

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

I.A. No. _____ of 2023

IN

Original Application No. **154** of 2023 (EZ)

In the matter of:

**Threat to life arising out of coal
mining in South Garo Hills ... Applicant
District**

-Versus-

State of Meghalaya & Ors. ... Respondents

-And-

In the matter of:

**Meghalaya Cements Limited ... Applicant
(Proposed Respondent)**

INDEX

SL. NO.	PARTICULARS	PAGE NO.
1.	Synopsis	I - II
2.	Application seeking impleadment of Meghalaya Cements Limited with Affidavit and Verification.	1 - 8
3.	ANNEXURE A-1 A copy of the Order dated 2 May 2023 passed by the Hon'ble Supreme Court in Civil Appeal No. 2355 of 2021.	9 - 19
4.	ANNEXURE A-2 A copy of the 5 th Interim Report of the Committee headed by Justice B.P. Katakey (Retd.).	20 - 96
5.	ANNEXURE A-3 A copy of the Order dated 17 January 2020 passed by the National Green Tribunal, Principal Bench at New Delhi in O.A. No. 110 (THC) of 2012.	97 - 142



Filed by me
 Meghalaya Cements Limited
 Managing Director

6.	ANNEXURE A-4 A copy of the net body of the Civil Appeal No. 2355 of 2021 filed by the Applicant before the Hon'ble Supreme Court.	143 - 198
7.	ANNEXURE A-5 A copy of the orders dated 22 August 2023 and alongwith a copy of the order dated 19 October 2023.	199 - 203
8.	Vakalatnama	204 - 205
9.	Proof of Service	206

Filed By

Vanita Bhargava

Advocates for the Applicant/Respondent
Vanita Bhargava, Advocate
Shounak Mitra, Advocate
Zulfiqar Ali Alquaderi, Advocate
Shivangi, Thard, Advocate
 C/o. **KHAITAN & CO LLP**
 Advocates, Notaries, Patent & Trademark Attorneys
 Emerald House
 1B, Old Post Office Street, Kolkata 700001
 Email: vanita.bhargava@khaitanco.com
shouank.mitra@khaitanco.com
shivangi.thard@khaitanco.com
 (M) **97480 99488**

PLACE: KOLKATA

DATED: 26.12.2023



2875

I

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

I.A. No. of 2023

IN

Original Application No. 154 of 2023

Filed by me

Meghalaya Cements Limited

Barnal

Managing Director

In the matter of:

**Threat to life arising out of coal
mining in South Garo Hills
District**

... Applicant

-Versus-

State of Meghalaya & Ors.

... Respondents

-And-

In the matter of:

Meghalaya Cements Limited

**... Applicant
(Proposed Respondent)**

SYNOPSIS

This is an application for impleadment of the Applicant herein as a Party Respondent in the present proceedings, pursuant to the order dated 2 May 2023 passed by the Hon'ble Supreme Court of India read with the order dated 19 October 2023 passed by this Learned Tribunal.

The Applicant herein is a cement manufacturing company which also operates a captive thermal power plant situated adjacent to its cement manufacturing plant, both of which are operated in accordance with the requisite statutory licenses and environmental norms.

The captioned proceedings were initiated pursuant to the *suo moto* cognizance taken by the Hon'ble High Court at Gauhati of accidents that had occurred due to rat hole mining in the State of Meghalaya.



The Hon'ble Tribunal in the captioned proceedings appointed a Committee wherein the Committee in its 5th Interim Report dated 2 December 2019 erroneously found the Applicant, along with other power/cement plants, to have utilized illegally mined coal and thereof recommended the Hon'ble Tribunal to realize an amount to the tune of Rs.84.915 crores from the Applicant herein as royalty, GST/VAT and contribution to MEPRF.

The Hon'ble Tribunal by an order dated 17 January 2020 accepted the 5th Interim Report of the Committee without giving any opportunity of being heard to the Applicant and other parties. Pursuant to the order, several demand notices were issued to the Applicant.

Thereafter, the Applicant challenged the order dated 17 January 2020 before the Hon'ble Supreme Court vide Civil Appeal No. 2355 of 2021, wherein the Hon'ble Supreme Court vide its order dated 2 May 2023 passed in Civil Appeal No. 3820 of 2020 along with Civil Appeal No. 2355 of 2021, *inter-alia*, set aside the order dated 17 January 2020 and directed the Hon'ble National Green Tribunal to furnish to the Applicant and other concerned parties, an opportunity of being heard.

In view of the above, the Applicant has filed the present application seeking to be impleaded as a party in the Original Application.

Filed by me

Meghalaya Cements Limited

Rajendra Kumar

Managing Director

Rajendra Kumar



2877

1

Filed by me
Meghalaya Cements Limited
Managing Director
Nobendu

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

I.A. No. of 2023

IN

Original Application No. 154 of 2023

In the matter of:

**Threat to life arising out of coal
mining in South Garo Hills
District**

... Applicant

-Versus-

State of Meghalaya & Ors.

... Respondents

-And-

In the matter of:

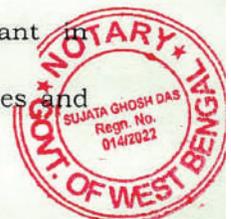
Meghalaya Cements Limited

**... Applicant
(Proposed Respondent)**

**APPLICATION SEEKING IMPLEADMENT OF MEGHALAYA CEMENTS
LIMITED**

MOST RESPECTFULLY SHOWETH:

1. The present application is being filed on behalf of Meghalaya Cements Limited ("Applicant" or "Company") to implead the Applicant in the present proceedings. The Applicant is a cement manufacturing company and also operates a captive thermal power plant having 10 MW installed capacity which is located adjacent to its cement manufacturing plant. The Applicant operates its cement manufacturing plant as well as its thermal power plant in accordance with the terms and conditions of various licenses and



has consistently ensured that the operations at its plants adhere to the environmental norms and laws as well as other applicable laws in the region. The captioned proceedings were instituted pursuant to the transfer of a *suo moto* public interest litigation before the Hon'ble High Court of Gauhati where the Hon'ble High Court took cognizance of accidents that had occurred due to rat hole mining in the State of Meghalaya.

2. The present Impleadment Application is being filed in pursuance of the directions of the Hon'ble Supreme Court of India in its judgment dated 2 May 2023 passed in Civil Appeal No. 3820 of 2020 titled *Star Cement Ltd. & Others v. State of Meghalaya & Others* along with Civil Appeal No. 2355 of 2021 titled *Meghalaya Cement Limited v. The State of Meghalaya & Others*, wherein the Hon'ble Supreme Court of India directed as follows:

"...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 2 May 2023 passed by the Hon'ble Supreme Court of India in Civil Appeal No. 3820 of 2020 and connected matters, including in Civil Appeal No. 2355 of 2020 is annexed herewith and marked as **Annexure "A-1"**.

3. In brief, the Hon'ble Tribunal appointed a committee headed by Justice B.P. Katakey (Retd.), and the Committee in its 5th Interim Report erroneously found the Applicant, along with other power/cement plants to have utilized illegally mined coal. In view of the same, the Committee recommended to the Hon'ble Tribunal to realize royalty, GST/VAT and contribution to MEPRF amounting to Rs. 84.915 crores from the Applicant herein as per the details given below (Refer Para 3.1.4 of the Report):

(a)	Royalty	-	Rs. 36.742 crores
(b)	MEPRF	-	Rs 26.400 crores
(c)	GST/Vat	-	Rs. 21.773 crores
(d)	TOTAL	-	Rs. 84.915 crores



4. The above figure of alleged use of illegal coal has been arrived at by the Committee by considering that coal requirement is at least 15% of the clinker produced and that no alternate fuel has actually been used at all. In addition, the Committee also recommended to this Hon'ble Tribunal that an amount of Rs.400 MT of coal to be utilized by the Applicant herein (and other plants) on or after the date of the order shall be directed to be deposited in the MEPRF. A copy of the 5th Interim Report of the Committee dated 2 December 2019 is annexed herewith and marked as **Annexure "A-2"**.
5. The 5th Interim Report was accepted by this Hon'ble Tribunal by way of its order dated 17 January 2020 without hearing the parties, including the Applicant herein and the recommendations made in the said report were inter alia directed to be implemented. Pursuant thereto, various demand notices were issued to the Applicant herein. A copy of the order 17 January 2020 passed by this Hon'ble Tribunal is annexed herewith and marked as **Annexure "A-3"**.
6. The Applicant challenged the order dated 17 January 2020 before the Hon'ble Supreme Court vide Civil Appeal No. 2355 of 2021, and the Hon'ble Supreme Court by way of its order dated 2 May 2023 set aside the order dated 17 January 2020 in so far as it relates to various parties, including the Applicant herein. A copy of the net body of the Civil Appeal No. 2355 of 2021 is annexed herewith and marked as **Annexure "A-4"**.



7. It is humbly submitted that the Applicant, by way of the 5th Interim Report, has been fastened with a huge penalty/ compensation. In light thereof, it is submitted that the Applicant is a necessary and proper party to the present proceedings and would be required to be heard before any order is passed in the present proceedings.
8. Hence, in view of the above said facts and circumstances it would be in the interest of justice and equity that the Applicant may be allowed to be impleaded in the present Original Application. The same would be in consonance with the direction passed by the Hon'ble Supreme Court in the 2 May 2023 order.
9. Subsequent to the passing of the order dated 2 May 2023, the Learned National Green Tribunal, New Delhi Bench, vide its order dated 22 August 2023 transferred the subject proceedings before this Learned Tribunal. Pursuant to the said transfer, the matter was taken up before this Learned Tribunal on 19 October 2023, when upon perusal of the records and considering the submissions of all the parties, the Learned Tribunal was pleased to grant liberty all interested/appearing parties to inspect records of the case and file appropriate applications for being impleaded as a party. A copy of the orders dated 22 August 2023 together with a copy of the order dated 19 October 2023 is annexed hereto and marked as **Annexure "A-5"**.
10. The present Application is made *bona fide* and in the interest of



justice. The Applicant would suffer irreparable harm if the present Application is not allowed and the balance of convenience is in favour of the Applicant.

PRAYER

In view of the aforesaid facts and circumstances, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:

- (a) Allow the present application and add Meghalaya Cements Limited as a part Respondent in the present Original Application; and
- (b) Pass such other order/orders as it may deem fit and proper in the facts and circumstances of the case.

And for this act of kindness the Applicant as in duty bound, shall every pray.

Filed By

Vanita Bhargava

Advocates for the Applicant/Respondent

Vanita Bhargava, Advocate

Shounak Mitra, Advocate

Zulfiqar Ali Alquaderi, Advocate

Shivangi, Thard, Advocate

C/o. KHAITAN & CO LLP

Advocates, Notaries, Patent & Trademark Attorneys

Emerald House

1B, Old Post Office Street, Kolkata 700001

Email: vanita.bhargava@khaitanco.com

shouank.mitra@khaitanco.com

shivangi.thard@khaitanco.com

(M) 97480 99488

PLACE: KOLKATA

DATED: 26.12.2023



2883

7

Filed by me
Meghalaya Cements Limited
Managing Director

Mahendra

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

I.A. No. of 2023

IN

Original Application No. 154 of 2023

In the matter of:

**Threat to life arising out of coal
mining in South Garo Hills
District** ... Applicant

-Versus-

State of Meghalaya & Ors. ... Respondents

-And-

In the matter of:

Meghalaya Cements Limited ... Applicant
(Proposed Respondent)

AFFIDAVIT

I, Mahendra Kumar Agrwal, son of Late Nirmal Kumar Agarwal, aged about 60 years. By faith- Hindu, residing at BE-77, Salt Lake City, Sector 1, Kolkata - 700064 and working for gain at M/s Meghalaya Cements Ltd., do hereby solemnly state and affirm as under:

1. I am the Managing Director and Authorised Representative of the Applicant abovenamed and I am well acquainted with the facts and circumstances of the instant case. I have been duly authorized by the Petitioner to sign this affidavit in support of the foregoing application all other documents and papers as the case may be on behalf of the Applicant and as such, I am competent to sign and affirm this affidavit on behalf of the Applicant.



Filed by me

Meghalaya Cements Limited

Managing Director

Mahendra Kumar Agarwal

2. That the statements made in paragraphs 1 and 2 of the foregoing petition is true to my knowledge, those contained in paragraphs 3 to 9 hereof are based on my information derived from the records which I verily believe to be true while the rest are my respectful submissions before this Hon'ble Court.

Mahendra Kumar Agarwal

DEPONENT

VERIFICATION

I, the deponent abovenamed, do hereby state on solemn affirmation that the contents of my above affidavit are true and correct to my knowledge and I believe the same to be true and that nothing material has been concealed therefrom.

