MT alternative fuel has only been used by them, the Committee is of the view that specific coal requirement of the said Captive Thermal Power Plant of the Shyam Century Limited is atleast equal to specific coal requirement of the a Thermal Power Plant of much larger capacity of the Star Cement Limited located in Meghalaya (*viz.* 0.850 kg/kwh of the power produced).

2.13.8 The year-wise gaps in quantity of coal required to produce the reported quantity of the electrical power (@ 0.850 kg/kwh as given in para 2.13.7) and the

coal procured by Shyam Century Ferrous Limited from legal sources during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Power Produced (Million kwh)	64.117	55.246	104.403	68.898	34.702	**327.366**
Coal required (MT)	54,499	46,959	88,743	58,563	29,497	**2,78.261**
Coal procured (MT)	43,576	32,461	72,086	13,704	4,960	**1,66,787**
Gap (MT)	10,923	14,498	16,657	44,859	24,537	**1,11,474**

2.14 Captive Thermal Power Plant of Maithan Alloys Limited

2.14.1 A Captive Thermal Power Plant of the Maithan Alloy Limited having installed capacity of 15 MW is located in Export Promotion Industrial Park (EPIP) Byrnihat in Ri-Bhoi district of Meghalaya.

2.14.2 As per the information/documents provided to the Committee by the Maithan Alloys Limited, year-wise quantities of power produced and the coal procured by the Maithan Alloys Limited to produce such power during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Power Produced (Million kwh)	62.588	49.241	97.440	89.061	33.493	**331.823**
Coal procured – Within Meghalaya (MT)	77,573	51,318	61,950	64,595	6,384	**2,61,820**
Coal procured – Outside Meghalaya (MT)	-	-	929	36,692	14,345	**51,966**

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Total Coal Procured (MT)	77,573	51,318	62,879	1,01,287	20,729	**3,13,786**

2.14.3 The Maithan Alloys Limited has informed the Committee that during the Audit Period they have also procured alternate fuel. Year-wise quantities of different types of alternate fuel claimed to be purchased by Maithan Alloys Limited during the Audit Period are as below:

(metric tonne)

Type of alternate fuel	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Rice Husk	-	-	-	5,039	1,973	**7,012**
Saw Dust	-	-	-	275	505	**780**
Coke Breeze	-	-	-	0	2,354	**2,354**
Wood Chips	-	-	-	0	60	**60**
Total	-	-	-	**5,314**	**4,892**	**10,206**

2.14.4 The Committee after examination of the Detailed Project Report (DPR) of the said 15 MW capacity Captive Thermal Power Plant of the Maithan Alloys Limited prepared by AKB Power Consultants Pvt. Ltd., a copy of which was provided to the Committee by the Maithan Alloys Limited, observed that the said plant has been designed to use both bamboo chips/dust (with estimated calorific value of 2914 K cal/kg) and locally sourced Meghalaya coal (with estimated calorific value of 7,142 K cal/kg). As per the said DPR, the annual requirement of fuel by the said plant at 100% capacity is 32,400 MT of bamboo chips and 37,800 MT of Meghalaya coal. The specific fuel requirement of the said plant as per the said report is therefore 0.527 kg/kwh of coal or 0.827 kg/ kwh of biomass. It has however been stated in

documents provided to the Committee by Maithan Alloys Limited that specific fuel requirement of the said TPP is 0.72 kg/kwh.

2.14.5 As per the information provided by Maithan Alloys Limited, during the Audit Period the Maithan Alloy Limited purchased 3,13,785 MT coal to produce 331.823 Million units of power by the said 15 MW capacity Captive Thermal Power Plant. The actual specific fuel purchased for the said Captive Thermal Power Plant of Maithan Alloys Limited during the Audit Period is 0.945 kg/kwh. The same is comparable to or even higher than the estimated specific fuel consumption for other Thermal Power Plants located in the State of Meghalaya. Apart from the above, the Maithan Alloy Limited has claimed to purchase alternate fuel such as rice husk, saw dust, coke breeze and wood chips also. The Committee therefore is of the view that during the Audit Period Maithan Alloys Limited did not use any illegally mined local coal from the Meghalaya.

2.15 Captive Thermal Power Plant of Shree Sakambari Ferro Alloys Pvt. Ltd.

2.15.1 A Captive Thermal Power Plant of Shree Sakambari Ferro Alloys Pvt. Ltd having installed capacity of 10 MW is located in Riwiang Village in West Khasi Hills District, Meghalaya. The said Thermal Power Plant was commissioned in the month of June 2014.

2.15.2 As per the Environmental Statement Submitted by Shree Shakambari Ferro Alloys Pvt. Ltd. to the MSPCB the actual specific coal consumption of the said Captive Thermal Power Plant of Shree Sakambari Ferro Alloys Pvt. Ltd. during the Audit Period is as below:

(kg/kwh)

2014-15	2015-16	2016-17	2017-18	2018-19
1	2	3	4	5
0.83	0.85	0.85	0.81	0.85

2.15.3 On perusal of information and documents received from Shree Shakambari Ferro Alloy Limited the Committee observed that unit of power produced by the

said Thermal Power Plant stated in the Statement provided to the Committee does not appear to be correct. The Committee also observed that the quantity of coal reported to be consumed by Shree Sakambari Ferro Alloys Pvt. Ltd., as per the Statement submitted to the Committee is substantially different than the quantity of coal reportedly consumed by the said Plant as per details given in a report on coal consumption by the Thermal Power Plants and Cement Industries submitted to the Committee by North Eastern Regional Directorate of CPCB. The Committee therefore advised the North Eastern Regional Directorate of CPCB to re-examine the records relating to purchase and use of coal by said Thermal Power Plant of Shree Sakambari Ferro Alloys Pvt. Ltd. and submit a report to the Committee. The said report is still awaited by the Committee.

2.16 Captive Thermal Power Plant of CMJ Breweries Private Limited

2.16.1 A Captive Thermal Power Plant of the CMJ Breweries Private Limited having installed capacity of 3.50 MW is located in Export Promotion Industrial Park (EPIP) Byrnihat in Ri-Bhoi district of Meghalaya.

2.16.2 As per the information/documents provided to the Committee by the CMJ Breweries Private Limited, year-wise quantities of power produced and the coal procured by the CMJ Breweries Private Limited to produce such power during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Power Produced (Million kwh)	5.746	7.925	4.329	8.597	6.260	**32.86**
Coal procured (MT)	15,232	16,606	10,874	15,738	2,985	**61,435**

2.16.3 The CMJ Breweries Private Limited has informed the Committee that during the Audit Period they have also procured husk as an alternate fuel. Year-wise

quantities of rice husk claimed to be procured by CMJ Breweries Private Limited during the audit period are as below:

(metric tonne)

Year					Total
2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6
-	-	-	5,011	23,235	**28,246**

2.16.4 The Committee after examination of the Detailed Project Report (DPR) of the CMJ Breweries Private Limited prepared by M/s. Suvidha Consultancy Limited, Guwahati noted that the said DPR does not contain anything about the nature and per unit requirement of the fuel. It has however been stated in documents provided to the Committee by the CMJ Breweries Private Limited that their Captive Thermal Power Plant has a back pressure turbine and the steam is mainly used for the process heating and the power is additionally generated using the same steam. So the fuel consumption in the back pressure turbine is not comparable to the conventional plant condensing type turbines. It has also been stated in these documents that average estimated quantity of fuel required to produce power in their said Captive Thermal Power Plant is 2.35 kg of coal per kwh or 3.50 kg of husk per kwh.

2.16.5 The Committee noted that quantities of the coal and rice husk purchased by the CMJ Breweries Private Limited was sufficient to produce the power reportedly produced by the CMJ Breweries Private Limited during the audit period as per the reported specific fuel consumption of 2.35 kg of coal per kwh or 3.50 kg of husk per kwh. Subject to confirmation by the North Eastern Regional Directorate of the CPCB of the claim of the CMJ Breweries Private Limited regarding the use of rice husk as a fuel, the Committee is of the view that no illegally mined legal has been utilised by the CMJ Breweries Private Limited during the Audit Period.

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CHAPTER 3: FINDINGS AND RECOMMENDATIONS

3.1 FINDINGS

3.1.1 Except for the clinker manufacturing plant of the Mawmluh Cherra Cement Limited (A State PSU) and Captive Power Plants of the Maithan Alloy Limited and the CMJ Breweries Private Limited, there is a huge gap in quantity of coal required to produce reported quantity of clinker and/or power and the coal reported to be purchased from legal sources during the Audit Period by all other Cement Manufacturing Plants and Thermal Power plants in the State of Meghalaya for which resource (coal) audit could be completed by the Committee. Year-wise quantities of the coal required to produce reported quantities of clinker and/or power, the coal actually purchased from legal sources and the gap between the two for each of these Plants are as below:

(metric tonnes)

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Star Cement Limited and its two subsidiaries	Coal required*	4,24,636	4,73,806	4,93,365	4,70,145	4,50,096	**23,12,048**
	Coal procured**	97,047	2,64,674	61,830	1,29,020	1,13,201	**6,65,772**
	Gap	**3,27,589**	**2,09,132**	**4,31,535**	**3,41,125**	**3,36,895**	**16,46,276**
Amrit Cement Limited and its Captive TPP	Coal required*	84,323	1,06,548	1,05,745	1,00,155	1,46,919	**5,43,690**
	Coal procured**	3,861	88,165	38,785	74,978	31,833	**2,37,622**
	Gap	**80,462**	**18,383**	**66,960**	**25,177**	**1,15,086**	**3,06,068**
Dalmia Cement (Bharat) Limited and	Coal required*	2,00,028	2,01,797	1,94,234	2,22,215	2,56,324	**10,74,598**
	Coal procured**	17,433	98,296	56,208	1,07,092	54,478	**3,33,507**