Verified on this the 22nd day of December 2023 at Kolkata

Mahendra Kumar Agarwal

MAHENDRA KUMAR AGARWAL
DEPONENT

SOLEMNLY AFFIRMED AND DECLARED
BEFORE ME ON IDENTIFICATION

S. Ghosh

NOTARY

22 DEC 2023



Identified by me

Tina Das

Advocate
Regn No. - F-132



ANNEXURE A-1

9

**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: 2023.05.08
10:52:03(IST)
Reason:



ORDER

- 1 This batch of appeals arises from a judgment of the National Green Tribunal¹ 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



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
R E C O R D O F P R O C E E D I N G S

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 appeals² 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)
DEPUTY REGISTRAR

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR

(Signed order is placed on the file)



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



INDEX

Chapter	Contents	Page No.
1.	BACKGROUND	3
2.	ANALYSIS OF INFORMATION PROVIDED BY INDUSTRIES AND REGULATORY AUTHORITIES	14
2.1	Mawmluh Cherra Cement Limited	14
2.2	Star Cement Limited and its Two Subsidiaries (viz. Star Cement Meghalaya Limited and Meghalaya Power Limited)	16
2.3	Amrit Cement and its Captive Thermal Power Plant	42
2.4	Dalmia Cement (Bharat) Limited and its Captive Thermal Power Plant	45
2.5	Goldstone Cement Limited and its Captive Thermal Power Plant	49
2.6	Green Valley Industries Limited	51
2.7	Hill Cement Company Limited	54
2.8	Jaintia Cement Limited	56
2.9	JUD Cements Limited	56
2.10	Meghalaya Cements Limited and its Captive Thermal Power Plant	58
2.11	Virgo Cements Limited	62
2.12	RNB Cements Limited	62
2.13	Captive Thermal Power Plant of Shyam Century Ferrous Ltd.	63
2.14	Captive Thermal Power Plant of Maithan Alloys Limited	65
2.15	Captive Thermal Power Plant of Shree Shakambari Ferro Alloys Pvt. Ltd.	67
2.16	Captive Thermal Power Plant of CMJ Breweries Limited	67
3.	FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE	70



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 -

Page 3 of 77



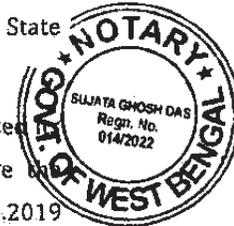
Sl. No.	Name of the Cement Plant	Capacity of Captive Power Plants
1.	Adhunik Cement Limited	25 MW
2.	Meghalaya Cements Limited	12 MW
3.	Amrit Cements Limited	10 MW
4.	Goldstone Cements Limited	10 MW

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 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. Billionium 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

Page 5 of 77



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 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 Sitting 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 Committee 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 appear 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.

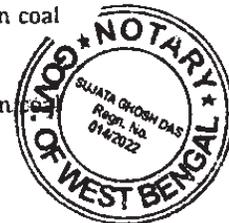
1.14 The Committee during its Fourteenth Sitting held on 03.06.2019 also noted that year-wise details of coal purchased by each of these units since imposition of ban on mining of coal in the State by the Hon'ble NGT are already available in the first report prepared by the North Eastern Regional Directorate of the CPCB. The Committee 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 West Bengal, 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 representatives 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 Ferrrous 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 to 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 Cement 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. In spite 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 Committee, without fail.

1.17 During Seventeenth Sitting of the Committee held on 14.08.2019, representatives 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. learned Senior Counsel along with one other Counsel appeared before 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. In spite 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 than 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 Secretary 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.



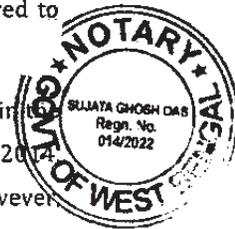
**CHAPTER 2: ANALYSIS OF INFORMATION PROVIDED BY
INDUSTRIES AND REGULATORY AUTHORITIES**

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 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 tones 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

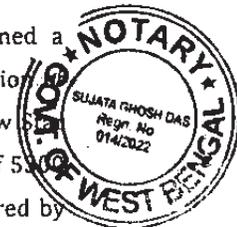


average specific coal consumption of the Cement Industry for the country as a whole (i.e. 20 %). The Committee further notes that the reported specific coal consumption of the MCCL is also substantially higher than the same for other Cement industries in Meghalaya. The Committee is therefore of the view 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- KGB 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, Gol during routine monitoring of conditions stipulated in EC to the said TPP has

Page 17 of 77



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	21,21,060	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.

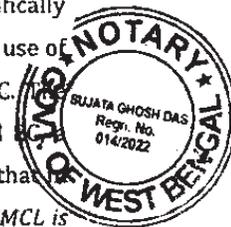
2.2.8 The Committee during its Sixteenth Sitting also noted that keeping in view that the project proponent in their own communication has stated that estimated requirement of coal for these plants is upto 14 % and both these plants are more than 10 years old, the actual requirement of coal for production 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 TEPR.

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 Committee in the said Sitting 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. Committee after examination of six-monthly self-compliance reports to said 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 Sitting 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 Committee 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

Page 21 of 77



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	4,92,955	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	1,04,782
	Gap (MT)	2,83,609	1,60,457	3,79,829	2,92,043	2,91,008	19,67,936



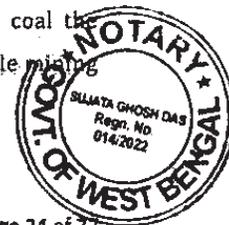
2.2.14 The Committee in its Sixteenth Sitting noted that prima-facie it appears that the gap in coal required to produce reported quantity of clinker and power by the afore-mentioned plants of the Star Cements Limited has been met by illegally sourced local coal. The Committee in the said Sitting also 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:

- (1) 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 MPI 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.

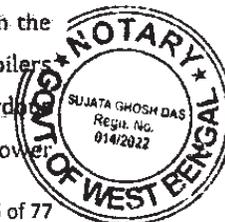


2.2.16 The Committee vide letter dated 28.09.2019 sent a copy of the said representation to the MSPCB, North Eastern Regional Office of the MoEFCC, GoI and North Eastern Regional Directorate of the CPCB for comments.

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 of 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 product 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

Page 29 of 77



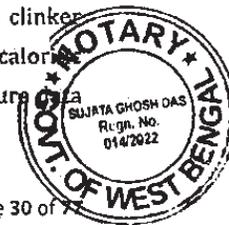
the State of Meghalaya. In case no such consent has been granted, the same shall also be intimated to the Committee within one week.

- (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 than 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 is also supported by data available in the internet.

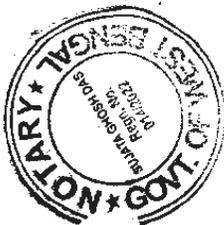


- (ii) During the detailed audit of cement plants in the State of Meghalaya regarding coal consumption, it was observed that the units started using alternate fuel to a significant extent which would bring down the consumption of coal further. Moreover, published paper by *Mishra & Ghosh (1996)* reported 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

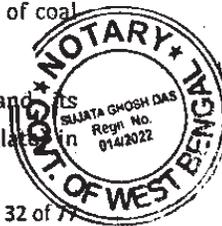


have paid royalty on slate used by them. He further stated that the amount of royalty paid by the Star Cement Limited and its subsidiaries for slate is as below:

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.	08.10.2018	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:

- 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?
- What is the actual specific coal requirement for the afore-mentioned Cement Manufacturing Plants and a Thermal Power Plant of the Star Cement Limited?
- Whether it is technically feasible to use huge quantity of slate in lieu of coal without making any modification in design of these Plants?
- 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 Cement 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%.

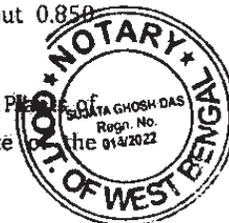
2.2.31 In paragraph 1 of the 'Guidelines on Co-processing in Cement/Power/ Steel Industry' issued by the CPCB in February, 2010, a copy of the which has been placed before the Committee by North Eastern Regional Directorate of the CPCB, it has been stated that 40 million tonnes of coal is required to produce 200 million tonnes 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 its 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. 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 cement 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 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**

Page 39 of 77



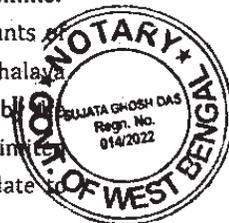
being listed in schedule-II to the MMMCR, which as per the Star Cements Limited has the potential to replace three-fourth of the coal requirement for their huge Cement Manufacturing Plants and a Thermal Power Plant, can-not be classified as a waste.

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, Govt 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 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.



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 than 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	Clinker produced (MT)	15,49,349	16,29,025	15,79,345	15,41,945	14,36,600	77,36,264
Meghalaya Limited	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	1,61,554	1,44,602	7,75,905
	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	2,64,874	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.



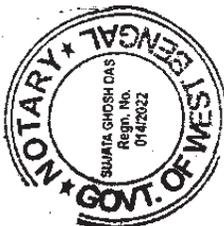
2.3.2 As per the information/documents provided to the Committee by the Amrit Cement Limited, year-wise quantities of clinker and power produced and the coal procured by the Amrit Cement Limited to produce such clinker and thermal power during the Audit Period are as below:

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 Secretary 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

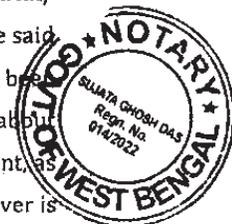


2.3.4 The Committee, based on a detailed analysis of a similar claim of the Star Cement Limited on use of slate as an alternate fuel in lieu of coal, as given in para 2.2.26 to 2.2.52, is of the view that it is neither technically feasible nor legally permissible for the Amrit Cement Limited to replace 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

Page 44 of 77



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	2,27,622
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



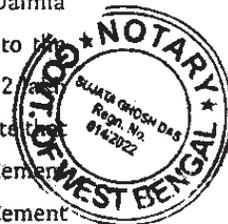
the year 2010. Later on, both the Cement Manufacturing Plant and the captive Thermal Power Plant were acquired by the Dalmia Cements (Bharat) Limited.

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 Secretary 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 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.

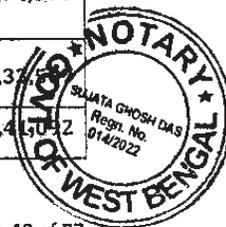
2.4.6 The Dalmia Cement (Bharat) Limited informed the Committee that copy of the Detailed Project Report (DPR) of Adhunik Cement Limited, which now stand merged with Dalmia Cement (Bharat) Limited, is not available with them. It was also informed by the Dalmia Cement (Bharat) Limited that they are trying 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 Ret 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

Page 49 of 77



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:

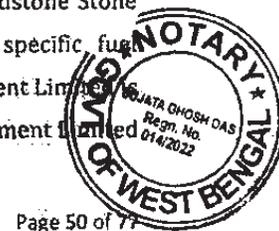
(Metric Tonne)

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 Mustang Lamiare 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

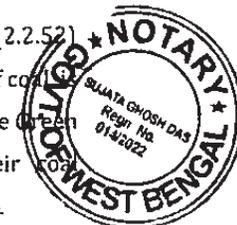
2.6.3 It has also been stated in documents submitted to the Committee by the Green Valley Industries Limited that apart from the coal they have also used slate as an alternate fuel. Year-wise details of alternate fuel claimed to be purchased by the Green Valley Industries Limited during the Audit Period 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.



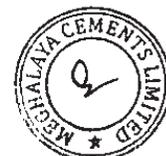
2.6.6 The Committee after examination of a Techno-Economic Feasibility Report (TEFR) for the said 1300 TPD expandable to 2600 TPD Greenfield Cement Project of the Green Valley Industries Limited prepared by Holtec Consulting Private Limited, observed that the said clinker cum cement manufacturing plant 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

Page 53 of 77



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 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.

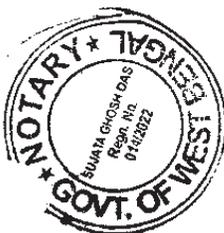


2.7.5 The Committee, based on a detailed analysis (given in para 2.2.26 to 2.2.52) of a similar claim of the Star Cement Limited on use of alternate fuel in lieu of coal, is of the view that it is neither technically feasible nor legally permissible for the Hill Cement Limited to replace more than three-fourth 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 aforementioned 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	11,987	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 Wahajer (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	21.92	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



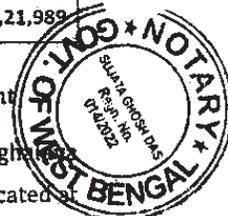
of which was provided to the Committee by JUD Cements Limited, noted that the said clinker production unit, as per the said TEFRR, has been designed to use Meghalaya coal to be procured from locally available coal base. It has also been stated in the said TEFRR that these are locally owned small mines 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 TEFRR 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 TEFRR, 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 Anirit 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 Consulting 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 coal 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

Page 61 of 77



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 Virgo 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 Virgo 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	

Page 63 of 77



1	2	3	4	5	6
446	-	-	-	29	475

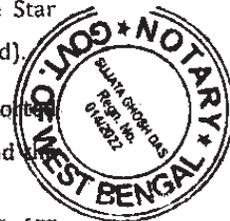
2.13.4 Keeping in view that quantity of alternate fuel claimed to be purchased by Shyam Century Ferrous Alloy Limited is very low, the Committee decided to ignore the same in this resource (coal) audit.

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



coal procured by Shyam Century Ferrrous 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)	54,495	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) Byenihat 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

Page 65 of 77



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 0.52 kg/kwh of coal or 0.827 kg/ kwh of biomass. It has however been stated



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.

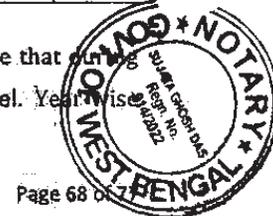
2.16 Captive Thermal Power Plant of CMJ Breweries Private Limited

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	
I	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.

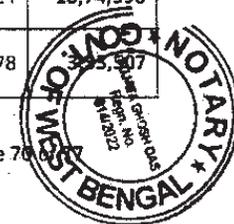


CHAPTER 3: FINDINGS AND RECOMMENDATIONS**3.1 FINDINGS**

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	



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
IUD 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

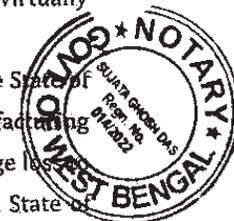
*: Coal required to produce reported quantities of clinker and/or power

** : 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



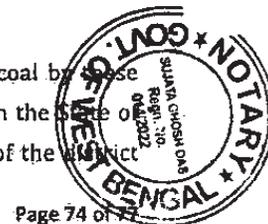
standard of the tribal residents, especially those residing in the areas affected by such illegal coal mining of the State. Similarly, an amount of Rs. 190,929 crore payable to MEPR Fund for the said illegally mined coal utilised by these Plants, if properly utilised, may greatly help in restoration 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.

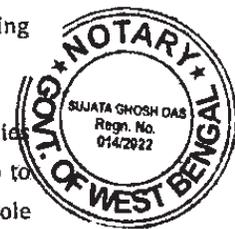
3.1.10 As per information provided to the Committee by the Mining and Geology Department in the State of Meghalaya, none of these plants participated in a public auction conducted by the State of Meghalaya to sell more than 38,000 MT of seized coal available at locations in close vicinity of majority 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 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 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 B. P. Katakey)
Chairman

Page 77 of 77



Item No. 01

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 110(THC)/2012

Threat to life arising out of coal mining
in south garo hills district

Applicant(s)

Versus

State of Meghalaya & Ors.

Respondent(s)

Date of hearing: 09.01.2020

Date of uploading on the website: 17.01.2020

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

INDEX

S. No.	CONTENT	PARA No.
I	Background: unscientific Rat Hole mining in the State of Meghalaya - directions for preventive and remedial action	1-2
II	Constitution of Monitoring Committee for restoration of environment and rehabilitation of victims and other connected and incidental issues.	3
III	Orders of this Tribunal dated 04.01.2019, 11.04.2019 and 22.08.2019 on reports received from the Committee.	4-7
IV	Judgement of the Hon'ble Supreme Court dated 03.07.2019 (2019) 8 SCC 177 in Appeals arising out of orders of this Tribunal	8
V	Resume of proceedings till 22.08.2019	
VI	Further reports- 04 th Interim Report dated 31.08.2019, 05 th Interim Report dated 02.12.2019 and 06 th Interim Report dated 03.12.2019	
VII	Consideration of objections to the report	20-21
VIII	Directions	22-24



ORDER

Background: unscientific Rat Hole mining in the State of Meghalaya - directions for preventive and remedial action

1. This order may be read in continuation of order dated 22.08.2019. The matter pertains to remedial action against unscientific 'Rat Hole' Mining of coal in the State of Meghalaya. Proceedings commenced on the basis of a news item to the effect that on 06.07.2012, thirty coal labourers were trapped in a coal mine and fifteen of them died. After the consideration of the matter, on 17.04.2014, this Tribunal directed 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.
2. On 09.06.2014, to give effect to order dated 17.04.2014, a Committee was formed to quantify extracted coal and its location, assess its value and also to prescribe mode of its transportation. In the light of the report of this Tribunal on 07.10.2017, noted that 6.8 million tonnes of illegally mined coal valued at Rs. 607 Crores was lying in the State on which royalty of Rs. 400 Crores was assessed. Direction was issued for videography in the operation of the weigh bridges. The issue of quantum of coal to be permitted to be transported was to be gone into with the assistance of the Committee. Further, direction was issued to credit the amount of royalty in a separate account with 10% of the value of coal to be credited to Environment Protection Fund. On 31.03.2016, the Tribunal directed that except the coal already transported, the remaining will vest in the State. Finally, on 31.08.2018, after reviewing the earlier proceedings, this Tribunal



directed that rat hole mining will remain prohibited and so also the transportation of the mined material. The State will be the custodian of the available coal for which necessary inventory will be prepared.

Constitution of Monitoring Committee for restoration of environment and rehabilitation of victims and other connected and incidental issues.

3. This Tribunal, vide order dated 31.08.2018, directed constitution of a Committee to be headed by a former High Court Judge of the Guwahati High Court for restoration of the environment and rehabilitation of the victims. The Committee was at liberty to take up incidental issues. The Committee was also to supervise issues arising out of receivership/custodianship of already exhausted coal, including environmental issues arising out storage and remedial steps. Other Members of the Committee were to be representatives of CPCB and Indian School of Mines, Dhanbad. The State of Meghalaya was to provide records, logistics and facilities to the Committee. The Committee was free to requisition services of technical experts from the State and to carry out field visits. The Committee was also free to set up its website for receiving and giving information and to involve educational institutions for awareness and feedback. The Committee was to meet in a month to review the progress and to fix further targets and send reports to this Tribunal every two months.

Orders of this Tribunal dated 04.01.2019, 11.04.2019 and 22.08.2019 on reports received from the Committee.

4. The Committee gave its report on 02.01.2019 which was considered vide order dated 04.01.2019 with regard to the following questions framed by the Committee:-



- (A) Whether coal mining activities, including extraction of coal and the transportation of the same, are going on despite the order passed by the Hon'ble NGT imposing ban on coal mining and transportation?
- (B) Quantity of extracted coal as on the date on which the ban was imposed by the Hon'ble NGT and left to be transported?
- (C) Quantity of un-inventoried coal which has been extracted before imposition of ban by the Hon'ble NGT?
- (D) Whether coal mining activities as well as dumping of coal results in adverse environmental effect, if so, the nature and extent thereof?
- (E) What are the steps required to be taken by the Committee for restoration of the environment and rehabilitation of victims of coal mining?
- (F) The extent of execution of the Action Plan prepared by the Committee?"

5. The Tribunal noted that a further tragic incident took place on 13.12.2018 where 15 workers were trapped. The report was that the illegal mining was still continuing. The assessed quantity of such coal was 23,25,663.54 MT. The mining was resulting in adverse impact on the environment for which a study was required to be undertaken. Action plan was proposed for restoration of the environment. In view of the consistent failure of the State in enforcing the law, this Tribunal held the State to be liable to deposit a sum of Rs. 100 Crores with the Central Pollution Control Board (CPCB) to be spent for restoration of the environment. The Tribunal also observed that the Committee may consider seizure of equipments used for illegal mining or transportation, to be released only after payment of 50% of the showroom price of such equipments. The Tribunal suggested that the Committee may consider the following:

"36. The Committee may also consider the following:-

1. Any cranes and trucks found to be involved in illegal mining or transportation which have not yet been seized may also be seized. The seized vehicles or equipments be released by the concerned District Magistrates only after



recovering damages to the extent of 50% of the showroom price of the vehicles or equipments. The said amount may also be credited to the restoration fund.

2. Efforts be expedited to identify victims who have suffered at least since 01.07.2012 and to assess loss to the environment and the manner of restoration.
3. Disaster Management Plan for the whole of the area 'on site' as well as 'off site' needs to be prepared and put into operation.
4. Appropriate technology to replace rat hole mining.
5. Resource (coal) audit of Meghalaya Power Limited and Star Cement Limited to ascertain the legitimate procurement of coal and its source.
6. The Committee may take services of NEERI Nagpur, Indian School of Mine, Dhanbad, FRI Dehradun, PCB apart from any other agency for making assessment of the damages.
7. Survey of health of the habitants may also be considered.
8. Skill Development Programmes to provide alternative means of employment to the workers involved in rat hole mining may be considered.
9. Mitigation/restoration of impacted areas due to AMD."

6. Further report was considered on 11.04.2019. The Tribunal approved the recommendations including those for installation of digital display boards in respect of quality of water in the concerned areas and evolving mechanism for effective action against transportation of illegally mined coal such as electronic manifest system, audit of source of coal acquired by the power generation and cement plants.

7. The matter was further considered on 22.08.2019 in the light of report dated 02.08.2019 received from the Committee as follows:-

"1 to 6 xxx

xxx



7. Further report dated 02.08.2019 has been received from the Committee to be considered today. We may note that the Hon'ble Supreme Court, vide judgement dated 03.07.2019, in Civil Appeal No. 10720 of 2018 (State of Meghalaya v. All Dimasa Students Union, Dima Hasao District Committee and Ors) and other connected decided Appeals arising from orders of this Tribunal, directing, inter alia, as follows:

"Conclusions:-

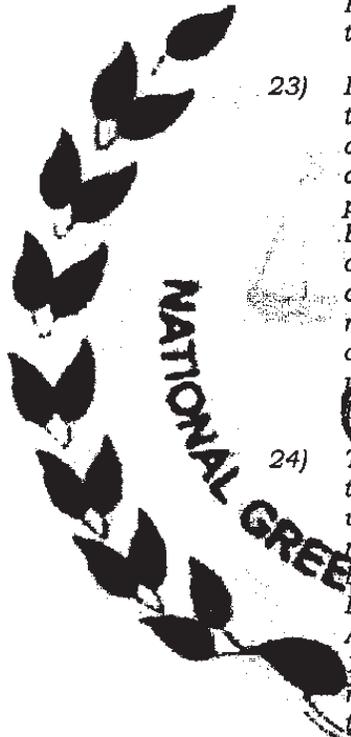
191. From the foregoing discussions we arrived at following conclusions:-

- xx xx xx
- 9) As per statutory regime brought in force by notification dated 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.
- 10) In Hill District of State of Meghalaya for carrying coal mining operations in privately owned/community owned land it is 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.
- xx xx xx
- 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.
- xx xx xx
- 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.

- 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.
- 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.
- 23) It is for Coal India Ltd. to decide the 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 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 weighing of the coal when it is received by Coal India Ltd.
- 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 of 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.
- 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 State authority.



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

xx xx xx

4) All I.As. seeking direction for transportation of coal are disposed of directing: -

- 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 ensure the coal so received by it as per its best judgment and remit the proceed to State to the extent as directed above.
- 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.

8. We may now deal with the report of the Committee which is, inter alia, as follows:

"It is, therefore, evident that though the learned counsel appearing for the State of Meghalaya submitted before the Honble Tribunal that the compliance report in that regard shall be submitted to this committee within two weeks, the direction to install Digital Display Boards has not been fully implemented till date. As stated above, such Boards have been installed in the State Capital, i.e., in Shillong only. The same have not been installed in the coal mining affected districts and Sub-Divisions so far.

The Committee directs the aforementioned 4(four) Cement Plants, namely, Green Valley Industries Ltd, Gold Stone Cement Ltd, Hills Cement Ltd and Virgo Cement Ltd and one Thermal Power Plant, namely, CMJ Breweries Ltd to depute their representatives to attend the next sitting of the Committee scheduled to be held on 14.08.2019 along with all required information and documents without fail.

The Secretary to the Govt. of Meghalaya, Mining and Geology Department, during the Proceeding No. 16-B held on 23.07.2019 has produced before the Committee a letter dated 22.07.2019 seeking a month's time to formulate a



comprehensive plan and proper policy of transportation and handing over of coal to the Coal India Limited for disposal/auction as per rules of the Coal India Limited. The Committee has also been informed that after finalisation, the same shall be placed before the Committee for deliberation.

Based on the said communication, one month time has been granted to the Mining and Geology Department, Govt. of Meghalaya. The second special sitting scheduled to be held in Guwahati on 26.07.2019 with the representatives of the Coal India Limited and the concerned departments of the Govt. of Meghalaya to discuss about the formulation of a policy for transportation and handing over of the coal to the Coal India Limited, has, therefore, been postponed and the next date was decided to be fixed in its Proceeding to be held on 14.08.2019.

The Committee in the said Proceeding has recorded that the majority of the directions issued by it in the Proceeding No.12 dated 25.04.2019 have not been implemented so far and hence the Commissioner & Secretary to the Govt. of Meghalaya, Mining and Geology Department has been directed to submit a report on the status of implementation of each of these directions in the sitting scheduled to be held on 14.08.2019.

From the aforesaid position, it is, therefore, evident that the directions issued by the Committee in its Proceeding No.12 dated 25.04.2019 have not been fully complied with till date.

(C) CONSIDERATION OF THE RECOMMENDATIONS OF THE COMMITTEE MADE IN ITS PROCEEDING Nos. 13, 14 AND 15 DATED 03.05.2019, 03.06.2019 AND 28.06.2019, COPIES OF WHICH HAVE BEEN SENT BY MAIL IN nsp.filing@gmail.com ON 05.07.2019.

(1) The Committee in the Proceeding No.13 dated 03.05.2019 recommended for consideration for release of an amount of Rs.40,36,500/- from the MEPR Fund to implement the pilot project for afforestation and reclamation of coal mining affected land and organisation of festival-cum-mass awareness programme submitted by the Principal Chief Conservator of Forest (Climate Change Research and Training), Govt. of Meghalaya and North Eastern Regional Office of the Central Pollution Control Board.