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
its Captive TPP	**Gap**	1,82,595	1,03,501	1,38,026	1,15,123	2,01,846	**7,41,091**
Goldstone Cement Limited and its Captive TPP	Coal required*	0	0	39,652	1,15,104	1,47,919	**3,02,675**
	Coal procured**	0	0	5,918	21,295	4,946	**32,159**
	Gap	**0**	**0**	**33,734**	**93,809**	**1,42,973**	**2,70,516**
Green Valley Industries Limited	Coal required*	58,205	55,262	57,505	64,673	65,398	**3,01,043**
	Coal procured**	44,844	50,555	46,762	51,068	30,278	**2,23,507**
	Gap	**13,361**	**4,707**	**10,743**	**13,605**	**35,120**	**77,536**
Hill Cement Company Limited	Coal required*	18,397	32,158	38,548	30,600	35,085	**1,54,788**
	Coal procured**	0	11,989	9,797	2,248	13,347	**37,381**
	Gap	**18,397**	**20,169**	**28,751**	**28,352**	**21,738**	**1,17,407**
JUD Cements Limited	Coal required*	29,761	38,604	23,994	28,249	20,576	**1,41,184**
	Coal procured**	0	16,348	2,099	377	370	**19,194**
	Gap	**29,761**	**22,256**	**21,895**	**27,872**	**20,206**	**1,21,990**
Meghalaya Cements Limited and its Captive TPP	Coal required*	1,43,334	1,72,873	1,53,873	1,84,291	1,85,140	**8,39,511**
	Coal procured**	96,533	44,686	45,968	54,012	53,987	**2,95,186**
	Gap	46,801	1,28,187	1,07,905	1,30,279	1,31,153	**5,44,325**
Captive TPP of Shyam Century	Coal required*	54,499	46,959	88,743	58,563	29,497	**2,78,261**
	Coal	43,576	32,461	72,086	13,704	4,960	**1,66,787**

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Ferrous Ltd.	procured**						
	Gap	10,923	14,498	16,657	44,859	24,537	1,11,474
TOTAL	Coal required*	10,13,183	11,28,007	11,95,659	12,73,995	13,36,954	**59,47,798**
	Coal procured**	3,03,294	6,07,174	3,39,453	4,53,794	3,07,400	**20,11,115**
	Gap	**7,09,889**	**5,20,833**	**8,56,206**	**8,20,201**	**10,29,554**	**39,36,683**

*: Coal required to produce reported quantities of clinker and/or power

**: Coal reported to be procured from legal sources

3.1.2 The Committee is of the view that the entire gap of **39.37 lakh MT** between the quantity of the coal required to produce reported quantity of the clinker and the electrical power and the coal purchased from legal sources by these Plants during the Audit Period **constituting about two-third of the coal requirement of these plants during the Audit Period has been met from the illegally mined local coal**. Demand for a huge quantity of illegally mined coal from these plants has sustained and supported a wide scale illegal rat-hole coal mining in the State of Meghalaya in flagrant violation of a ban imposed by the Hon'ble NGT.

3.1.3 Continuance of illegal rat-hole coal mining in the State of Meghalaya to meet the huge requirement of coal for these Cement Manufacturing Plants and the Thermal Power Plants have caused huge damage to flora, fauna, rivers, streams, water bodies and the environment in general in the State of Meghalaya. It has also made the ban imposed by the Hon'ble NGT on illegal rat-hole coal mining virtually inoperative.

3.1.4 No royalty, taxes and any other statutory levies has been paid to the State of Meghalaya on the illegally mined coal utilised by these Cement Manufacturing Plants and Thermal Power Plants during the Audit Period resulting in a huge loss to the State exchequer. In fact ban on the illegal rat-hole coal mining in the State of

Meghalaya came as a boon to these Cement Manufacturing Plants and Thermal Power Plants in the State of Meghalaya as it virtually exempted them from the requirement of payment of royalty, taxes and other statutory levies payable on more than two-third of the coal consumed by them. The amounts of royalty (@ Rs. 675 per MT), contribution to Meghalaya Environment Protection and Restoration Fund (MEPR Fund) at the rate of Rs. 485 per MT and GST/VAT @ 5 % of the sale value of approx. Rs. 8,000 per MT amounting to Rs 400 per MT) payable on the illegally mined coal utilised by each of these Cement Manufacturing Plants and Thermal Power Plants during the Audit Period are as below:

(Amt.: Rupees in crore)

Sl. No.	Plant	Qt. of illegal coal used (MT)	Royalty	MEPRF	GST/ VAT	Total
1	2	3	4	5	6	7
1.	Star Cement Limited and its two subsidiaries	16,46,276	111.124	79.844	65.851	**256.819**
2.	Amrit Cement	3,06,068	20.660	14.844	12.243	**47.747**
3.	Dalmia Bharat Cement Ltd	7,41,092	50.024	35.943	29.644	**115.610**
4.	Goldstone Cement Ltd.	2,70,516	18.260	13.120	10.821	**42.200**
5.	Green Valley Industries Ltd.	77,536	5.234	3.760	3.101	**12.096**
6.	Hill Cement Ltd.	1,17,407	7.925	5.694	4.696	**18.315**
7.	JUD Cement Ltd.	1,21,990	8.234	5.917	4.880	**19.030**
8.	Meghalaya Cement Ltd.	5,44,325	36.742	26.400	21.773	**84.915**
9.	Shyam Century Ferrous Ltd.	1,11,474	7.524	5.406	4.459	**17.390**
Total		**39,36,684**	**265.726**	**190.929**	**157.467**	**614.123**

3.1.5 The royalty and VAT/GST amounting to Rs. 423.194 crore payable on illegally mined coal utilised by the Cement Manufacturing Plants and Thermal Power Plants, if realised and properly utilised, can significantly enhance living

standard of the tribal residents, especially those residing in the areas affected by such illegal coal mining, of the State. Similarly, an amount of Rs. 190.929 crore payable to MEPR Fund for the said illegally mined coal utilised by these Plants, if properly utilised, may greatly help in restoration of flora, fauna, rivers, streams, water bodies and the environment in general damaged by illegal rat-hole coal mining in the State of Meghalaya.

3.1.6 Claim of these Cement Manufacturing Plants and Thermal Power Plants that about two-third of their coal requirement have been met by a non-fuel mineral (i.e. slate) without making any change in the design of these plants is not tenable. The Committee, based on a detailed analysis given in para 2.2.26 to 2.2.52, is of the view that it is neither technically feasible nor legally permissible for these plants to replace more than two-third of their coal requirement by a non-fuel mineral such as slate.

3.1.7 These Plants have purchased illegally mined local coal in the name of slate to circumvent the ban imposed by the Hon'ble NGT on illegal rat-hole coal mining in the State of Meghalaya and also to evade payment of royalty, GST/VAT and other statutory levies and contribution to MEPR Fund on the coal utilised by them.

3.1.8 Even for the sake of an argument it is assumed that the claim of these plants that more than two-third of their coal requirement during the Audit Period has been met by a non-fuel mineral (*viz.* slate) without making any change/modification in the design of these plants is true, it would have caused equal, if not more, damage to the flora, fauna, rivers, streams, water bodies and the environment in general in the State of Meghalaya as all such slate has admittedly been mined in an unscientific and haphazard manner without any mitigative measures and without obtaining mandatory mining lease, consent to establish, consent to operate, environmental clearance and authorisation/no-objection certificate from the State Pollution Control Board in a flagrant violation of the existing mining, environmental, pollution control and labour safety laws.

3.1.9 Transportation and use of a huge quantity of illegally mined coal by these plants could not have escaped notice of regulatory authorities, both in the State of Meghalaya and the Union of India. It could not have escaped notice of the district

and police administration. Instead of taking actions to prevent use of illegally mined coal by these plants and to initiate appropriate proceedings under relevant provisions of the Mines and Minerals (Development and Regulation) Act, 1957; the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 against these Plants for use of illegally mined local coal, the regulatory authorities have tried to regularise/justify the use of illegally mined coal by accepting royalty on slate claimed to be used by these plants and by supporting the claim of these Plants that it is technically and legally feasible to replace two-third of the coal requirement of these plants by a non-fuel mineral such as slate and the slate can be used by these plants as a waste without obtaining any clearance under the Mines and Minerals (Development and Regulation) Act, 1957; the Water (Prevention and Control of Pollution) Act, 1974; the Air (Prevention and Control of Pollution) Act, 1981; the Environment (Protection) Act, 1986 and the rules, regulations & guidelines framed thereunder.

3.1.10 As per information provided to the Committee by the Mining and Geology Department in the State of Meghalaya, none of these plants participated in a public auction conducted by the State of Meghalaya to sell more than 38,000 MT of seized coal available at locations in close vicinity of majority of these plants. The Committee therefore is of the view that a major part of the coal requirement of these plants is still being met from illegally mined local coal.

3.2 RECOMMENDATIONS

3.2.1 To put a stop to the illegal rat-hole mining of the coal being undertaken in the State of Meghalaya in flagrant violation of the mining, environmental and labour safety laws as well as the orders issued by the Hon'ble Supreme Court and the Hon'ble NGT to meet the requirement of the coal for the Cement Manufacturing Plants and Thermal Power Plants in the State of Meghalaya and also to restore damage caused the flora, fauna, rivers, streams, water bodies and environment in general by illegal rat-hole coal mining, the Committee recommends that the Hon'ble NGT may consider to issue the following directions:

1. The Chief Secretary of the State of Meghalaya shall undertake monthly review the quantity of clinker and/or power produced by each Cement Manufacturing Plants and Thermal Power Plant in the State of Meghalaya and the quantity of coal purchased by each such plant from legal sources to produce such reported quantities of clinker and/or power. Such review for a month shall be undertaken on or before tenth day of the next month. A quarterly report stating therein the month-wise quantities of clinker and/or power produced, quantity of coal consumed to produce such quantities of clinker and/or power by each such plant and action(s), if any, taken against any such plant in case of any anomaly observed during the review shall be submitted to this Tribunal by the Chief Secretary, Meghalaya. Such report for a quarter shall be submitted to this Tribunal on or before fifteenth day of the next quarter.

2. The State of Meghalaya; the Ministry of Environment, Forest and Climate Change, Government of India and the Meghalaya State Pollution Control Board shall initiate proceedings in accordance with the provisions of the Mines and Minerals (Development and Regulation) Act, 1957; the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 the Environment (Protection) Act, 1986 and the rules, regulations & guidelines framed thereunder against each of the Cement Manufacturing Plants and the Thermal Power Plants who has used illegally mined local coal after a ban on the rat-hole coal mining in the State of Meghalaya was imposed by this Tribunal in the month of April, 2014.