(2) The Committee also in the Proceeding No. 14 dated 03.06.2019 has recommended for consideration by the Hon'ble Tribunal for passing necessary order for deployment of CAPFs to assist the State Police in checking the transportation and mining of coal in the State for the



purpose of enforcement of the direction issued from time to time to ban illegal mining and transportation of coal.

(3) The Committee in the said Proceeding had also recommended for consideration by the Hon'ble Tribunal to release an amount of rupees one Crore from MEPR fund to facilitate the Forest & Environment Department for afforestation of the coal mine affected areas and to ensure availability of adequate number of good quality plants.

(4) The Committee in the Proceeding No.15 dated 25.06.2019 has also recommended for consideration by the Hon'ble Tribunal for release of Rs.19,19,500/- from the MEPR Fund towards the cost to be incurred in the Pilot Project of Micro Algae Treatment of the acidic water in the identified stream in the coal mining affected areas to be implemented by M/S Trinity Impex International.

The Hon'ble Tribunal may consider the aforesaid recommendations of the Committee.

The Committee, on 31.08.2019 shall submit the further report relating to the status of implementation of the Action Plan prepared by it, directions issued by it from time to time and also the directions issued by the Hon'ble Supreme Court in Civil Appeal No. 10720 of 2019 (State of Meghalaya v. All Dimasa Students Union, Jha Hasao District Committee and Ors.) and other analogous matters passed in Judgment & Order dated 03.07.2019."

9. Learned Counsel for State of Meghalaya submitted that with regard to display boards, further steps have been taken and a report dated 03.08.2019 has been filed before the Tribunal and a report will also be filed before the Committee. The Committee may look into the same.

10. As regards effective action against illegal transportation, the Committee has suggested deployment of Central Armed Forces and the State Police. The Committee has also suggested release of certain funds. Learned counsel for the State submitted that the recommendations of the Committee be accepted.

11. We accept the recommendations of the Committee for release of the amount as presented in para (3) & (4) of recommendations as noted above. As regards deployment of Central Armed Police Forces (CAPF), our attention has been drawn to earlier proceedings before this Tribunal in order dated 25.03.2015 as follows:

"1. The Additional Secretary, North East in the Ministry of Home, Central Government shall, within a period of two weeks from today, hold a meeting with the Chief Secretary of the State of Meghalaya and other concerned



Authorities and consider the proposal of the State of Meghalaya for deployment of appropriate force to ensure compliance of orders of the Tribunal and protection of the Environment and Ecology, particularly water bodies as recorded in various orders of the Tribunal. We are hopeful, that the decision will be taken objectively and in the interest of public at large."

12. We are informed that in pursuance thereof, the Central Government did provide the requisite Forces at that time. In the light thereof, the State of Meghalaya to follow the same course of approaching the Central Government. The Central Government may give due consideration to such proposal expeditiously.

13. Only other issue which survives for consideration is the enforcement of directions of the Hon'ble Supreme Court for handing over coal already mined and lying at various places in Meghalaya to the Coal India Ltd. As per directions of the Hon'ble Supreme Court, in the judgement dated 03.07.2019 the same may be looked into by the Committee in consultation with the officers of Coal India and the State of Meghalaya. We suggest that the Committee may fix specific timelines for the purpose.

14. Our attention in this regard has been drawn by a Challan dated 13.08.2019 issued by the Divisional Mining Officer, Jowai with regard to transportation of the 'auctioned' mineral. Learned Counsel for the State may ascertain whether the transportation is in terms of the scheme prepared by the Committee in accordance with the directions of the Hon'ble Supreme Court and if not, remedial action may be taken. The Committee may look into this aspect and applicability of online electronic manifest system for regulating movements of vehicles and issuance of challans as per the Tribunal's order dated 11.04.2019.

The companies in question are directed to furnish the requisite information to the Committee failing which the Tribunal may have to take coercive measures against the Chief Executive officers of the companies. This aspect may be considered in the light of the report of the Committee. The Committee may also make its recommendations about the conduct of officers not cooperating in compliance of orders of the Hon'ble Supreme Court and this Tribunal, so that the State may take appropriate action and inform this Tribunal.

16. The Committee has proposed to send its further report by 31.08.2019. Thereafter, a further report be sent after three months by 30.11.2019.

17. List again on 10.12.2019 or as and when the occasion arises.



Judgement of the Hon'ble Supreme Court dated 03.07.2019 (2019) 8 SCC 177 in Appeals arising out of orders of this Tribunal

8. We have perused the judgement of the Hon'ble Supreme Court dated 03.07.2019, (2019) 8 SCC 177 in Appeals arising out of orders of this Tribunal as the said judgement governs some of the issues dealt with by the Committee which are also to be dealt with by this Tribunal. It is clear from the judgment of the Hon'ble Supreme Court that the Hon'ble Supreme upheld the jurisdiction of this Tribunal in dealing with the matter and constituting the Monitoring Committee. Though the private owners of the land had right in the minerals, no unregulated and unscientific mining could be carried out. The Mining Policy of the State was required to be consistent with the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) and mining even by owner was required to be regulated under the statutory scheme. The Environmental Clearance (EC) was required in terms of Notification dated 15.01.2016. Compliance of MMDR Act, Mines Act, 1952 as well as Environment (Protection) Act, 1986 (EP Act) is necessary. The Mineral Concession Rules 1960 are also required to be followed. Schedule VI to the Constitution does not affect the said laws. Order of the Tribunal dated 17.04.2014 was upheld banning Pit Hole mining as the manner of such mining was not consistent with the statutory scheme. However, the said ban will not bar legal and scientific mining as per statutory scheme. Order of the Tribunal constituting MEPR fund was also upheld. Order dated 04.01.2019 requiring deposit of Rs. 100 Crores with CPCB for restoration of environment was also upheld but the same could be paid out of the Meghalaya Environment Protection and Restoration Fund' (MEPR Fund). The extracted coal lying at various places was



directed to be taken over by Coal India Limited. The coal was to be handed over to Coal India Limited by the State in the manner formulated by the Committee. The Hon'ble Supreme Court noted that the Committee has done commendable job in studying and examining the various environmental aspects and suggesting mitigation measures. The State of Meghalaya and Coal India Limited were directed to deliberate with the Committee to finalize plan for transportation and handling over of the coal for disposal as per Rules which may be beneficial for the owners of the mine as well as the State. The Coal India Limited was also to take steps for payment of the coal and the State of Meghalaya was entitled to royalty and taxes. After deducting cost of transportation/royalty and payment to MEPR fund and taxes plus 10% of the value of the coal, the balance was to be disbursed to the owner. The disbursement was to be made by the State. The coal seized in illegal transportation or illegal mining was to be dealt by the State under Section 21 of the MMDR Act separately.

Resume of proceedings till 22.08.2019

9. The above resume shows that the Committee has already furnished three reports dated 02.01.2019, 31.03.2019 and 02.08.2019 which have been dealt with by this Tribunal's orders dated 04.01.2019, 11.04.2019 and 22.08.2019 respectively.

10. The issues dealt with in the first three reports in short are:

“3.1 First Interim Report

3.1.1 The Committee submitted its First Interim Report dated 31.12.2018 to the Hon'ble NGT on 02.01.2019. The said First Interim report contains findings of the Committee on the following questions framed by the Committee:-



- A. Whether coal mining activities, including extraction of coal and the transportation of the same, are going on despite the order passed by the Hon'ble NGT imposing ban on coal mining and transportation?
- B. Quantity of extracted coal as on the date on which the ban was imposed by the Hon'ble NGT and left to be transported?
- C. Quantity of un-inventoried coal which has been extracted before imposition of ban by the Hon'ble NGT?
- D. Whether coal mining activities as well as dumping of coal results in adverse environmental effect, if so, the nature and extent thereof?
- E. What are the steps required to be taken by the Committee for restoration of the environment and rehabilitation of victims of coal mining?
- F. The extent of execution of the Action Plan prepared by the Committee?

Second Interim Report

3.2.1. The Committee submitted its Second Interim Report dated 30.03.2019 to the Hon'ble NGT. In the said Report, the Committee placed before the Hon'ble NGT the current status of the following issues:

- (i) Availability and investment of amounts available in the MEPR Fund.
- (ii) Monitoring of quality of water in the rivers and streams of the areas affected by coal mining.
- (iii) Steps taken for neutralisation of Acid Mine Drainage (AMD) contaminated water in the rivers and streams of the areas affected by coal mining activities.
- (iv) Status of the ongoing water supply schemes in coal mining affected areas in East Jaintia Hills District, under the Public Health Engineering Department.
- (v) Seizure of cranes, trucks etc. involved in illegal mining or transportation and disposal of such vehicles and equipment.
- (vi) Skill Development Schemes
- (vii) Survey of health of the habitants of the areas affected by coal mining.
- (viii) Framing of Disaster Management Plan, both "on site" and "off site".
- (ix) Verification of un-inventorised coal.
- (x) Procurement of coal by the Cement Companies from the local market in the State of Meghalaya.
- (xi) Pilot Projects to be undertaken by CIMFR-CISR, Dhanbad
- (xii) Awareness Camps/Programme.



- (xiii) Applications for compensation to the next of kin of the persons who died during illegal mining and to the persons who suffered injuries during due to illegal coal mining.
- (xiv) Preparation of Geospatial Database inputs of Planning and Restoration of areas affected by coal mining in the State of Meghalaya.
- (xv) Coal mining activities including transpiration of coal.

3.2.2 The Committee in the said Report also recommended that the Hon'ble NGT may permit release of an amount of Rs.96.59 lakh for procurement of 6(six) numbers of vehicles mounted with Water Tankers to be used for supplying potable waters to the villagers of the villages in the district of East Jaintia Hills affected by coal mining activities and where the potable water has not so far been supplied.

3.3 Third Interim Report

3.3.1 The Committee submitted its Third Interim Report dated 02.08.2019 to the Hon'ble NGT on 02.08.2019. In the said Report, the Committee placed before the Hon'ble NGT the status of the following directions issued by the Hon'ble NGT in the Order dated 11.04.2019:

- (i) Release and utilisation of an amount of Rs.96.59 lakh from the MEPR Fund in favour of the Deputy Commissioner, East Jaintia Hills District for purchase of the six vehicles mounted with water tankers.
- (ii) Installation of Digital Display Boards at the Headquarters of coal mining affected Districts and Sub-Divisions and display thereon quality of water in ten worst polluted rivers/streams in the District/Sub-Division.
- (iii) Audit of the source of coal acquired by the power generation and cement plants in the State of Meghalaya.

Mechanism to be adopted for effective action against illegal transportation of coal such as electronic manifest system for regulating movement of vehicles and issuance of challans."

11. Orders of this Tribunal dated 04.01.2019, 11.04.2019 and 22.08.2019 on the above three reports in short are:-

Order dated 04.01.2019:

"4.1.2 In view of the consistent failure of the State in enforcing the law, the Hon'ble NGT held the State to be liable to deposit a sum of Rs. 100 Crores with the Central Pollution Control Board (CPCB) to be spent for restoration of the environment. The Hon'ble NGT also observed that the Committee may consider



seizure of equipment used for illegal mining or transportation, to be released only after payment of 50% of the showroom price of such equipment.

4.1.3. The Hon'ble NGT in the said order dated 04.01.2019 also suggested that the Committee may consider the following:

- (i) Any cranes and trucks found to be involved in illegal mining or transportation which have not yet been seized may also be seized. The seized vehicles or equipment be released by the 4 concerned District Magistrates only after recovering damages to the extent of 50% of the showroom price of the vehicles or equipment. The said amount may also be credited to the restoration fund.
- (ii) Efforts be expedited to identify victims who have suffered at least since 01.07.2012 and to assess loss to the environment and the manner of restoration.
- (iii) Disaster Management Plan for the whole of the area 'on site' as well as 'off site' needs to be prepared and put into operation.
- (iv) Appropriate technology to replace rat hole mining.
- (v) Resource (cost) audit of Meghalaya Portland Cement Limited and Star Cement Limited to ascertain the legitimate procurement of coal and its source.

Order dated 11.04.2019:

4.2.2 The Hon'ble NGT in the said order dated 11.04.2019 also noted the finding of the Committee that despite the order passed by the Hon'ble Supreme Court prohibiting transportation of coal, the same has not been stopped by the authorities for the reasons best known to them as well as another finding relating to non-installation of Digital Display Boards in the Sub-Division, Districts and the State Headquarters/Capital, displaying the quality of water in the respective areas for information of general public. The



Hon'ble NGT, having regard to the submission of the learned counsel appearing for the State of Meghalaya directed that the aforesaid issues will be duly dealt with and a compliance report shall be filed before the committee within two weeks, directed the Committee to consider the same on its next sitting, i.e., on 25.04.2019. The committee was also given liberty to consider the matter and pass further orders/recommendations.