3. The State of Meghalaya shall realise royalty, GST/VAT, contribution to the MEPR Fund and any other statutory tax and/levy payable on the illegally mined coal utilised by these Cement Manufacturing Plants and the Thermal Power Plants in the State of Meghalaya after the ban on illegal rat-hole mining in the State of Meghalaya was imposed by this Tribunal in April 2014.

4. To restore the damage caused to the flora, fauna, rivers, streams, water bodies and the environment in general by illegal rat-hole mining of coal and also to mitigate the suffering caused to the local tribal residents by the illegal rat-hole coal mining, the State of Meghalaya shall realise from each of the afore-mentioned Cement Manufacturing Plants and Thermal Power Plants who have

used illegally mined local coal after a ban on illegal rat-hole coal mining was imposed by this Tribunal in the month of April 2014, an amount of Rs. 400 per tonne of coal to be utilised by each such plants on or after the date of this order and deposit the same in the MEPR Fund. Such amount for coal utilised during a month shall be realised on or before fifteenth day of the next month. Not less than fifty percent of these amounts shall be utilised for restoration of damage caused to the flora, fauna, rivers, streams, water bodies and the environment in general by illegal rat-hole mining of the coal in the State of Meghalaya. The balance amounts shall be utilised for socio-economic development of the tribal residents in areas affected by the coal mining in the State of Meghalaya. It is clarified that the afore-mentioned amount of Rs. 400 per MT of coal shall be in addition the contribution to MEPRF at the rate of Rs. 485 per MT of coal already being realised by the State in compliance of earlier orders of this Tribunal. The Chief Secretary, Meghalaya shall formulate draft guidelines for utilisation of these amounts and place the same before the Committee constituted by this Tribunal under Chairmanship of Mr. Justice B.P. Katakey, former Judge, Guwahati High Court. The Committee shall within one month from the date of receipt, examine the draft guidelines and place the same along with the comments/observation before this Tribunal for approval.

5. The North Eastern Regional Directorate of the CPCB shall complete audit of coke claimed to be utilised by the Jaintia Cement Limited and the Virgo Cement Limited and submit a report to the Committee constituted by this Tribunal under Chairmanship of the Mr. Justice B.P. Katakey, former Judge, Guwahati High Court. The North Eastern Regional Directorate of the CPCB shall also submit the report sought by the said Committee in respect of the Captive Thermal Power Plant of Shree Shakambari Ferro Alloys Pvt. Ltd.

(Justice Brijendra P. Katakey)
Chairman

ANNEXURE R/11

A K S D & ASSOCIATES.
[Formerly Kailash B. Goel & Co]
CHARTERED ACCOUNTANTS

70 Ganesh Chandra Avenue, 1st Floor, Kolkata 700 013. Tele- Fax : 22151938 Email : aksd2019@gmail.com

TO WHOM SO EVER IT MAY CONCERN

On the basis of books of accounts and other documents presented before us, we hereby certify that **Shyam Century Ferrous Limited** having its registered office at **Lumshnong, P.O. - Khaliehriat, Dist- East Jaintia Hills, Meghalaya-793210 and works at EPIP, Rajabagan, Dist- Ribhoi, Byrnihat, Meghalaya-793101** have recorded all the purchases of coal and alternate fuel for its 13.8 MW captive power plant as mentioned in the tables 1 & 2 below in their books of accounts which have been verified by us and all the purchases made are of royalty paid material. The total payment for entire purchase of coal and alternate fuel amounting to Rs. 93,22,47,074/- and Rs. 3,51,837/- respectively have been made through cheque / bank transfer and payment for Rs. 14,791/- with respect to one transactions of purchase of coal was made through cash. The applicable GST/ VAT has also been paid on all the purchases.

Table 1

Month	2014-15	2015-16	2016-17	2017-18	2018-19
	Qty. of Coal Procured (MT)	Qty. of Coal Procured (MT)	Qty. of Coal Procured (MT)	Qty. of Coal Procured (MT)	Qty. of Coal Procured (MT)
April	14,609	-	11,800	4,329	-
May	3,655	10,986	208	2,353	1,453
June	-	2,456	-	-	1,831
July	-	119	-	-	1,676
August	-	-	-	-	-
September	-	56	-	-	-
October	-	1,649	-	-	-
November	131	7,371	4,550	-	-
December	6,636	-	4,393	-	-
January	16,876	-	9,284	4,550	-
February	1,669	-	20,758	2,472	-
March	-	9,824	21,093	-	-
Total	**43,576**	**32,461**	**72,086**	**13,704**	**4,960**

A K S D & ASSOCIATES
Chartered Accountants

A K S D & ASSOCIATES.
[Formerly Kailash B. Goel & Co]
CHARTERED ACCOUNTANTS

70 Ganesh Chandra Avenue, 1st Floor, Kolkata 700 013. Tele- Fax : 22151938 Email : aksd2019@gmail.com

Table 2

Month	2014-15	2015-16	2016-17	2017-18	2018-19
	Qty. of alternate fuel Procured (MT)	Qty. of alternate fuel Procured (MT)	Qty. of alternate fuel Procured (MT)	Qty. of alternate fuel Procured (MT)	Qty. of alternate fuel Procured (MT)
April	99	-	-	-	-
May	71	-	-	-	29
June	99	-	-	-	-
July	72	-	-	-	-
August	59	-	-	-	-
September	42	-	-	-	-
October	4	-	-	-	-
November	-	-	-	-	-
December	-	-	-	-	-
January	-	-	-	-	-
February	-	-	-	-	-
March	-	-	-	-	-
Total	446	-	-	-	29

For A K S D & Associates
Firm Registration No. 322460E
Chartered Accountants

A. K. Sharma

CA. Arun Kumar Sharma
Partner
Membership No. 057329
UDIN : 20057329AAAABZ5628

Place: Kolkata
Date: 21st October, 2020

Star Ferro and Cement Limited

CIN: U27310WB2011PLC160587

6, LYONS RANGE, 1ST FLOOR
KOLKATA - 700 001
Phone : 3025 2500

May 13, 2014

To
The Deputy General Manager,
Oriental Bank of Commerce,
32, Chowringhee Road,
Om Tower, 6th Floor,
Kolkata-700 071

Dear Sir,

Sub: - Stock Statement for the month of March 2014

We are enclosing herewith Stock Statement as on 31.03.2014 with all necessary details.

Please acknowledge the receipt.

Oriental Bank of Commerce Kolkata-71 Large Corporate Branch
14.5.14

Thanking You,

Yours faithfully,

For Star Ferro and Cement Ltd

Authorised Signatory

Enclo : As above.

STOCK STATEMENT

APPLICABLE TO THE BORROWERS ENJOYING FUND BASED WORKING CAPITAL LIMITS AGAINST HYPOTHECATION OF STOCK AND/OR BOOK DEBTS ABOVE RS.10 LAKHS

The Branch Incumbent
Oriental Bank of Commerce
32, Chowringheer Road
Om Tower, 6th floor
Kolkata - 700 071

Dear Sir,

Reg : Stock Statement as at the close of business on 31.03.2014

In terms of Hypothecation Agreement executed by me/us, I/we furnish here below the statement of stock as at the close of business on 31.03.2014 held by me/us, which is hypothecated to the bank as security. The stock has been valued at market price/invoice/ administrated price / realizable value, whichever is lower:

Borrower's Name	STAR FERRO AND CEMENT LTD
A/c. No.	02864011000064
Address of Godown(s)	EPIP, Rajabagan, Byrnihat , Meghalaya

A. Estimates for the Current Accounting Year (2013 - 14) as indicated in the Annual Plan:

	(Rs. In Lacs)
Gross Sales	8692.97
Net Sales	8458.92
Production (Quantity) (in MT)	11990.3

	Upto Last Month (Rs. In Lacs)	During the Month (Rs. In Lacs)	Total (During the Current Accounting Year) (Rs.)
Gross Sale	12640.30	1566.33	14206.63
Gross Power Sale	0.00	0.00	0.00

	Upto Last Month (Rs. In Lacs)	During the Month (Rs. In Lacs)	Total (During the Current Accounting Year) (Rs. In Lacs)
Net Sale	13004.71	1545.56	14550.27
Net Power Sale	0.00	0.00	0.00

	Upto Last Month	During the Month	Total (During the Current Accounting Year)
Production (In case of Mfg. Unit) (In MT)	14426.00	1738.00	16164.00
(In case of Power Gen) (In Unit)	93613600	10022100	103635700

STAR FERRO AND CEMENT LTD.

Director / Authorised Signatory

ption of stock (details as per Annexure): 384 Value (Rs. In Lacs) 2000.51

3540

	Opening Balance	Purchases during the month	Sales during the month	Stock as on the last day of the month
Raw Material				
Imported				
Indigenous	1524.93	624.54	740.39	1409.08
Consumables				
Stores/spares	444.82	123.67	195.09	373.40
Stock in process	-	-	-	-
Finished goods	369.99	1390.40	1542.35	218.04
Total	2339.74	2138.61	2477.83	2000.51

S.No.	Description			Value (Rs. In lacs)
A	(i) Total Stock			2000.51
	(ii) Advance payment to suppliers of raw materials /Consumables, Stores, Spares/Stock in process / Finished Goods for which goods are yet to be received (List to be attached in format given below)			166.38
	(iii) Stocks sent for processing/job work to other units for which documentary proof is available and recorded in books of borrower			0.00
	Total of A(i)+(ii)+(iii)			2166.90
B	Less:			
	(i) Trade Creditors / advance payment received from buyers			532.39
	(ii) Goods received under LC on DA basis/Buyer's Credit			0.00
	(iii) Damaged / Unsable / Obsolete Stocks			0.00
	(iv) Older than six months			0.00
	(v) Stocks received for processing / job work from other units			0.00
	Total of B(i) to (iv)			532.39
C	Net Value of Paid up stocks (A – B)			1634.51
D	Outstanding Book Debts (Other than bills discounted / negotiated by bank) as on 31.03.2014	<=90days		1537.26
	List to be attached in format given below duly certified by CA	>90<=120 days		0.00
		>120<=180 days		1.97
		>180 days		236.85
		Total Book Debts		1776.09

Format for submitting list of advance payment made to suppliers (as per A-ii above)

S.No.	Name of the supplier to whom advance payment has been made	Nature of goods	Contract No. and date	Date of payment	Amount (Rs. In lacs)	Expected delivery of goods
						166.38
				Total		166.38

STAR FERRO AND CEMENT LTD.