4.2.3 The Hon'ble NGT vide the said Order also directed that the Committee may consider requirement of foolproof mechanism to be adopted for effective action against transportation of illegally mined coal such as electronic manifest system for regulating movement of vehicles and issuance of challans and also may consider audit of resource of coal acquired by the Power Generation and Cement Plants in the State of Meghalaya.

Order dated 22.08.2019:

4.3.2 The Hon'ble NGT in the said Order dated 22-08-2019 also directed as below:

For making available Central Armed Police Force (CAPF) the State of Meghalaya shall follow the same course of approaching the Central Government as has been done by them in the past in compliance of directions issued by the Hon'ble NGT vide order dated 25.03.2015. The Central Government may give due consideration to such proposal expeditiously.

- (ii) As per directions of the Hon'ble Supreme Court in the judgement dated 03.07.2019 the enforcement of directions of the Hon'ble Supreme Court regarding handing over coal already mined and lying at various places in Meghalaya to the Coal India Ltd may be looked into by the Committee in consultation with the officers of Coal India and the State of Meghalaya. The Committee may fix specific timeline for the purpose.



(iii) *Learned Counsel for the State may ascertain whether the transportation under a Challan dated 13.08.2019 issued by the Divisional Mining Officer, Jowai with regard to transportation of the 'auctioned' mineral is in terms of the scheme prepared by the Committee in accordance with the directions of the Hon'ble Supreme Court and if not, remedial action may be taken. The Committee may look into this aspect and applicability of online electronic manifest system for regulating movements of vehicles and issuance of challans as per the Tribunal's order dated 11.04.2019.*

(iv) *The cement companies in question are directed to furnish the requisite information to the Committee, failing which this Tribunal may have to take coercive measures against the Chief Executive Officers of the companies. This aspect will be considered in the light of further report of the Committee.*

(v) *The Committee may also make its recommendations about the conduct of officers not cooperating in compliance of orders of the Hon'ble Supreme Court and this Tribunal so that the State may take appropriate action and inform this Tribunal.*

Further reports- 04th Interim Report dated 31.08.2019, 05th Interim Report dated 02.12.2019 and 06th Interim Report dated 03.12.2019

12. After order of this Tribunal dated 22.08.2019, the Committee has dealt with the matter and furnished following further reports in the matter:-

1. 04th Interim Report dated 31.08.2019
2. 05th Interim Report dated 02.12.2019
3. 06th Interim Report dated 03.12.2019.



13. We also have for our consideration response of the State of Meghalaya to the 04th and 06th interim reports. M.A. No. 03/2020 in O.A. No. 73/2014 is being dealt with by a separate order.
14. We have heard the learned Amicus Curiae – Shri Raj Panjwani, Senior Advocate and Mr. Raju Ramachandren, Senior Advocate representing the State of Meghalaya. Other counsel representing various parties present have not made any oral submissions.
15. Accordingly, we proceed to consider the reports furnished by the Committee and the response thereto.

4th Interim Report dated 31.08.2019

16. In the 4th Interim Report the Committee considered the mechanism to deal with the complaints under Section 21 of the MMDR Act of illegal raising and transportation of coal, procedure for exercise of powers under Section 21 (5) of the MMDR Act, action to be taken in new cases of illegal mining storage and transportation, action for preventing illegal mining and storage, recovery of fresh stock of coal extracted prior to ban, action for violation of Water (Prevention and Control of Pollution) Act, 1974 and EP Act apart from action under MMDR Act, steps for mitigating environment pollution caused by acidic water and emitting from the coal depots/ dumps, mechanism in term of EIA Notification of 2006, video recording of consignments for illegal transportation of coal, scheme to reward informant giving information about illegal mining/transportation, establishing coal mine surveillance system and SOP to deduct illegal mining or dumping of coal, disposal of coal confiscated under Section 21(5) of MMDR Act, preparation of geological and feasibility report for



scientific coal mining, execution of pilot project for treatment of acidic water and for afforestation and reclamation of coal mining affected land, preparation of draft guidelines for utilization of amounts of MEPR fund including amount of Rs. 100 Crore transfer to CPCB, continuation of Prof. (retired) A.K. Singh, from Indian School of Mines, Dhanbad as Member of the Committee, recording of coal depots where coal is to be handed over to Coal India Limited by joint Committee. After due consideration the Committee has suggested the following directions:-

The Hon'ble NGT may consider to pass the following directions:

1. The State of Meghalaya shall constitute a Monitoring Committee under Chairmanship of the Chief Secretary to undertake monthly review of actions taken by various 'Authorized Officers' to file complaints before concerned Courts of Law under Section 21 of the MMDR Act against the persons involved in illegal raising and transportation of coal. (para 5.1.2.12 (i))
2. The State of Meghalaya shall formulate guidelines stipulating therein a detailed procedure for exercise of the powers conferred on the State under sub-section (5) of section 21 of the MMDR Act to recover mineral raised unlawfully from any person or where such mineral has already been disposed to recover price thereof. (para 5.1.2.12 (ii))
3. The State of Meghalaya shall mandatorily invoke provisions of sub-section (5) of section 21 of the MMDR Act in all cases where illegal raising or storage or transportation of coal is detected in the State of Meghalaya. (para 5.1.2.12 (iii))
4. The State of Meghalaya shall in exercise of powers conferred by Section 23 (C) of the MMDR Act formulate rules for preventing illegal mining, transportation and storage of minerals and shall notify the same in the official Gazette within one month. (para 5.1.2.12 (iv))
5. In the cases where any person declares any fresh stock of coal purported to be extracted prior to imposition of the ban by the Hon'ble NGT, apart from other punitive actions, actions under sub-section (5) to section 21 of the MMDR Act to recover such coal shall mandatorily be initiated by the State of Meghalaya (para 5.1.2.12 (v)).



117

6. Subject to provisions of the Law of Limitation, the MSPCB and CPCB shall initiate necessary action to file complaints under relevant sections of the Water Act against persons involved in raising, storage and transportation of the coal reportedly extracted prior to imposition of ban on rat hole coal mining in the State of Meghalaya by the Hon'ble NGT in April 2014, transportation of which has been allowed by the Hon'ble NGT and the Hon'ble Supreme Court. (para 5.1.3.6 (i))

7. In case any fresh illegal mining, storage or transportation of coal in the State of Meghalaya is detected by the Police or District Administration or the Mining and Geology Department, apart from initiation of proceedings under relevant provisions of the MMDR Act against the persons involved in such mining, storage and transportation of the coal, the same shall also be intimated to the MSPCB and CPCB for initiation of necessary actions to file complaint against relevant section(s) of the Water Act against such person. Details of all such cases detected after imposition of ban on illegal rat hole coal mining in April, 2017 shall also be communicated to the MSPCB and CPCB for similar actions. (para 5.1.3.6 (ii)).

8. In case any fresh raising of coal in the State of Meghalaya is detected by the Police or District Administration or the Mining and Geology Department, apart from initiation of proceedings under relevant provisions of the MMDR Act against the persons involved in such illegal raising of the coal, the same shall be intimated to the North Eastern Regional Office of the Ministry of Environment, Forest and Climate Change, Government of India for initiation of necessary actions to file complaint against relevant section of the EP Act against such persons. Details of all such cases detected on or after 15.01.2016 shall also be communicated to the North Eastern Regional Office of the Ministry of Environment, Forest and Climate Change, Government of India for similar actions. (para 5.1.4.3(i))

9. The CPCB and the MSPCB shall critically examine the regulatory regime presently in force to govern establishment and operation of coal depots/dumps in the State of Meghalaya and take necessary actions to depots, if any, in such regime to prevent, minimize and mitigate environment pollution caused by acidic water emanating from such depots (para 5.2.3).

10. The State of Meghalaya shall within one month put in place a mechanism stipulated in Appendix XII of the EIA Notification 2006 to regulate transportation of coal in the State. No transportation of coal in the State of Meghalaya shall, after a period of one month, be allowed unless such system containing all the features stipulated in the said Notifications is fully operationalized. (para 5.2.4)

11. The State of Meghalaya shall operationalize a system of video record consignment of each truck passing through all probable routes likely to be used for illegal transportation of coal. The State of Meghalaya shall identify suitable



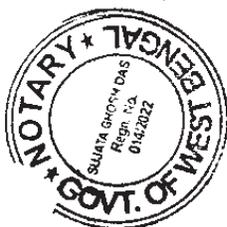
locations which may cause least disturbance to non truck traffic and install a system of Close Circuit Cameras to ensure video recording of registration number and consignment of each truck passing through each such routes. To minimize inconvenience to non-truck traffic, feasibility of installation of such system at existing toll gates, checkpoints, parking lanes/ bays etc. may be explored. In case no such toll gates, check points, parking lanes/ bays etc. exist at the required locations, the State of Meghalaya in consultation with and/or assistance of the National Highways and Infrastructure Development Corporation (NHIDCL) and/or National Highways Authority of India (NHAI) shall construct additional lanes to facilitate checking of trucks without causing inconvenience to other traffic. Temper proof continuous video recordings made at the check points shall be retained at least for a period of one year and shall periodically be reviewed / checked by the authorities in the Police, Civil Administration and Mining & Geology Department from time to time. (para 5.3.7 (ii))

12. State of Meghalaya shall within a month frame a scheme to suitable reward the informers in case the information on illegal mining and/or transportation of coal provided by such informers is found to be true. Confidentiality of the persons furnishing the information, shall at all cost be maintained so that such informer is not threatened by anyone who are interested in continuing coal mining activities. (para 5.3.7 (iii)).

13. The State of Meghalaya with the assistance of North Eastern Space Applications Centre (NESAC), Department of Space, Government of India, shall within a period of three months put in place a Coal Mine Surveillance System (CMSS) in the State of Meghalaya and also develop a Standard Operating Procedure (SoP) providing for effective follow up actions in case any illegal mining or dumping of coal is detected by the MSS. The CMSS to be developed may be similar to one which has already been developed by the Ministry of Mines and Indian Bureau of Mines (IBM) with assistance from the Bhaskaracharya Institute for Space Applications and Geo-Informatics (BISAG), Gandhinagar and Ministry of Electronics and Information Technology (MEITY). (para 5.3.7 (iv)).

14. The coal which has either been recovered by the State in exercise of powers conferred under sub-section (5) of Section 21 of the MMDR Act or has been confiscated in favour of the State of Meghalaya by an order of a Court of Law and the coal which has been seized by the Officers Authorised by the State Government in this behalf disposal of which has been permitted by the concerned Competent Court of Law, shall be disposed of only through e-auction conducted by the Coal India Limited (para 5.3.7 (v)).

15. The State of Meghalaya shall expedite drilling of requisite number of bore-holes in 1 sq. km. area in Khliehriat-Sutnga



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, in the manner 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 this Hon'ble Tribunal in April 2014, shall be essential components of the Policy being formulated by the State of Meghalaya for handing over of the coal to the Coal India Limited for disposal through e-auction. (para 5.7.4.7 (i)).

The Committee in this report dated 31.08.2019 has highlighted the various orders passed by the Hon'ble NGT, gist of various earlier reports submitted by it, the directions issued by the Hon'ble NGT on the said reports, relevant order passed by the Hon'ble Supreme Court and the issues examined by the Committee after submission of the second interim report, together with summary of recommendations for consideration of the Hon'ble NGT, as the Committee has completed one year from the date of its constitution by the Hon'ble NGT vide its order dated 31.08.2018."

5th Interim Report dated 02.12.2019

17. The 5th Interim Report more the back ground of earlier proceedings, sums up the minutes of the meetings and analysis the information given by the industries and regulatory authorities. Length and thereafter records findings and recommendations. The report has been uploaded on the website of the National Green Tribunal. The questions considered in the said report in para 2.2.6 are:-

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 aforementioned 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?

18. After analyzing the entire data the findings recorded are:-

"CHAPTER 3: FINDINGS AND RECOMMENDATIONS"

3.1 FINDINGS

3.1.1 Except for the clinker manufacturing plants of the Mawmluh Cherra Cement Limited (A State PSU) and Captive Power Plants of the Maithan Allied Limited and the CMJ Breweries Private Limited, there is a huge gap in quantity of coal required to produce reported quantities of clinker and/or power and the coal reported to be purchased from legal sources during the Audit Period for 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	
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 its Captive TPP	Coal required *	2,00,028	2,01,797	1,94,234	2,22,215	2,46,324	10,74,598
	Coal procured **	17,433	98,296	56,208	1,07,092	54,478	3,33,507
	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	1,46,919	3,02,675
	Coal procured **	0	0	5,918	21,395	4,946	32,159
	Gap	0	0	33,734	93,709	1,41,973	2,70,516
Green Valley Industries Limited	Coal required *	58,205	55,262	57,806	64,473	77,398	3,01,043
	Coal procured **	0	50,555	46,700	51,178	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



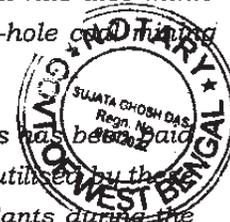
Meghalaya Cements Limited and its Captive TPP	Coal required *	1,43,334	1,72,873	1,53,873	1,84,291	1,85,140	8,39,511
	Coal procured **	96,533	44,686	45,968	54,012	53,987	2,95,186
	Gap	46,801	1,28,187	1,07,905	1,30,279	1,31,153	5,44,325
Captive TPP of Shyam Century	Coal required *	54,499	46,959	88,743	58,563	29,497	2,78,261
	Coal 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
Ferrous Limited	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	4,58,794	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 29.37 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 of 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 the 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 (MEPRF 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:

S. 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	11,124	79,844	65,851	256,819
2.	Amrit Cement	3,06,068	20,660	14,844	12,243	47,747
3.	Salma Bhatat Cement Ltd	7,41,092	50,024	35,943	29,644	115,610
4.	Greenstone 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 2.52, 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 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 if 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 (i.e. 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. All such slate has haphazardly been mined in an unscientific 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 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 the notice of regulatory authorities, both in the State of Meghalaya and the Union of India. It could not have escaped notice to 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 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. 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

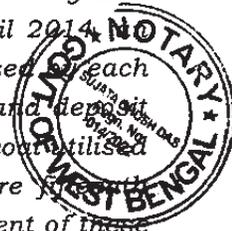


anomaly observed during the review shall be submitted to this Tribunal by the Chief Secretary, Meghalaya. Such report for a quarter shall be submitted to this Tribunal on or before fifteenth day of the next quarter.