Director / Authorised Signatory

Format for submitting list of debtors duly certified by CA as per Bank's Policy (as per D above)

(Other than bills discounted / negotiated by bank)

S.No.	Name of the Debtor	Bill No.	Date	Amount (Rs. In lacs)
				1537.26
	Less : Amount Recd as advance from customers			8.28
	TOTAL			1528.99

Declaration:

1 We solemnly declare that the quantity, quality and rates of stocks detailed above hypothecated to the bank are true and the said stock is either our own absolute property or that we have such an interest the same as entitles us, to hypothecate the same to the Oriental Bank of Commerce in the full extent of the bank's advance to us against these goods and that they are not subject to any lien, claim or any sort on the strength of the declaration of ours, the advance has been taken by us.

2 We certify that the statement is true as per stock register and other books of account maintained be us.

3 In order to get the correctness of my/our statements, the bank is at fully liberty to get the goods verified/inspected in any manner and at our cost and I/we agree to accept the weightment and/or valuation.

4 We also certify that the conditions and warranties contained in the Insurance Policy have been duly complied.

STAR FERRO AND CEMENT LTD.

Director / Authorised Signatory

Date: 17.04.2014

Signatures of the Borrower(s)

FOR BANK USE ONLY:

Calculation of Drawing Power:

Description	Value (Rs in lacs)
Net Value of Paid up Stocks Eligible for Drawing Power ©	1634.51
Plus (+) Books Debts (as per sanction)	1528.99
Minus (-) Margin Stocks (25%)	408.63
Minus (-) Margin Book Debts(40%)	611.59
Drawing Power	2143.27
Sanctioned Limit	1200.00

Drawals be restricted to sanctioned limit or Drawing Power whichever is less

Loan Officer

Branch Manager

Date of receipt _____

Note: At the time of conducting stock verification the branch officials should obtain stock statement (on this format) of the immediate previous working day and verify the same with the accounting books/records maintained by the Borrower(s). In case of shortfall, if any, noticed during inspection, the matter should immediately to taken up with the borrower and the sanctioning authority.

ANNEXURE (STM42B REVISED 2010)

31st March 2014

APPLICABLE TO THE BORROWERS ENJOYING FUND BASED WORKING CAPITAL LIMITS AGAINST HYPOTHECATION OF STOCK AND/OR BOOK DEBTS ABOVE RS. 10 LAKHS

Description of stock (Name of Item)	Where Lying (Address of godown)	Quantity (Please specify exact mode of measurement)	Rate	Value (Rs.)
Raw Materials				
Quartz	EPIP, Rajabagan, Byrnihat, Meghalaya	4567.465	1643	7505571
Charcoal		268.622	20338	5463290
Wood Block		35.105	3500	122866
Lam Coke		21.431	19876	425955
Mill Scale		1019.594	6610	6739913
Steam Coal		0	#DIV/0!	0
Bamboo Wood		12.46	3000	37380
Chocalate Coal		0.00	0	0
Dolamite		101.63	1476	150021
Flourspar		0.00	#DIV/0!	0
Fire Wood		15.10	2300	34718
		0.00	#DIV/0!	0
		6041.404		20479214
Screen Coal Dust		23849.42	5049	120404076
Steam Coal Fines		48.29	500	24145
		23897.710		120428221
	Total of R/M	29939.114		140907935
Stores & Spares		**Quantity**	**Rate**	**Amount**
EC Paste	EPIP, Rajabagan, Byrnihat, Meghalaya	71.7	32662	2341893
Cashing Sheet		20.7	47792	989298
MS Round		14.492	38491	557807
Lancing Pipe		21.052	42496	894618
		127.944		4783616
Packing Materials				1554463
Others Stores & Spares(FA)				17893497
Others Stores & Spares(CPP)				13108378
				37339955
	Total of S & S	127.944		37339955
Finished Goods		**Quantity**	**Rate**	**Amount**
Ferro Silicon	EPIP, Rajabagan, Byrnihat, Meghalaya	302.512	68092	20598523
Ferro Silicon - Slag		17.009	0	0
Silico Manganese		39.000	30899	1205061
		358.521		21803584
		30425.584		200051474

Signature of the borrowers with rubber stamp

Date: 17.04.2014

Place: Kolkata

STAR FERRO AND CEMENT LTD.

Director / Authorised Signatory

KAILASH B. GOEL & CO.
CHARTERED ACCOUNTANTS

70 Ganesh Chandra Avenue, 1st Floor, Kolkata 700 013. Tele- Fax 22151938 Email kbgco@yahoo.co.in

TO WHOM IT MAY CONCERN

This is to certify that we have checked & verified the books of accounts of **Star Ferro and Cement Limited**, 6, Lyons Range, Kolkata - 700001 as on 31st March 2014 and certify the book debts as under :-

Debts Outstanding	**Rs. (In Lacs)**
Exceeding 180 days	236.85
Between 120 days to 180 days	1.97
Between 90 days to 120 days	0.00
Less than 90 days	1537.26
Total Sundry Debtors	**1776.08**

(Rupees : Seventeen Crore Seventy Six Lakhs Eight Thousand only)

Details list is annexed herewith.

For Kailash B. Goel & Co.
Chartered Accountants
Firm Registration No 322460E

A. K. Sharma

CA. Arun Kumar Sharma
Partner
Membership No. 57329

Date : 07.05.2014
Place : Kolkata

KAILASH B GOEL & CO. KOLKATA Chartered Accountants

STAR FERRO AND CEMENT LIMITED

List of Debtors as on 31.03.2014

Customer Name	0 - 90 Days	91 - 120 Days	120 - 180 Days	> 180 Days
Jindal Stainless Limited (Hisar)	4,244,705.00	-	182,199.00	3,880,770.41
Jindal Stainless Limited (Jajpur)	16,855,774.00	-	946.00	815.00
MPM Pvt. Ltd.	3,598,666.00	-	-	-
Facor Steels Ltd.	1,868,097.00	-	-	-
Viraj Profiles Limited	15,934,988.00	-	-	8,245.00
Usha Martin Ltd	8,788,585.00	-	-	(6,075.00)
Bhushan Power & Steel Ltd.	9,675,714.00	-	-	-
Electrosteel Casting Ltd	-	-	-	171,853.00
Jindal Steel & Power Ltd (Raigarh)	-	-	13,790.00	836,599.00
Jindal Steel & Power Ltd (Angul)	1,930,953.00	-	-	-
JSW Steel Ltd (Bellary)	-	-	-	24,575.00
JSW Ispat Steel Ltd	-	-	-	-
Rathi Steel & Power Ltd	-	-	-	5,755,609.00
TATA Steels Ltd.	16,329,694.00	-	-	-
Nava Karnataka Steels Pvt Ltd	-	-	-	-
Shyam Sel & Power Ltd	55,670,409.00	-	-	-
Parth Ispat (India) Pvt. Ltd.	1,730,569.00	-	-	-
Surya Alloys Industries Ltd.	3,201,552.00	-	-	-
Aarti Steels Limited	1,223,752.00	-	-	-
Rajneesh Cast Alloys	238,316.00	-	-	-
Kay Bee Metaliks Ltd.	4,414,189.00	-	-	-
Vardhman Special Steels	2,720,516.00	-	-	-
P. P. Ferro Alloys & Chemicals	1,699,905.00	-	-	-
Jai Durga Ferro Alloys	1,763,535.00	-	-	-
Upper India Steel Mfg. & Engg. Co. Ltd.	285,979.00	-	-	-
Sada Shiv Alloys	1,359,925.00	-	-	-
Tharaj Casting Pvt. Ltd.	190,652.00	-	-	-
Bokaro Steel Plant	-	-	-	1,940,766.58
Rourkela Steel Plant	-	-	-	145,541.78
Durgapur Steel Plant	-	-	-	10,926,491.00
TOTAL	**153,726,475.00**	-	**196,935.00**	**23,685,190.77**
GRAND TOTAL				**177,608,600.77**

KAILASH & GOEL & CO. KOLKATA Chartered Accountants

STAR FERRO AND CEMENT LTD.

Director / Authorised Signatory

Shyam Century Ferrous Limited

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Power produced (Million KWH)	64.12	55.25	104.40	68.90	34.70
Actual coal procured (MT)	43,576	32,461	72,086	13,704	4,960
Actual alternate fuel procured (Charcoal fines/Coke fine) (MT)	446	-	-	-	29
Actual coal consumption (MT)	37,335	34,143	54,825	42,595	18,281
Actual alternate fuel consumption (Charcoal fines/Coke fine) (MT)	446	-	-	-	29
Total consumption (MT)	37,781	34,143	54,825	42,595	18,310
Coal consumption Kg/KWH	0.589	0.618	0.525	0.618	0.528

Particulars	2011-12	2012-13	2013-14
Power produced (Million KWH)	101.40	81.24	103.64
Actual coal procured (MT)	61,505	54,814	61,851
Actual coal consumption (MT)	67,287	49,440	60,315
Total consumption (MT)	67,287	49,440	60,315
Coal consumption Kg/KWH	0.664	0.609	0.582

Shyam Century Ferrous (Raw Material) - 2013-2014-CPP

Screen Coal Dust

Monthly Summary

1-Apr-2013 to 31-Mar-2014

Particulars	Closing Balance Quantity
Opening Balance	**22,313.532 MT**
April	23,136.951 MT
May	20,004.911 MT
June	16,526.801 MT
July	13,339.974 MT
August	8,829.554 MT
September	3,505.954 MT
October	
November	2,864.160 MT
December	10,521.195 MT
January	20,845.516 MT
February	25,526.702 MT
March	23,849.424 MT
Grand Total	**23,849.424 MT**

Shyam Century Ferrous (Raw Material) - (2014-2015)CPP

Screen Coal Dust

Monthly Summary

1-Apr-2014 to 31-Mar-2015

Particulars	Closing Balance Quantity
Opening Balance	**23,849.424 MT**
April	33,544.514 MT
May	31,951.000 MT
June	26,403.735 MT
July	21,220.721 MT
August	15,882.588 MT
September	10,480.598 MT
October	4,041.942 MT
November	2,524.096 MT
December	8,775.188 MT
January	25,650.838 MT
February	27,320.238 MT
March	27,320.238 MT
Grand Total	**27,320.238 MT**

SHYAM CENTURY FERROUS
(A Division of CENTURY PLYBOARDS (I) LTD.)
Office & Works : EPIP, Rajabagan, Byrnihat, Meghalaya - 793 101

CENTURYPLY
AN ISO 9001 UNIT

Ref: SCF/PERS/E:5.5/2012-13/001
Date: 25th June, 2012

Mr. P.K. Shullet,
Senior Electrical Inspector,
Meghalaya,
Shillong

Sub : Details of information regarding Total Energy Consumed

Sir,

Enclosed please find herewith the **Form – 1** (Information regarding Total Energy Consumed) duly filled in.

This is for your kind information please.

Thanking you,

Yours faithfully,

For Shyam Century Ferrous
(A Division of Century Plyboards (I) Ltd.)

Y.K.Chaudhry

(Y.K.Chaudhry)
Chief Executive Officer
Phone: 094351 43108
e-mail: ykc@cmcl.co.in

INSPECTORATE OF ELECTRICITY
Receipt
29/6/2012
MEGHALAYA, SHILLONG

Encl: Filled up copy in **Form – 1** (Information regarding Total Energy Consumed)

Copy to: i) The Director General, Bureau of Energy Efficiency, Govt. of India, Ministry of Power, 4th Floor, SEWA Bhawan, R.K. Puram, New Delhi – 110 066

FY (2011-12)

Form – I

Details of information regarding Total Energy Consumed (Sec rule 3)

	Name of the Unit	Shyam Century Ferrous (A Division of Century Plyboards (I) Ltd.)	
2	The Sector* to which unit falls (Refer Annex-1)	Sector	Sub-Sector*
		Iron & Steel	
3 (a)	Complete address of Unit's location (including Chief Executive's name & designation) with mobile, telephone, fax nos. & e-mail.	EPIP AREA, RAJABAGAN, BYRNIHAT RI-BHOI DIST. MEGHALAYA -793101 YOGESH KUMAR CHAUDHRY (Chief Executive Officer) Phone. No. 094351 – 43108 Fax No. 03638 200522 email: ykc@cmcl.co.in	
(b)	Year of Establishment	2000	
4	Registered Office address with telephone, fax nos. & e-mail.	6, Lyons Range, Kolkata – 700 001 Tel : + 91 – 33 – 22104321 Fax No. + 91 – 33 – 22483539	
5	Name, designation, address, mobile, telephone, fax nos. & e-mail of energy manager	Notification of vacancies given to the local Employment Exchange, Nongpoh, Dist.- Ri-Bhoi, Meghalaya	
6	Production and capacity utilization details		

Year	Main Product (Refer Annex – 2)	Units (Please specify)	Installed Capacity (a)	Actual Production (b)	% Capacity Utilisation (b/a) x 100
Current financial year (2011-12)	Ferro Silicon	MT	14400	8816.307	61.22 %
Previous financial year (2010-11)	Ferro Silicon	MT	14400	10365.500	71.98 %

7.0	Energy Consumption and cost	Current financial year (2011-12)	Previous financial year (2010-11)
7.1	Electricity Consumption and cost		
(A)	Purchased Electricity from Grid / Other		
(i)	Units (Million kWh/year)	5.311	5.374
(ii)	Total Cost (Rs. Million/year)	20.531	20.607
(iii)	Plant Connected load (kW)	16000	16000
(iv)	Contract demand (kVA) with utility	1800	1800
(v)	Plant Run Hour (hours)	8160:2	8143:41

		Current financial year (2011-12)	Previous financial year (2010-11)
(B)	Own Generation (Pl mention the below data if the CPP is inside your plant boundary)		
(a)	Through DG sets		
(i)	Annual generation (Million kWh)	0.03842	0.00839
(ii)	Fuel used (HSD/LDO/LHSH/LSFO)	HSD	HSD
(iii)	Cost of Electricity (Rs. / kWh)	7.85	8.81
(iv)	Gross Calorific Value (kCal/kg)	10800	10800
(v)	Annual Fuel consumption (tones)	7480.33 Liters	1956 Liters
(vi)	Total annual fuel cost (Rs. Million)	0.301	0.066
(b)	Through Steam turbine/generator		
(i)	Annual generation (Million kWh)	101.4016	115.31

(ii)	Fuel used (state which type of fuel was used (C=coal, B=biomass, E= electricity). If coal was used, state which grade i.e. C/I = imported or C/F = coal of grade F	C	C
(iii)	Average Gross Heat Rate (kCal/kWh)	3388.46	3254
(iv)	Auxillary Power Consumption (%)	10.09	10.07
(v)	Design Heat Rate (kCal/kWh)	2701.50	2701.50
I	Through Gas turbine	N/A	N/A
(i)	Annual generation (Million kWh)		
(ii)	Fuel used (NG, PNG, CNG, Naphtha)		
(iii)	Gross calorific value (kCal/SCM)		
(iv)	Annual fuel consumption (Million SCM)		
(v)	Total annual fuel cost (Rs. Million)		
(vi)	Average Gross Heat Rate (kCal/kWh)		
(vii)	Auxillary Power Consumption (%)		
(viii)	Design Heat Rate (kCal/kWh)		
(c)	Through Co-Generation	N/A	N/A
(i)	Co-Gen Capacity (MW)		
(ii)	Annual generation (Million kWh)		
(iii)	Heat Input (Million kCal)		
(iv)	Heat Output (Million kCal)		
(C)	Total generation of electricity (Million kWh/year) 7.1 (B) { a(i) + b(i) + c(i) + d(ii) }	101.440	115.314
(D)	Electricity supplied to the grid / others (specify) (Million kWh/year)	21.3188	22.91
(E)	Total electricity consumed (Million kWh/year) 7.1 { A(i) + C - D }	85.4322	97.78

7.2	Solid Fuel Consumption	Current financial year (2011-12)		Previous financial year (2010-11)	
(A)	Coal	Indian	Imported	Indian	Imported
(i)	Gross calorific value (kCal/kg)	5125.33		5314.79	
(ii)	Quantity purchased (tonnes/year)	61505.41		60982.72	
(iii)	Quantity used for power generation (tonnes/year)	67287.46		70215.06	
(iv)	Quantity used as raw material, if any (tonnes/year)				
(v)	Quantity used for process heating (tonnes/year)				
(vi)	Total coal cost for process (Rs. Million/year)	292.41		245.307	
(B)	Lignite	N/A		N/A	
(i)	Gross calorific value (kCal/kg)				
(ii)	Quantity purchased (tonnes/year)				
(iii)	Quantity used for power generation (tonnes/year)				
(iv)	Quantity used as raw material, if any (tonnes/year)				
(v)	Quantity used for process heating (tonnes/year)				
(vi)	Total lignite cost for process (Rs. Million/year)				

(C)	Bio mass or Other purchased solid fuels (pl. specify) baggase, rice husk, etc.	N/A	N/A
(i)	Average moisture content as fired (%)		
(ii)	Average Gross calorific value as fired (kCal/kg)		
(iii)	Quantity purchased (tonnes/year)		
(iv)	Quantity used as raw material, if any (tonnes/year)		
(v)	Quantity used for process heating (tonnes/year)		
(vi)	Total biomass cost for process (Rs. Million/year)		
7.3	Liquid Fuel Consumption	N/A	N/A
(A)	Furnace Oil		
(i)	Gross calorific value (kCal/kg)		
(ii)	Quantity purchased (kL/year)		
(iii)	Average Density (kg/m³)		
(iv)	Quantity used for power generation (kL/year)		
(v)	Quantity used as raw material, if any (kL/year)		
(vi)	Quantity used for process heating (kL/year)		
(vii)	Total F.Oil Cost for process heating (Rs. Million/year)		
		Current financial year (2011-12)	Previous financial year (2010-11)
(B)	Low Sulphur Heavy Stock (LSHS)	N/A	N/A
(i)	Gross calorific value (kCal/kg)		
(ii)	Quantity purchased (tonnes/year)		
(iii)	Quantity used for power generation (tonnes/year)		
(iv)	Quantity used as raw material, if any (tonnes/year)		
(v)	Quantity used for process heating (tonnes/year)		
(vi)	Total LSHS Cost for process heating (Rs. Million/year)		
(C)	High Sulphur Heavy Stock (HSHS)	N/A	N/A
(i)	Gross calorific value (kCal/kg)		
(ii)	Quantity purchased (tonnes/year)		
(iii)	Quantity used for power generation (tonnes/year)		
(iv)	Quantity used as raw material, if any (tonnes/year)		
(v)	Quantity used for process heating (tonnes/year)		
(vi)	Total HSHS Cost for process heating (Rs. Million/year)		
(D)	Diesel Oil		
(a)	High Speed Diesel (HSD)		
(i)	Gross calorific value (kCal/kg)	10800	10800
(ii)	Quantity purchased (kL/year)	86.049	90.169
(iii)	Average Density (kg/m³)	840	840
(iv)	Quantity used for power generation (kL/year)	7.48033	4.478
(v)	Quantity used as raw material, if any (kL/year)		
(vi)	Quantity used for process heating (kL/year)		
(vii)	Total HSD Cost for process heating (Rs. Million/year)		

(b)	Light Diesel Oil (LDO)	N/A	N/A
(i)	Gross calorific value (kCal/kg)		
(ii)	Quantity purchased (kL/year)		
(iii)	Average Density (kg/m³)		
(iv)	Quantity used for power generation (kL/year)		
(v)	Quantity used as raw material, if any (kL/year)		
(vi)	Quantity used for process heating (kL/year)		
(vii)	Total LDO Cost for process heating (Rs. Million/year)		