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 have 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 forest 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 residents by the illegal rat-hole coal mining, the State of Meghalaya shall realise 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 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 the 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 aforementioned 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 PCB shall complete audit of coke claimed to be utilised by 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 PCB shall also submit the report sought by the said Committee in respect of the Captive Thermal Power Plant of Shree Shakambhari Ferro Alloys Pvt. Ltd."

6th Interim Report dated 3.12.2019

19. The 6th Interim Report deal with the objections raised by the State of Meghalaya before the Committee on the ground that the same is in violation of directions of the Hon'ble Supreme Court. After elaborate discussion of each and every objections raised by the State. The Committee summarized its recommendations as follows:-



"CHAPTER- 6: SUMMARY OF RECOMMENDATIONS

6.1 The Committee recommends that the Hon'ble NGT may consider to pass the following directions:

1. The State of Meghalaya shall, immediately, provide to the North Eastern Space Application Centre (NESAC), Department of Space, Government of India, Umiam, the location (latitude and longitude) and other details of each dump where coal to be auctioned is located. The NEASC, shall within one week from the date of receipt of these details prepare a geo-referenced map depicting the location of each of these dumps and provide a copy of the same to the Secretary to the Government of Meghalaya, Mining and Geology Department and the Coal India limited for placing a copy thereof along with a list containing name and address of the owner and quantity of coal available at each such dump on their respective websites (Para 2.20 WI

2. The Secretary to the Government of Meghalaya, Mining and Geology Department shall, immediately, place on website of the Department a copy of the additional affidavit containing details of 32,56,715 MT coal stated to be available at various depots filed before the Hon'ble Supreme Court on 10.04.2019 by the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department. (Para 2.20(ii))

3. The North Eastern Space Application Centre (NESAC), Department of Space, Government of India, Umiam shall undertake land-use land-cover analysis of areas where coal to be handed over to the Coal India Limited is located by using high resolution satellite imageries for the following period:

- (a) Immediately before the illegal rat-hole mining coal was banned by this Tribunal by an order dated 17.04.2014; (Para 2.20 (iii) (a))
- (b) Immediately before the additional affidavit dated 10.04.2019 containing details of 32,56,715 MT coal stated to be available at various depot was filed before the Hon'ble Supreme Court by the Commissioner and



Secretary to the Government of Meghalaya, Mining and Geology Department; and (Para 2.20 (iii) (b)).

(c) Once in the year 2015, 2016, 2017 and 2018, preferable in the month of April. (Para 2.20 (iii) (c))

4. Based on the said land-use land-cover analysis, the NESAC shall divide the coal available at each of the depot where the 32,56,715 MT coal is stated to be available into three categories namely:

(a) The coal continuously existing at the depot since the ban on the illegal rat-hole mining was imposed by this Tribunal on 17.04.2014; (Para 2.20 (iv) (a))

(b) The coal dumped at the depot after the filing of additional affidavit before the Hon'ble Supreme Court on 10.04.2019; and (Para 2.20 (iv) (b))

(c) The coal dumped at the depot on any day between 17.04.2014 and 10.04.2019. (Para 2.20 (iv) (c)).

5. The finalisation of the mode and manner for handing over of the coal to the Coal India Limited and disposal of the coal by the Coal India Limited through e-auction shall not wait completion of the afore-mentioned study by the NESAC. The amount realised from sale of such coal will never not be disbursed to the respective owner till the said study in respect of such coal is completed by the NESAC. (Para 2.20 (v))

6. The amount realised from auction of the coal shall be disbursed in the following manner:

(a) The State of Meghalaya shall exercise the powers vested on it under subsection (5) of section 21 of the Mines and Mineral (Development and Regulation) Act, 1957 and recover the amounts realised from the auction of the coal which was dumped at the depot after 10.04.2019 and transfer all such amounts along with taxes/royalty/levies realized thereon to the Consolidated Fund of the State of Meghalaya. Contribution to the MEPR Fund realised for such coal shall be transferred to the MEPR Fund. (Para 2.20 (vi) (a))

(b) Amounts realised from the sale of the coal which is continuously available in at the Depot shall be transferred to the respective owner. Taxes/royalty/levies realised on such coal shall be transferred to the Consolidated Fund of the



State of Meghalaya. Contribution to the MEPR Fund realised for such coal shall be transferred to the MEPR Fund. (Para 2.20 (vi) (b))

(c) Details of all such coal which was dumped at a depot between 17.04.2014 and 10.04.2019 shall be placed before the Hon'ble Supreme Court. Disbursal of amounts realised from the sale/auction of such coal shall be done in the manner the Hon'ble Supreme Court may stipulate. (Para 2.20 (vi) (c))

7. The State of Meghalaya and the Coal India Limited shall provide all the information and documents sought by the Katakey Committee for finalization of mode and manner of handing over of the coal available at various Depots to the Coal India Limited. The Committee shall finalize the mode and manner for handing over of the coal available at various depots to the Coal India Limited strictly in conformity with the directions issued by the Hon'ble Supreme Court. The State of Meghalaya and the Coal India Limited shall abide by the mode and manners finalised by the said Committee. (Para 2.20 (vii)).

8. To resolve disputes involving adulteration of coal quality in a lot between the day it is notified for auction and the day on which entire coal available in such lot is lifted by the successful bidder the collection and maintenance of reference samples by the Coal India Limited in the manner and for a period provided for collection and maintenance of such samples in the normal process of disposal of coal through auction by the Coal India Limited shall be an integral component of the mode and manners for handing over of the coal to the Coal India Limited. (Para 2.20 (viii)).

9. The mode and manner for handing over of the coal to the Coal India Limited shall contain time-lines for each step involved in handing over of the assessed coal to the Coal India Limited and subsequent auction by the CIL. (Para 2.20 (ix))

10. Nature of records to be maintained and the authorities responsible to maintain each such record shall be specified in the mode and manner for handing over of the coal to the Coal India Limited. (Para 2.20 (x)).



11. Number of officers of different ranks to be deployed by the Coal India Limited to plan, execute and monitor disposal of the coal through e-auction shall be specified in the mode and manner to be finalised by the Katakey Committee. (Para 2.20 (xi))

12. Reserve Price of the coal to be auctioned shall be fixed by the Coal India Limited as per its existing rules and policies for disposal of the coal through e-auction. (Para 2.20 (xii))

13. The Coal India Limited, the State of Meghalaya, the owner of the coal and their officers/employees shall be responsible for their respective acts of omission and commission in any dispute which may arise relating to quality and quantity of the coal stored to be available at various depots. (Para 2.20 (xiii)).

14. The mode of manner for handing over of the coal to the Coal India Limited shall provide for a legally tenable and practically feasible dispute resolution framework. (Para 2.20 (xiv))

15. The State of Meghalaya shall install and make fully functional, within a month, a system involving establishment of a centralised server, uploading of transport permit/challans and tracking of coal loaded trucks through GPS and RFID tags as stipulated in the said Appendix-XI to the EIA Notification, 2016 to prevent and deter multiple use of transport permit/challans. Transportation of the coal in the State of Meghalaya shall not be permitted till the said system is made fully operational. (Para 2.20 (xv)).

16. The State of Meghalaya and the Meghalaya State Pollution Control Board shall initiate necessary actions to file compliant under relevant sections of the Mines and Mineral (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 the persons responsible for raising of transportation of all such coal which was dumped at any such depot on or after 10.04.2019. (Para 2.20 (xxvi)).



17. An agency not under superintendence and control of the State of Meghalaya shall enquire into the matter of export of illegally mined coal to Bangladesh, in the guise of coal permitted to be transported by various orders passed by the Hon'ble NGT and the Hon'ble Supreme from time-to-time, identify the person(s) responsible for such export and file complaint before the concerned competent Courts of Law under relevant provisions of the Law against all such persons. (Para 3.20 (i))

18. The State of Meghalaya shall place before this Tribunal the periodical details (viz. name & full address) of the exporter for each consignment of coal originating from the Meghalaya which was allowed by the Mining and Geology Department in the Government of Meghalaya for export to the Bangladesh from each of the seven LCSs in Meghalaya since the ban on rat hole coal mining in Meghalaya was imposed by the Hon'ble NGT in April, 2014. (Para 3.20 (ii))

19. The State of Meghalaya shall initiate necessary actions in accordance with provisions of Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 against the persons responsible for export of the illegally mined coal to the Bangladesh from each of the seven LCSs in the State of Meghalaya in the guise of the coal permitted to be transported by the Hon'ble NGT and the Hon'ble Supreme Court by order passed from time-to-time. The actions to be initiated against such persons shall include actions under sub-section (5) of Section 21 of the said Act to recover the value of such illegally mined coal along with rent, royalty or tax, as the case may be, payable to the Government in respect of such coal. (Para 3.20 (iii))

20. In case the coal reported to be available at several location between the DMR Checkgate/ weighbridge and the Custom exit point at Gasuapara and such other Custom exit points in the State of Meghalaya is not a part of the 32,56,715 MT assessed coal to be handed over to the Coal India Limited for disposal through e-auction the Mining and Geology Department in the State of Meghalaya initiate necessary actions in accordance with provisions of Section



21 of the Mines and Minerals (Development and Regulation) Act, 1957 against the persons responsible for raising and transportation of such coal and submit a report to this Tribunal. Such action shall include actions under subsection (5) of section 21 of the said Act to recover all such illegally raised coal. (Para 3.20 (iv)).

21. The State of Meghalaya shall within three months, establish integrated check post and temper-proof weigh-in-motion weighbridge at each of the seven LCSs in the State of Meghalaya. Each such integrated check-post and weigh-in-motion weighbridge shall jointly be manned by the representative, one each from the Mining and Geology Department and the Forests & Environment Department in the State of Meghalaya and the Border Security Force (BSF) and the Customs Department in the Union of India. Each such integrated check-post and weigh-in-motion weighbridge shall be provided with an adequate number of CCTV cameras to ensure video recording of the registration number and the consignment loaded in each truck passing through such integrated check-post and the weighbridge. The network of CCTV cameras to be installed at the weighbridge shall also ensure video recording of the display panel indicating weight of each truck passing through such weighbridge. The footage of such CCTV camera installed at each integrated check-post and the weighbridge shall be retained for a minimum period of one year. (Para 3.21 (i))

22. Vigilance wing in the Customs and the BSF in the Union of India and the Home (Police) Department in the State of Meghalaya shall undertake regular inspection of the integrated check-posts and weigh-in-motion weighbridge and submit a quarterly report on such inspections to the Chief Secretary, Meghalaya and their respective Departmental Heads. (Para 3.21 (ii)).

23. The Director General of Police, Meghalaya shall ensure that all the person and vehicles, equipment, tools and machineries involved in raising and transportation of about 80,000 MT seized by the Meghalaya Police are identified and necessary



action as per the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 and all other relevant Statutes and the rules framed thereunder are taken against all such persons and vehicles, equipment, tools and machineries. The similar actions shall also be taken for the coal, if any, to be seized in future. A monthly report on all the cases where the persons and vehicles, equipment, tools and machineries involved in raising and transportation of the seized coal could not be identified shall be submitted. (Para 4.19. (i))

24. The Director General of Police shall provide to the Meghalaya State Pollution Control Board details of persons involved in illegal mining and transportation of the coal. The Meghalaya State Pollution Control Board shall file complaint before the concerned competent Court of law under relevant sections of 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, guidelines and notifications issued thereunder against such persons. (Para 4.19. (ii)).

25. The State of Meghalaya shall formulate a comprehensive policy for auction of the seized coal and place a copy of the same before this Tribunal within a month. The policy shall provide, among others, establishment of a centralised depot in each coal mining affected district for safe and scientific storage of the seized coal and disposal of the seized coal in a fair and transparent manner after giving wide publicity. The Policy shall specifically provide that no coal shall be disposed of without giving a prior notice of atleast thirty (30) days. The copy of each such notice shall be published in atleast two prominent dailies having wide circulation. (Para 4.19 (iii)).