		Current financial year (2011-12)	Previous financial year (2010-11)
7.4	Gaseous Fuel	N/A	N/A
(a)	Compressed Natural Gas (CNG)		
(i)	Gross calorific value (kCal/SCM)		
(ii)	Quantity purchased (Million SCM/year)		
(iii)	Quantity used for power generation (Million SCM/year)		
(iv)	Quantity used as raw material, if any (million SCM/year)		
(v)	Quantity used for transportation, if any (Million SCM/year)		
(vi)	Quantity used for process heating (million SCM/year)		
(vii)	Total cost of natural gas for process heating (Rs. Million/year)		
(b)	Liquefied Petroleum Gas (LPG)		
(i)	Gross calorific value (kCal/SCM)		
(ii)	Quantity purchased (million SCM/year)		
(iii)	Quantity used for power generation (million SCM/year)		
(iv)	Quantity used as raw material, if any (million SCM/year)		
(v)	Quantity used for process heating (million SCM/year)		
(vi)	Total cost of LPG for process heating (Rs. Million/year)		
(C)	Gas generated as by-product in the plant and used as fuel		
(i)	Name of the Gas		
(ii)	Gross calorific value (kCal/SCM)		
(iii)	Quantity Generated (Million SCM/year)		
(iv)	Quantity used for process heating (million SCM year)		
(v)	Total cost of byproduct gas for process heating (Rs. Million/year)		
7.5	Solid Waste	N/A	N/A

	Solid waste generated in the plant and used as fuel		
	Name of the Solid Waste		
	Gross calorific value (kCal/kg)		
(iii)	Quantity Generated (tonnes/year)		
(iv)	Quantity used for process heating (tonnes/year)		
(v)	Total cost of solid waste for process heating (Rs. Million/year)		
7.6	Liquid Waste	Current financial year (2011-12)	Previous financial year (2010-11)
	Liquid effluent / waste generated in the plant and used as fuel	N/A	N/A
(i)	Name of the Waste		
(ii)	Gross calorific value (kCal/kg)		
(iii)	Average Density (kg/m³)		
(iv)	Quantity Generated (kl/year)		
(v)	Quantity used for process heating (kl/year)		
(vi)	Total cost of liquid effulent for process heating (Rs. Million/year)		
7.7	Gaseous Waste		
	Gas waste generated in the plant and used as fuel	N/A	N/A
(i)	Name of the Gas Waste		
(ii)	Gross calorific value (kCal/SCM)		
(iii)	Quantity Generated (Million SCM/year)		
(iv)	Quantity used for process heating (Million SCM/year)		
(v)	Total cost of Gas waste for process heating (Rs. Million/year)		
7.8	Others		
(i)	Name		
(ii)	Average Gross calorific value (kCal/kg)		
(iii)	Quantity Generated (tonnes/year)		
(iv)	Quantity used for power generation (tonnes/year)		
(v)	Quantity used for process heat (tonnes/year)		
(vi)	Annual cost of the others source (Rs. Million/year)		

Abbreviations / Expansions

Million	=	10^6
kWh	=	Kilo Watt Hour
kVA	=	kilo Volt Ampere
Rs.	=	Rupees
Kg	=	kilo Gram
Tonnes	=	Thousand kg
kCal	=	kilo Calorie
kL	=	kilo Litre
SCM	=	Standard Cubic Meter
Tpd	=	Tonnes per day

SHYAM CENTURY FERROUS
(A Division of CENTURY PLYBOARDS (I) LTD.)
Office & Works : EPIP, Rajabagan, Byrnihat, Meghalaya - 793 101

CENTURYPLY
AN ISO 9001 UNIT

Ref: SCF/PERS/E:5.5/2013-14/002
Date: 24th June, 2013

Mr. P.K. Shullet,
Senior Electrical Inspector,
Meghalaya,
Shillong

Sub : Details of information regarding Total Energy Consumed

Sir,

Enclosed please find herewith the **Form – 1** (Information regarding Total Energy Consumed) duly filled in.

This is for your kind information please.

Thanking you,

Yours faithfully,

For Shyam Century Ferrous
(A Division of STAR FERRO AND CEMENT Ltd.)

M.V.K. Nageswara Rao
(PRESIDENT)
Phone. No. 9485099191
email: nageswararao@cmcl.co.in

RECEIVED
INSPECTORATE OF ELECTRICITY
MEGHALAYA, SHILLONG

Encl: Filled up copy in **Form – 1** (Information regarding Total Energy Consumed)

Copy to: i) The Director General, Bureau of Energy Efficiency, Govt. of India, Ministry of Power, 4th Floor, SEWA Bahwan, R.K.Puram, New Delhi-110066.

Form – I

Details of information regarding Total Energy Consumed (Sec rule 3)

1	Name of the Unit	Shyam Century Ferrous (A Division of STAR FERRO AND CEMENT LTD.)			
2	The Sector* to which unit falls (Refer Annex-1)	Sector	Sub-Sector*		
		Iron & Steel			
3 (a)	Complete address of Unit's location (including Chief Executive's name & designation) with mobile, telephone, fax nos. & e-mail.	EPIP AREA, RAJABAGAN, BYRNIHAT RI-BHOI DIST. MEGHALAYA -793101 MVK NAGESWARA RAO (PRESIDENT) Phone. No. 9485099191 Fax No. 03638 200522 email: nageswararao@cmcl.co.in			
(b)	Year of Establishment	2000			
4	Registered Office address with telephone, fax nos. & e-mail.	6, Lyons Range, Kolkata – 700 001 Tel : + 91 – 33 – 22104321 Fax No. + 91 – 33 – 22483539			
5	Name, designation, address, mobile, telephone, fax nos. & e-mail of energy manager	Mr. Arvind Rai. Energy Manager, Shyam Century Ferrous, A division of STAR FERRO AND CEMENT LTD. Rajabagan Byrnihat, Meghalaya-793101. Phone No: 9862571299 Email Address: arvindrai@cmcl.co.in / arvindrai.cmcl@gmail.com			
6	Production and capacity utilization details				
Year	Main Product (Refer Annex – 2)	Units (Please specify)	Installed Capacity (a)	Actual Production (b)	% Capacity Utilisation (b/a) x 100
Current financial year (2012-13)	Ferro Silicon	MT	15930	9462.834	59.40%
Previous financial year (2011-12)	Ferro Silicon	MT	14400	8816.307	61.22 %
7.0	Energy Consumption and cost	Current financial year (2012-13)		Previous financial year (2011-12)	
7.1	Electricity Consumption and cost				
(A)	Purchased Electricity from Grid / Other				
(i)	Units (Million kWh/year)	8.595		5.311	
(ii)	Total Cost (Rs. Million/year)	38.291		20.531	
(iii)	Plant Connected load (kW)	23681		16000	
(iv)	Contract demand (kVA) with utility	1800 upto 26-Sep,2013.From 27-Sep,2013 power drawl from IEX through open access		1800	
(v)	Plant Run Hour (hours)	6436:28		8160:2	

For SHYAM CENTURY FERROUS
A Division of STAR FERRO AND CEMENT LIMITED

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		Current financial year (2012-13)	Previous financial year (2011-12)
(B)	Own Generation (Pl mention the below data if the CPP is inside your plant boundary)		
(a)	Through DG sets		
(i)	Annual generation (Million kWh)	0.007	0.03842
(ii)	Fuel used (HSD/LDO/LHSH/LSFO)	HSD	HSD
(iii)	Cost of Electricity (Rs. / kWh)	11.24	7.85
(iv)	Gross Calorific Value (kCal/kg)	10800	10800
(v)	Annual Fuel consumption (tones)	1669.5 Liters	7480.33 Liters
(vi)	Total annual fuel cost (Rs. Million)	0.075	0.301
(b)	Through Steam turbine/generator		
(i)	Annual generation (Million kWh)	81.24	101.4016
(ii)	Fuel used (state which type of fuel was used (C=coal, B=biomass, E= electricity). If coal was used, state which grade i.e. C/I = imported or C/F = coal of grade F	C	C
(iii)	Average Gross Heat Rate (kCal/kWh)	3300.28	3388.46
(iv)	Auxillary Power Consumption (%)	10.24%	10.09
(v)	Design Heat Rate (kCal/kWh)	2701.5	2701.50
I	Through Gas turbine	N/A	N/A
(i)	Annual generation (Million kWh)		
(ii)	Fuel used (NG, PNG, CNG, Naphtha)		
(iii)	Gross calorific value (kCal/SCM)		
(iv)	Annual fuel consumption (Million SCM)		
(v)	Total annual fuel cost (Rs. Million)		
(vi)	Average Gross Heat Rate (kCal/kWh)		
(vii)	Auxillary Power Consumption (%)		
(viii)	Design Heat Rate (kCal/kWh)		
(d)	Through Co-Generation	N/A	N/A
(i)	Co-Gen Capacity (MW)		
(ii)	Annual generation (Million kWh)		
(iii)	Heat Input (Million kCal)		
(iv)	Heat Output (Million kCal)		
(C)	Total generation of electricity (Million kWh/year) 7.1 (B) { a(i) + b(i) + c(i) + d(ii) }	81.2469	101.440
(D)	Electricity supplied to the grid / others (specify) (Million kWh/year)	0.0303	21.3188
(E)	Total electricity consumed (Million kWh/year) 7.1 { A(i) + C - D }	89.76529	85.4322

7.2	Solid Fuel Consumption	Current financial year (2012-13)		Previous financial year (2011-12)	
(A)	Coal	Indian	Imported	Indian	Imported
i)	Gross calorific value (kCal/kg)	5422.986		5125.33	
ii)	Quantity purchased (tonnes/year)	54813.884		61505.41	
iii)	Quantity used for power generation (tonnes/year)	49440.363		67287.46	
iv)	Quantity used as raw material, if any (tonnes/year)				
v)	Quantity used for process heating (tonnes/year)				
vi)	Total coal cost for process (Rs. Million/year)	250.29		292.41	
B)	Lignite	N/A		N/A	
i)	Gross calorific value (kCal/kg)				
ii)	Quantity purchased (tonnes/year)				
iii)	Quantity used for power generation (tonnes/year)				
iv)	Quantity used as raw material, if any				

For SHYAM CENTURY FERROUS
A Division of STAR CEMENT CO. LTD.

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	(tonnes/year)				
(v)	Quantity used for process heating (tonnes/year)				
(vi)	Total lignite cost for process (Rs. Million/year)				

(C)	Bio mass or Other purchased solid fuels (pl. specify) baggase, rice husk, etc.	N/A	N/A
(i)	Average moisture content as fired (%)		
(ii)	Average Gross calorific value as fired (kCal/kg)		
(iii)	Quantity purchased (tonnes/year)		
(iv)	Quantity used as raw material, if any (tonnes/year)		
(v)	Quantity used for process heating (tonnes/year)		
(vi)	Total biomass cost for process (Rs. Million/year)		
7.3	Liquid Fuel Consumption	N/A	N/A
(A)	Furnace Oil		
(i)	Gross calorific value (kCal/kg)		
(ii)	Quantity purchased (kL/year)		
(iii)	Average Density (kg/m³)		
(iv)	Quantity used for power generation (kL/year)		
(v)	Quantity used as raw material, if any (kL/year)		
(vi)	Quantity used for process heating (kL/year)		
(vii)	Total F.Oil Cost for process heating (Rs. Million/year)		
		Current financial year (2012-13)	Previous financial year (2011-12)
(B)	Low Sulphur Heavy Stock (LSHS)	N/A	N/A
(i)	Gross calorific value (kCal/kg)		
(ii)	Quantity purchased (tonnes/year)		
(iii)	Quantity used for power generation (tonnes/year)		
(iv)	Quantity used as raw material, if any (tonnes/year)		
(v)	Quantity used for process heating (tonnes/year)		
(vi)	Total LSHS Cost for process heating (Rs. Million/year)		
(C)	High Sulphur Heavy Stock (HSHS)	N/A	N/A
(i)	Gross calorific value (kCal/kg)		
(ii)	Quantity purchased (tonnes/year)		
(iii)	Quantity used for power generation (tonnes/year)		
(iv)	Quantity used as raw material, if any (tonnes/year)		
(v)	Quantity used for process heating (tonnes/year)		
	Total HSHS Cost for process heating (Rs. Million/year)		
(D)	Diesel Oil		
(a)	High Speed Diesel (HSD)		
(i)	Gross calorific value (kCal/kg)	10800	10800
(ii)	Quantity purchased (kL/year)	78.846	86.049
(iii)	Average Density (kg/m³)	843	840
(iv)	Quantity used for power generation (kL/year)	1.6695	7.48033
(v)	Quantity used as raw material, if any (kL/year)		
(vi)	Quantity used for process heating (kL/year)		
(vii)	Total HSD Cost for process heating (Rs. Million/year)		

(b)	Light Diesel Oil (LDO)	N/A	N/A
(i)	Gross calorific value (kCal/kg)		
(ii)	Quantity purchased (kL/year)		

For SHYAM CENTURY FERROUS
A Division of STAR FERRO AND CEMENT LIMITED

Authorised Signatory

(iii)	Average Density (kg/m³)		
(iv)	Quantity used for power generation (kL/year)		
(v)	Quantity used as raw material, if any (kL/year)		
(vi)	Quantity used for process heating (kL/year)		
(vii)	Total LDO Cost for process heating (Rs. Million/year)		

		Current financial year (2012-13)	Previous financial year (2011-12)
7.4	Gaseous Fuel	N/A	N/A
(a)	Compressed Natural Gas (CNG)		
(i)	Gross calorific value (kCal/SCM)		
(ii)	Quantity purchased (Million SCM/year)		
(iii)	Quantity used for power generation (Million SCM/year)		
(iv)	Quantity used as raw material, if any (million SCM/year)		
(v)	Quantity used for transportation, if any (Million SCM/year)		
(vi)	Quantity used for process heating (million SCM/year)		
(vii)	Total cost of natural gas for process heating (Rs. Million/year)		
(b)	Liquefied Petroleum Gas (LPG)		
(i)	Gross calorific value (kCal/SCM)		
(ii)	Quantity purchased (million SCM/year)		
(iii)	Quantity used for power generation (million SCM/year)		
(iv)	Quantity used as raw material, if any (million SCM/year)		
(v)	Quantity used for process heating (million SCM/year)		
(vi)	Total cost of LPG for process heating (Rs. Million/year)		
(C)	Gas generated as by-product in the plant and used as fuel		
(i)	Name of the Gas		
(ii)	Gross calorific value (kCal/SCM)		
(iii)	Quantity Generated (Million SCM/year)		
(iv)	Quantity used for process heating (million SCM year)		
(v)	Total cost of byproduct gas for process heating (Rs. Million/year)		
7.5	Solid Waste	N/A	N/A
	Solid waste generated in the plant and used as fuel		
(i)	Name of the Solid Waste		
(ii)	Gross calorific value (kCal/kg)		
(iii)	Quantity Generated (tonnes/year)		
(iv)	Quantity used for process heating (tonnes/year)		
(v)	Total cost of solid waste for process heating (Rs. Million/year)		
7.6	Liquid Waste	Current financial year (2012-13)	Previous financial year (2011-12)
	Liquid effluent / waste generated in the plant and used as fuel	N/A	N/A
(i)	Name of the Waste		

For SHYAM CENTURY FERROUS
A Division of STAR FERRO AND CEMENT LIMITED

Authorised Signatory

(ii)	Gross calorific value (kCal/kg)		
(iii)	Average Density (kg/m³)		
(iv)	Quantity Generated (kl/year)		
(v)	Quantity used for process heating (kl/year)		
(vi)	Total cost of liquid effulent for process heating (Rs. Million/year)		
7.7	Gaseous Waste		
	Gas waste generated in the plant and used as fuel	N/A	N/A
(i)	Name of the Gas Waste		
(ii)	Gross calorific value (kCal/SCM)		
(iii)	Quantity Generated (Million SCM/year)		
(iv)	Quantity used for process heating (Million SCM/year)		
(v)	Total cost of Gas waste for process heating (Rs. Million/year)		
7.8	Others		
(i)	Name		
(ii)	Average Gross calorific value (kCal/kg)		
(iii)	Quantity Generated (tonnes/year)		
(iv)	Quantity used for power generation (tonnes/year)		
(v)	Quantity used for process heat (tonnes/year)		
(vi)	Annual cost of the others source (Rs. Million/year)		

Abbreviations / Expansions

Million	=	10^6
kWh	=	Kilo Watt Hour
kVA	=	kilo Volt Ampere
Rs.	=	Rupees
Kg	=	kilo Gram
Tonnes	=	Thousand kg
kCal	=	kilo Calorie
kL	=	kilo Litre
SCM	=	Standard Cubic Meter
Tpd	=	Tonnes per day

For SHYAM CENTURY FERROUS
A Division of STAR FERRO AND CEMENT LIMITED

Authorised Signatory

Shyam Century Ferrous
(A Division of Star Ferro and Cement Limited)

Office & Works : EPIP, Rajabagan, PO: Byrnihat
Dist: Ri-Bhoi, Meghalaya - 793101
CIN: U27310ML2011PLC008564
Telephone: +919436108851
ISO 9001 : 2008

Ref: SCF/PERS/E:5.5/2014-15/001
Date: 23th June, 2014

To
The Sr. Electrical Inspector &
State Designated Agency on Energy Conservation
Meghalaya, Shillong

Sub : Details of information regarding Total Energy Consumed

Dear Sir,

Enclosed please find herewith the **Form – 1** (Information regarding Total Energy Consumed) duly filled in.

This is for your kind information please.

Thanking you,

Yours faithfully,

For Shyam Century Ferrous
(A Division of STAR FERRO AND CEMENT Ltd.)

M.V.K. Nageswara Rao
(PRESIDENT)
Phone. No. 9485099191
email: nageswararao@cmcl.co.in

RECEIVED
INSPECTORATE OF ELECTRICITY
MEGHALAYA, SHILLONG

Encl: Filled up copy in **Form – 1** (Information regarding Total Energy Consumed).

Copy to: i) The Director General, Bureau of Energy Efficiency, Govt. of India, Ministry of Power, 4th Floor, SEWA Bahwan, R.K.Puram, New Delhi-110066.

Form – I

Details of information regarding Total Energy Consumed (Sec rule 3)

1	Name of the Unit	Shyam Century Ferrous (A Division of STAR FERRO AND CEMENT LTD.)			
2	The Sector* to which unit falls (Refer Annex-1)	Sector	Sub-Sector*		
		Iron & Steel			
3 (a)	Complete address of Unit's location (including Chief Executive's name & designation) with mobile, telephone, fax nos. & e-mail.	EPIP AREA, RAJABAGAN, BYRNIHAT RI-BHOI DIST. MEGHALAYA -793101 MVK NAGESWARA RAO (PRESIDENT) Phone. No. 9485099191 Fax No. 03638 200522 email: nageswararao@cmcl.co.in			
(b)	Year of Establishment	2000			
4	Registered Office address with telephone, fax nos. & e-mail.	6, Lyons Range, Kolkata – 700 001 Tel : + 91 – 33 – 22104321 Fax No. + 91 – 33 – 22483539			
5	Name, designation, address, mobile, telephone, fax nos. & e-mail of energy manager	Mr. Arvind Rai. Energy Manager, Shyam Century Ferrous, A division of STAR FERRO AND CEMENT LTD. Rajabagan Byrnihat, Meghalaya-793101. Phone No: 9862571299 Email Address: arvindrai@cmcl.co.in / arvindrai.cmcl@gmail.com			
6	Production and capacity utilization details				
Year	Main Product (Refer Annex – 2)	Units (Please specify)	Installed Capacity (a)	Actual Production (b)	% Capacity Utilisation (b/a) x 100
Current financial year (2013-14)	Ferro Silicon	MT	21600	16164	74.83%
Previous financial year (2012-13)	Ferro Silicon	MT	14400	9462.834	65.71%

7.0	Energy Consumption and cost	Current financial year (2013-14)	Previous financial year (2012-13)
.1	Electricity Consumption and cost		
(A)	Purchased Electricity from Grid / Other		
(i)	Units (Million kWh/year)	43.4537	8.595
(ii)	Total Cost (Rs. Million/year)	157.980	38.291
(iii)	Plant Connected load (kW)	25557	23681
(iv)	Contract demand (kVA) with utility	From 27- Sep,2012 power drawl from IEX through open access	1800 (upto 26-Sep,2012.From 27- Sep,2012 power drawl from IEX through open access)
(v)	Plant Run Hour (hours)	8225:44	6436:28