26. The State of Meghalaya shall, within a period of one month, formulate a simple procedure for verification of the claims for receipt of ex-gratia from the labourers who received injuries while working in illegal rat-hole coal mines in the State of the Meghalaya and also from the next-of-kin of laborers who were killed while working in such mines. Such



procedure may contain adequate safeguards to detect, deter and reject false claims. (Para 5.4 (1)).

27. *State of Meghalaya shall disburse an amount of rupees five lakh to next of kin of each of the labourers who were killed while working in any illegal rat-hole coal mining in the State of Meghalaya including the labourers which were killed in a tragic accident in an illegal rat-hole mine in Ksan village in East Jaintia Hill district in December 2018. (Para 5.4 (ii)).*

28. *State of Meghalaya shall disburse an amount of rupees five lakh to next of kin of each of the labourers who were killed and rupees two lakh to each of the labourers who received serious injuries while working in any illegal rat-hole coal mining in the State of Meghalaya including the labourers which were killed or received serious injuries in a tragic accident in an illegal rat-hole mine in Ksan village in East Jaintia Hill district in December 2018 and in South Garo Hills District in the year 2012.*

29. *State of Meghalaya, Meghalaya State Pollution Control Board and Central Pollution Control Board, shall implement the Action Plan prepared by the Committee, with modification whenever required and submit periodical report.*

Before parting with the report, the Committee expresses its sincere gratitude to the Hon'ble National Green Tribunal in giving the opportunity to work on the subject."

Consideration of objections to the Report

20. We have perused objections to the reports of the Committee dated 31.08.2019, 02.12.2019 and 03.12.2019 filed by the State of Meghalaya. During the hearing, we confronted learned senior counsel for the State of Meghalaya with the fact that since work of the Committee has been commended by the



Hon'ble Supreme Court as well as by this Tribunal earlier, the nature of objections are not appreciable. Learned senior counsel fairly stated that he will not press the objections. In the response to the report, he merely handed over a note to submit that some of the recommendations were not feasible. We quote the relevant part of the note to consider the said objections:-

S. N.	Recommendation	Not feasible	Reasons for being non-feasible
1	i. The State of Meghalaya shall provide NESAC the Longitudes & Latitudes of each dump where coal is to be auctioned. ii. NESAC to prepare geo-reference mapping for location of each dump and give it to State and CIL. iii. State and CIL will put it on their website.	√	<ul style="list-style-type: none"> • Duplication of exercise of identification of sale-points. • Geo-referencing details already there in affidavit filed by State which has been provided to CIL and the same will be put up on website. • In terms of para 48 and 187-192 of the judgment of Supreme Court this exercise is not required.
	NESAC to conduct annual land-use land cover analysis to determine continuous existence of coal on the sale point.		<ul style="list-style-type: none"> • Unnecessary exercise • Supreme Court observed in Para 189 that All this 32,56,715 coal is illegally mined. • Yet directed its disposal through CIL and disbursal of funds to owners in paras 192-192.
3.	NESAC shall then divide each sale-point into 3 categories, viz (i) Coal continuously existing (ii) Dumped after 17.04.2014 (iii) Dumped after filing of affidavit		Same as in respect of 2-above
4.	Money realized from auction of coal shall not be disbursed till NESAC study is completed		Same as in respect of 2 above
5.	Amount realized shall be disbursed in following manner: (i) For Coal existing prior to 17.04.14-immediately. (ii) For coal dumped between 17.4.14 and filing of affidavit to be placed before SC for further direction. (iii) For coal dumped thereafter - All money to be transferred to State funds.	√	Contrary to Supreme Court judgment. Even after observing in Para 189 that ALL this 32,56,715 Coal is illegally mined, SC directed its disposal through CIL and disbursal of funds to owners in Para 192. <ul style="list-style-type: none"> • In para 186 the Supreme Court has affirmed ownership of coal miners on all this 32,56,715 Mtpa Coal and held that their proprietary rights are not extinguished.
6.	Collection and maintenance of samples from each lot for purpose of future dispute resolution.	√	<ul style="list-style-type: none"> • There are more than 20,000 sale points. • Further, the auction is on 'as where is' basis and prospective bidders are being given 14 days' time to physically verify the

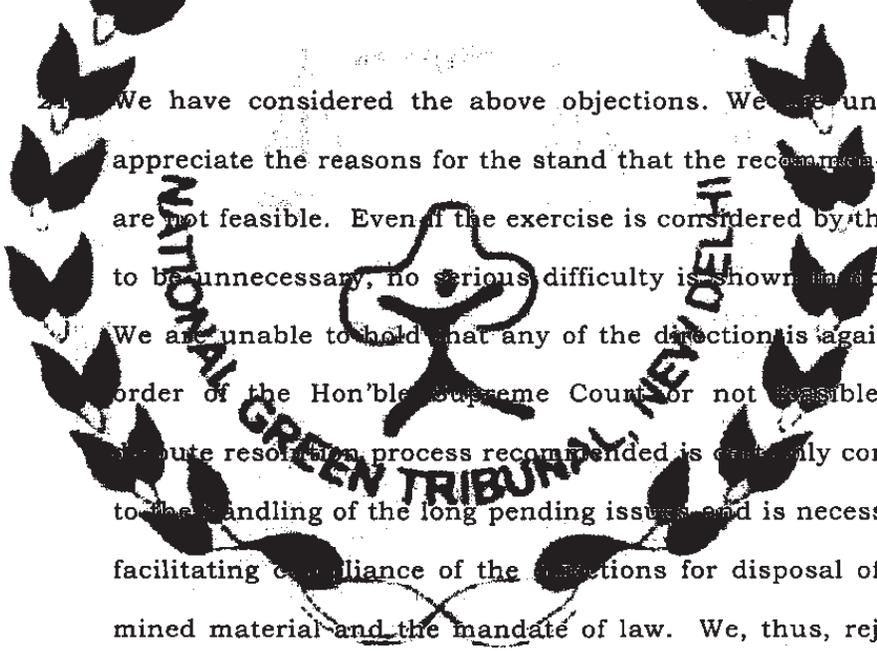


			<p><u>quantity and quality of coal lying at the dump.</u></p> <ul style="list-style-type: none"> • <u>Owners are also mandated to submit NABL accredited lab certificate as to grade and sulfur content of Coal before their dump is notified for auction</u> and the same shall be part of auction notice.
7.	Reserve Price of Coal to be auctioned shall be fixed by CIL as per their existing policy.	√	<ul style="list-style-type: none"> • CIL has refused to do so in meeting dated 14.10.2019 and again on 02.12.2019 on the ground that it is not practically possible or technically and financially feasible for CIL to physically verify the quality of each lot of Coal located at 20,000 sale points for fixation of reserve price which is also dependent upon the cost of transportation of the same. • CIL admitted that it has no experience in coal mining in conditions like Meghalaya and has no experience of lifting and transportation of coal in such terrain where most of the stocks can be assed through smaller four-wheel trucks and the hilly roads also cannot bear the load of huge quantity of coal being transported simultaneously. • These factors substantially affect the reserve price fixation of Coal. • The State of Meghalaya is having more experience in the coal mining and coal trading practices in the State of Meghalaya and having such domain knowledge of marketability of such Coal, is better suited to fix reserve price.
8.	CIL / State of Meghalaya / Buyer / Seller / Employee / Officer shall be liable for disputes relating to quality and quantity	√	<p>The question of providing a Dispute Resolution Process in the plan does not arise because Auction is on 'as is where is' basis and respective bidders are allowed to inspect the lot before bidding. Hence, no liability of CIL and State of Meghalaya thereafter.</p> <ul style="list-style-type: none"> • However, in case of a dispute between the seller and the buyer the remedy under ordinary law of the land is always available to them.
9.	To provide legally tenable and practically feasible Dispute Resolution Mechanism	√	<ul style="list-style-type: none"> • Same as in respect of 8 above.
10.	Enquiry by an outside Agency into compliants of alleged export of illegally mined coal to Bangladesh and prosecution of persons involved in such alleged illegality	√	<ul style="list-style-type: none"> • It will be an encroachment on executive powers of the State. • As submitted before the Committee, enquiry has already been initiated by the State and appropriate action in accordance with law shall be taken.
11.	State of Meghalaya to disburse	√	<ul style="list-style-type: none"> • PIL being W.P. (C) No. 3 of 2019



	<p>an amount of 5 lakh to each labourer deceased in Ksan mine incident of Dec. 2018</p>		<p>has been filed in Hon'ble Supreme Court on that incident.</p> <ul style="list-style-type: none"> The Hon'ble Supreme Court observed that compensation is required to be paid to kin of victims in order dated 25.02.2019. State filed I.A. No. 77028/19 on 06.05.2019, inter-alia informing the Court that 3 lakh ex-gratia payments has already been made qua each victim. The Hon'ble Supreme Court closed all the issues except formulation of Standard Operating Procedure to deal with such mining incidents vide order dated 12.07.2019.
<p>12.</p>	<p>State of Meghalaya to pay 5 lakh for each death and 2 lakh for each injury in above incident as well as for the incident reported in South Lushai Hills District in 2012.</p>	<p>✓</p>	<ul style="list-style-type: none"> For 2012 incident, ex-gratia payment has already been made to those who came forward to make claims and whose claims were found to be genuine.

24. We have considered the above objections. We are unable to appreciate the reasons for the stand that the recommendations are not feasible. Even if the exercise is considered by the State to be unnecessary, no serious difficulty is shown in doing so. We are unable to hold that any of the direction is against the order of the Hon'ble Supreme Court or not feasible. The dispute resolution process recommended is entirely conducive to the handling of the long pending issues and is necessary for facilitating compliance of the directions for disposal of illegal mined material and the mandate of law. We, thus, reject the objections of the State of Meghalaya. It is a matter of regret that State of Meghalaya, has by uncalled for actions, created a situation to hamper a credible mechanism set up by this Tribunal and approved by the Hon'ble Supreme Court, by practically compelling the Chairman of the Committee to seek recusal.



Directions

22. Under the circumstances, while accepting all the recommendations of the Committee in its 04th Interim Report dated 31.08.2019, 05th Interim Report dated 02.12.2019 and 06th Interim Report dated 03.12.2019, we also accept the request of Justice B.P. Katakey, former Judge, Guwahati High Court to be relieved.

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 deposits; 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.

24. On suggestion of State of Meghalaya, we substitute Justice B.D. Agarwal, former Judge, Guwahati High Court as Chairman of the Committee. We are informed that Justice B.D. Agarwal is Judicial Member of Lokayukt of Manipur State but is willing to undertake the present assignment subject to the State of Manipur relieving him or otherwise permitting him to do so. The State of Manipur may consider this aspect in consultation with Justice B.D. Agarwal. Subject to the above no objection, Justice B.D. Agarwal may take up the assignment at the earliest. The Committee may furnish its



further action taken report after three months preferably by 30.04.2020 by e-mail at judicial-ngt@gov.in.

A copy of this order be sent by e-mail to the Chief Secretary, Meghalaya, CPCB, State PCB, IIT-ISM, Dhanbad, who may also furnish a copy to Prof. A.K. Singh (Retired), Justice B.P. Katakey, Justice B.D. Agarwal, former Judges of Guwahati High Court.

List for further consideration on 12.05.2020.



IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO 2355 OF 2021

IN THE MATTER OF:

SECTION 22 OF THE NGT ACT, 2010

AND

IN THE MATTER OF:

		BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH AT NEW DELHI	BEFORE THIS HON'BLE COURT
1.	Meghalaya Cements Limited having its office at Village Thangskai P.O.Lumshnong, District:East Jaintia Hills Meghalaya -793210 Through its Director	Not a party	Petitioner
	Versus		
1.	State of Meghalaya Through its Secretary, Mining and Geology Department, Government of Meghalaya Additional Secretariat Building, Shillong, Meghalaya-793001	Respondent No.1	Respondent No.1



2.	Principal Secretary to the Government of Meghalaya, Forest & Environment Department, Meghalaya, Shillong	Respondent No.2	Respondent No.2
3.	Principal Chief Conservator of Forests, Government of Meghalaya, Sylvan House, Lower Lachumiere, Shillong-793001	Respondent No.3	Respondent No.3
4.	Commissioner & Secretary to the Government of Meghalaya, Forest & Environment Department, Additional Secretariat Building, Shillong-793001, Meghalaya	Respondent No.4	Respondent No.4
5.	The Chairman Meghalaya State Pollution Control Board, Government of Meghalaya, "ARDEN", Lumpynggad, Shillong-793014	Respondent No.5	Respondent No.5
6.	Commissioner & Secretary to the Government of Meghalaya Mining & Geology Department, Shillong	Respondent No.6	Respondent No.6
7.	Director of Mineral Resources Directorate of Mineral Resources, Government of Meghalaya, Shillong	Respondent No.7	Respondent No.7



8.	Additional Principal Chief Conservator of Forest, (Planning, Development and Legal Matters) Meghalaya, Shillong	Respondent No.8	Respondent No.8
----	---	--------------------	-----------------

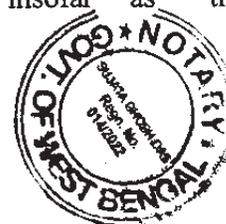
TO

THE HON'BLE CHIEF JUSTICE OF INDIA AND
HIS COMPANION JUDGES OF THE HON'BLE
SUPREME COURT OF INDIA.