		Current financial year (2013-14)	Previous financial year (2012-13)
(B)	Own Generation (Pl mention the below data if the CPP is inside your plant boundary)		
(a)	Through DG sets		
(i)	Annual generation (Million kWh)	0.00877	0.007
(ii)	Fuel used (HSD/LDO/LHSH/LSFO)	HSD	HSD
(iii)	Cost of Electricity (Rs. / kWh)	13.55	11.24

For SHYAM CENTURY FERROUS
A Division of STAR FERRO AND CEMENT LIMITED

PRESIDENT

(iv)	Gross Calorific Value (kCal/kg)	10800	10800
(v)	Annual Fuel consumption (tones)	2265 Liters	1669.5 Liters
(vi)	Total annual fuel cost (Rs. Million)	0.118	0.075
(b)	Through Steam turbine/generator		
(i)	Annual generation (Million kWh)	103.6357	81.24

(ii)	Fuel used (state which type of fuel was used (C=coal, B=biomass, E= electricity). If coal was used, state which grade i.e. C/I = imported or C/F = coal of grade F	C	C
(iii)	Average Gross Heat Rate (kCal/kWh)	3360.01	3300.28
(iv)	Auxillary Power Consumption (%)	10.32%	10.24%
(v)	Design Heat Rate (kCal/kWh)	3250	3250
(c)	Through Gas turbine	N/A	N/A
(i)	Annual generation (Million kWh)		
(ii)	Fuel used (NG, PNG, CNG, Naphtha)		
(iii)	Gross calorific value (kCal/SCM)		
(iv)	Annual fuel consumption (Million SCM)		
(v)	Total annual fuel cost (Rs. Million)		
(vi)	Average Gross Heat Rate (kCal/kWh)		
(vii)	Auxillary Power Consumption (%)		
(viii)	Design Heat Rate (kCal/kWh)		
(d)	Through Co-Generation	N/A	N/A
(i)	Co-Gen Capacity (MW)		
(ii)	Annual generation (Million kWh)		
(iii)	Heat Input (Million kCal)		
(iv)	Heat Output (Million kCal)		
(C)	Total generation of electricity (Million kWh/year) 7.1 (B) { a(i) + b(i) + c(i) + d(ii) }	103.64447	81.2469
(D)	Electricity supplied to the grid / others (specify) (Million kWh/year)	0	0
(E)	Total electricity consumed (Million kWh/year) 7.1 { A(i) + C - D }	147.09817	89.8419

7.2	Solid Fuel Consumption	Current financial year (2013-14)		Previous financial year (2012-13)	
(A)	Coal	Indian	Imported	Indian	Imported
(i)	Gross calorific value (kCal/kg)	5773.3		5422.986	
(ii)	Quantity purchased (tonnes/year)	61850.890		54813.884	
(iii)	Quantity used for power generation (tonnes/year)	60314.998		49440.363	
(iv)	Quantity used as raw material, if any (tonnes/year)				
(v)	Quantity used for process heating (tonnes/year)				
(vi)	Total coal cost for process (Rs. Million/year)	311.482		250.29	
(B)	Lignite	N/A		N/A	
(i)	Gross calorific value (kCal/kg)				
(ii)	Quantity purchased (tonnes/year)				
(iii)	Quantity used for power generation (tonnes/year)				
(iv)	Quantity used as raw material, if any				

For SHYAM CENTURY FERROUS
A Division of STAR FERRO AND CEMENT LIMITED

PRESIDENT

(iv)	Quantity used for power generation (kL/year)	2.265	1.6695
(v)	Quantity used as raw material, if any (kL/year)		
(vi)	Quantity used for process heating (kL/year)		
(vii)	Total HSD Cost for process heating (Rs. Million/year)		

(b)	Light Diesel Oil (LDO)	N/A	N/A
(i)	Gross calorific value (kCal/kg)		
(ii)	Quantity purchased (kL/year)		
(iii)	Average Density (kg/m³)		
(iv)	Quantity used for power generation (kL/year)		
(v)	Quantity used as raw material, if any (kL/year)		
(vi)	Quantity used for process heating (kL/year)		
(vii)	Total LDO Cost for process heating (Rs. Million/year)		

		Current financial year (2013-14)	Previous financial year (2012-13)
7.4	Gaseous Fuel	N/A	N/A
(a)	Compressed Natural Gas (CNG)		
(i)	Gross calorific value (kCal/SCM)		
(ii)	Quantity purchased (Million SCM/year)		
(iii)	Quantity used for power generation (Million SCM/year)		
(iv)	Quantity used as raw material, if any (million SCM/year)		
(v)	Quantity used for transportation, if any (Million SCM/year)		
(vi)	Quantity used for process heating (million SCM/year)		
(vii)	Total cost of natural gas for process heating (Rs. Million/year)		
(b)	Liquefied Petroleum Gas (LPG)		
(i)	Gross calorific value (kCal/SCM)		
(ii)	Quantity purchased (million SCM/year)		
(iii)	Quantity used for power generation (million SCM/year)		
(iv)	Quantity used as raw material, if any (million SCM/year)		
(v)	Quantity used for process heating (million SCM/year)		
(vi)	Total cost of LPG for process heating (Rs. Million/year)		
(C)	Gas generated as by-product in the plant and used as fuel		
(i)	Name of the Gas		

For SHYAM CENTURY FERROUS
A Division of STAR FERRO AND CEMENT LIMITED

PRESIDENT

(ii)	Gross calorific value (kCal/SCM)		
(iii)	Quantity Generated (Million SCM/year)		
(iv)	Quantity used for process heating (million SCM year)		
(v)	Total cost of byproduct gas for process heating (Rs. Million/year)		
7.5	Solid Waste	N/A	N/A
	Solid waste generated in the plant and used as fuel		
(i)	Name of the Solid Waste		
(ii)	Gross calorific value (kCal/kg)		
(iii)	Quantity Generated (tonnes/year)		
(iv)	Quantity used for process heating (tonnes/year)		
(v)	Total cost of solid waste for process heating (Rs. Million/year)		
7.6	Liquid Waste	Current financial year (2013-14)	Previous financial year (2012-13)
	Liquid effluent / waste generated in the plant and used as fuel	N/A	N/A
(i)	Name of the Waste		
(ii)	Gross calorific value (kCal/kg)		
(iii)	Average Density (kg/m³)		
(iv)	Quantity Generated (kl/year)		
(v)	Quantity used for process heating (kl/year)		
(vi)	Total cost of liquid effulent for process heating (Rs. Million/year)		
7.7	Gaseous Waste		
	Gas waste generated in the plant and used as fuel	N/A	N/A
(i)	Name of the Gas Waste		
(ii)	Gross calorific value (kCal/SCM)		
(iii)	Quantity Generated (Million SCM/year)		
(iv)	Quantity used for process heating (Million SCM/year)		
(v)	Total cost of Gas waste for process heating (Rs. Million/year)		
7.8	Others		
(i)	Name		
(ii)	Average Gross calorific value (kCal/kg)		
(iii)	Quantity Generated (tonnes/year)		
(iv)	Quantity used for power generation (tonnes/year)		
(v)	Quantity used for process heat (tonnes/year)		
(vi)	Annual cost of the others source (Rs. Million/year)		

Abbreviations / Expansions

Million	=	10^6
kWh	=	Kilo Watt Hour
kVA	=	kilo Volt Ampere
Rs.	=	Rupees
Kg	=	kilo Gram
Tonnes	=	Thousand kg
kCal	=	kilo Calorie
kL	=	kilo Litre
SCM	=	Standard Cubic Meter
Tpd	=	Tonnes per day

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(v)	(tonnes/year)				
(vi)	Quantity used for process heating (tonnes/year)				
	Total lignite cost for process (Rs. Million/year)				

(C)	Bio mass or Other purchased solid fuels (pl. specify) baggase, rice husk, etc.	N/A	N/A
(i)	Average moisture content as fired (%)		
(ii)	Average Gross calorific value as fired (kCal/kg)		
(iii)	Quantity purchased (tonnes/year)		
(iv)	Quantity used as raw material, if any (tonnes/year)		
(v)	Quantity used for process heating (tonnes/year)		
(vi)	Total biomass cost for process (Rs. Million/year)		
7.3	Liquid Fuel Consumption	N/A	N/A
(A)	Furnace Oil		
(i)	Gross calorific value (kCal/kg)		
(ii)	Quantity purchased (kL/year)		
(iii)	Average Density (kg/m³)		
(iv)	Quantity used for power generation (kL/year)		
(v)	Quantity used as raw material, if any (kL/year)		
(vi)	Quantity used for process heating (kL/year)		
(vii)	Total F.Oil Cost for process heating (Rs. Million/year)		
		Current financial year (2013-14)	Previous financial year (2012-13)
(B)	Low Sulphur Heavy Stock (LSHS)	N/A	N/A
(i)	Gross calorific value (kCal/kg)		
(ii)	Quantity purchased (tonnes/year)		
(iii)	Quantity used for power generation (tonnes/year)		
(iv)	Quantity used as raw material, if any (tonnes/year)		
(v)	Quantity used for process heating (tonnes/year)		
(vi)	Total LSHS Cost for process heating (Rs. Million/year)		
(C)	High Sulphur Heavy Stock (HSHS)	N/A	N/A
(i)	Gross calorific value (kCal/kg)		
(ii)	Quantity purchased (tonnes/year)		
(iii)	Quantity used for power generation (tonnes/year)		
(iv)	Quantity used as raw material, if any (tonnes/year)		
(v)	Quantity used for process heating (tonnes/year)		
(vi)	Total HSHS Cost for process heating (Rs. Million/year)		
(D)	Diesel Oil		
(a)	High Speed Diesel (HSD)		
(i)	Gross calorific value (kCal/kg)	10800	10800
(ii)	Quantity purchased (kL/year)	93.780	78.846
(iii)	Average Density (kg/m³)	843	843

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