THE HUMBLE APPEAL OF THE
APPELLANT ABOVE NAMED MOST
RESPECTFULLY

SHOWETH:

1. That the Appellant has preferred the present statutory appeal under Section 22 of the National Green Tribunal Act, 2010 against the final Judgment and Order dated 17.01.2020 passed by the National Green Tribunal Principal Bench, New Delhi (hereinafter referred to as "**the Tribunal**") in O.A. NO. 110 (THC) of 2012 wherein inter alia, the Tribunal erroneously accepted the findings and recommendations of the 5th Interim Report of the Committee headed by Justice B.P. Katakey (Retd.), a Committee constituted by the National Green Tribunal, in toto, which was a factually erroneous report insofar as the appellants herein are concerned.



2. QUESTIONS OF LAW:

- (i) Whether the Impugned judgment and order suffers from the vice of perversity as it has failed to consider admitted facts?
- (ii) Whether the Tribunal was correct in passing the impugned order accepting the 5th Interim Report of the Committee without verifying its findings and without any independent application of mind?
- (iii) Whether the impugned judgment and order violates the principles of natural justice insofar as the appellants herein were not granted an opportunity to place on record their submissions against the 5th Interim Report?
- (iv) Whether the impugned judgment could have accepted the findings and recommendations of the Committee even when there was not a single shred of evidence to suggest that the Appellant has purchased illegally sourced coal?
- (v) Whether the Committee in its 5th Interim Report was correct in assuming that the coal requirement of the Appellant is 15% of the clinker produced merely on the basis of statements of another Company without any technical assessment of the Appellant's plants and even though it is well-known that there are various factors on which quantity of coal required per unit of power or per tonne of clinker produced is dependent upon?



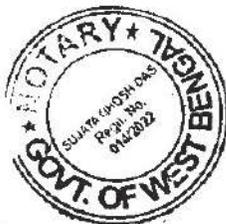
- (vi) Whether the Committee could have given a finding on the Appellant using illegally sourced coal without appreciating the stock of coal already present and the usage of alternate fuel in the cement plant and the captive power plant of the Appellant?
- (vii) Whether the Committee's finding to the effect that use of alternate fuel is technically not feasible is correct even though no evidence or scientific literature/technical examination has been produced to conclude the said statement?
- (viii) Whether the Committee's decision to levy MVAT, GST and electricity duty without any determination of liability and assessment by competent authority under the relevant statutes, is valid and permissible in law?
- (ix) Whether the findings of the Committee concerning the legality of the coal mined could have been in contravention of the Judgment of this Hon'ble Court in State of Meghalaya and Ors. V. All Dimasa Students Union, Dimasahasao District Committee and Ors., (2019) 8 SCC 177?
- (x) Whether the Impugned order violates Article 19(1)(g) of the Constitution of India, in so far as the appellants herein have obtained all necessary permissions and are carrying out their business as per the letter of the law.



3. BRIEF FACTS OF THE CASE ARE AS UNDER:

The facts relevant to the present civil appeal are stated hereinbelow:

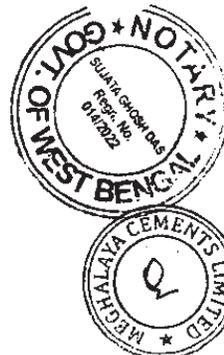
- (i) That the Appellant is a public limited Company registered under the Companies Act, 1956 at Registrar of Companies, Shillong having its registered office at Thangskai, Lumshnong, Khliehriat, East Jaintia Hills Khliehriat Ml - 793210. It is a large integrated cement plant located in Meghalaya on NH 44, at Village Thangskai, District East Jaintia Hills with clinkerization and cement capacity of 2600 tons per day. It also has its own 10 MW Captive Power Plant to ensure 100% uninterrupted power availability.
- (ii) The Gauhati High Court registered a suo moto public interest litigation being Threat to Life Arising out of Coal Mining in South Garo Hills District, Suo Moto No. (SH) 3 of 2012, on the basis of a News item 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.
- (iii) Vide order dated 10.12.2012 of the Gauhati High Court, the matter was directed to be transferred to the NGT in which notice was issued by the Tribunal on 30.01.2013. The Transferred matter was registered as Original Application No. 110(THC)/2012.



The All Dimasa Students Union Dima Hasao District Committee filed an Original Application No. 73 of 2014 (*All Dimasa Students Union Dima Hasao Committee v. State of Meghalaya and Ors.*, O.A. No. 73 of 2014) before the National Green Tribunal, Principal Bench making allegations with regard to rat-hole mining operation, which had been going on in Jaintia Hills in the State of Meghalaya for last many years without being regulated by any law. It was alleged that in the course of rat-hole coal mining, by flooding of water several employees and workers had died. The NGT admitted the application and took the view that illegal and unscientific mining neither can be held to be in the interest of people of the area, the people working in the mines nor in the interest of environment.

Vide order dated 17.04.2014, the NGT directed 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. Copy of order dated 17.04.2014 passed by NGT in O.A. No. 73 of 2014 is annexed hereto and marked as ANNEXURE A-1[PAGE NO.107 TO 110].

To give effect to the order dated 17.04.2014, the NGT on 09.06.2014 formed a Committee to quantify extracted coal and its location, assess its value and also to prescribe mode of its transportation.



- (vii) In the light of the Committee Report, the Tribunal on 07.10.2014, noted that 6.3 MT of illegally mined coal valued at Rs.307 crores was lying in the State on which royalty of Rs.400 crores was assessed. Accordingly, direction was issued for videography of the operation of weigh bridges and the issue of quantum of coal to be permitted to be transported was to be gone into with the assistance of the Committee formed by the Tribunal. Further, the Tribunal issued direction to credit the amount of royalty in a separate account with 10% of the value of coal to be credited to Environment Protection Fund.
- (viii) Vide order dated 31.03.2016, the NGT directed that except the coal already transported prior to 2016, the remaining will vest in the State and disposed of in accordance with law and consistent with the norms of environment. Copy of order dated 31.03.2016 passed by NGT in O.A. No. 73 of 2014 is annexed hereto and marked as ANNEXURE A-2. [PAGE NO.111 TO 115] Vide order dated 10.05.2016, it was further directed that the State was to place a plan as to how the coal vested in the State will be dealt with. Copy of order dated 10.05.2016 passed by NGT in O.A. No. 73 of 2014 is annexed hereto and marked as ANNEXURE A-3. [PAGE NO.116 TO 117]
- (ix) That the NGT vide order dated 31.08.2018 directed constitution of an Independent Committee to be headed by a former High Court Judge of the Gauhati High Court (Justice B.P. Katakey) with representatives from the Central Pollution Control Board and the Indian School of Mines, Dhanbad for restoration of the



151

environment and rehabilitation of the victims. The Committee was at liberty to take up incidental issues and was also to supervise issues arising out of receivership/custodianship of already extracted coal including environmental issues arising out of storage and remedial steps. Copy of the order dated 31.08.2018 is annexed hereto and marked as ANNEXURE A-4. [PAGE NO.118 TO 127]

That the Committee gave its First Interim report on 02.01.2019 which was considered by the Tribunal vide order dated 04.01.2019 with regard to the following questions framed by the Committee:

“(A) Whether coal mining activities, including extraction of coal and the transportation of the same, are going on despite the order passed by the Hon’ble NGT imposing ban on coal mining and transportation?”

(B) Quantity of extracted coal as on the date on which the ban was imposed by the Hon’ble NGT and left to be transported?”

(C) Quantity of un-inventoried coal which has been extracted before imposition of ban by the Hon’ble NGT?”

(D) Whether coal mining activities as well as dumping of coal results in adverse environmental effect, if so, the nature and extent thereof?”

(E) What are the steps required to be taken by the Committee for restoration of the environment and rehabilitation of victims of coal mining?”



(F) *The extent of execution of the Action Plan prepared by the Committee?"*

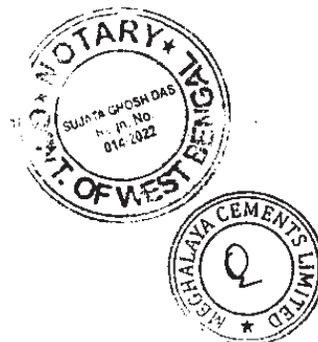
The report stated that illegal mining was still continuing. The assessed quantity of such coal was 23,25,663.54 MT. The mining was resulting in adverse impact on the environment for which a study was required to be undertaken. Action plan was proposed for restoration of the environment. In view of the consistent failure of the State in enforcing the law, the Tribunal held the State to be liable to deposit a sum of Rs.100 Crores with the Central Pollution Control Board (CPCB) to be spent for restoration of the environment. The Tribunal also observed that the Committee may consider seizure of equipment used for illegal mining or transportation, to be released only after payment of 50% of the showroom price of such equipment. Copy of the order dated 04.01.2019 is annexed hereto and marked as **ANNEXURE A-5. [PAGE NO.128 TO 145]**

- (xi) That the Second Interim Report dated 31.03.2019 was considered by the NGT on 11.04.2019 and the NGT approved the recommendations including those for installation of digital display boards in respect of quality of water of the concerned areas and evolving mechanism for effective action against transportation of illegally mined coal such as electronic manifest system, audit source of coal acquired by power generation and cement plants. Copy of the order dated 11.04.2019 is annexed hereto and marked as **ANNEXURE A-6. [PAGE NO.146 TO 150]**



In the meantime, the State of Meghalaya filed a civil appeal before this Hon'ble Court challenging the above orders passed by the NGT in O.A. No. 73/2014. This Hon'ble Court vide judgment and order dated 03.07.2019 in the case of *State of Meghalaya v. All Dimasa Student Union*, C.A. No. 10720/2018 reported as (2019) 8 SCC 177 upheld the judgment of the NGT in dealing with the matter and constituting the Monitoring Committee. It held that the ownership of the coal extracted, even after 15.05.2016 does not vest with the State of Meghalaya but the owner of the coal or the person who mined the coal shall have proprietary rights on the mineral.

It was directed that extracted coal laying at various places was to be taken over by Coal India Limited. It was also directed that the State of Meghalaya and Coal India Limited were to deliberate with the Committee and finalize plan for transportation and handing over of the coal for disposal as per Rules which may be beneficial for the owners of the mine as well as to the State of Meghalaya. The Coal India Limited was also directed to take steps for receipt of payment for auction of the coal the State of Meghalaya was entitled to royalty, payment towards MERP Fund and taxes. Out of the sale of the proceeds of the mined coal to be disposed off by Coal India Ltd., after deducting the applicable royalty, cess, transportation and handling charges, the owners were entitled to the receipts of the balance sale proceeds of the mined coal.



The only exception to this scheme will be the illegally transported coal seized by the state, which shall be dealt with in accordance with the provisions of the Mines and Minerals (Development and Regulation) Act, 1957.

The order of the Tribunal constituting MEPR fund was also upheld as well as the order dated 04.01.2019 requiring deposit of Rs.100 crores with the Central Pollution Control Board (CPCB) for restoration of environment, but the same could be paid out of the Meghalaya Environment Protection and Restoration Fund (MEPRF).

The order of the Tribunal dated 17.04.2014 banning rat hole mining was also upheld. However, it was held that the said ban would not bar legal and scientific mining as per statutory scheme. Copy of the judgment of this Hon'ble Court *in State of Meghalaya v. All Dimasa Student Union*, C.A. No. 10720/2018 reported as (2019) 8 SCC 177 is annexed hereto and marked as ANNEXURE A-7. [PAGE NO.151 TO 253]

- (xiii) That the Additional Principal Chief Conservator of Forests (Planning Development and Legal Matters), Government of Meghalaya, Shillong vide letter No.MFG.39/87/NGT©/Vol-VII/8448-468 dated 08.07.2019 informed various cement Companies including the Appellant herein that the year wise details of coal reported to be purchased was already available in the report submitted to the Committee by the CPCB and that the information on the clinker and power produced by some of these plants were also available in the annual reports, copy of which was available in the public domain. The Additional Principal



Chief Conservator of Forest, in the aforesaid letter informed that prima facie it appears that the quantity of coal reported to be procured by some of the plants was grossly insufficient to produce reported quantity of cement and/or power by these plants and that the gap in all probability was met by illegally mined coal. It was informed that 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 NGT in April 2014, the Committee in its sitting dated 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 authorized 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 Institutions(s) to obtain loan for establishment/expansion/modernization of the plant.*

- (xiv) The Appellant Company was, therefore, requested to depute a duly authorized representative(s) to remain present before the Committee in its sitting to be held on 23.07.2019 at Shillong and produce before the Committee the abovementioned documentary evidence. Copy of the letter dated 08.07.2019 is annexed hereto and marked as ANNEXURE A-8. [PAGE NO.254 TO 258]
- (xv) Vide letter dated 22.07.2019, the Appellant replied to the aforesaid letter dated 08.07.2019 by the Additional Principal Chief Conservator of Forests (Planning Development and Legal Matters), Government of Meghalaya. It was stated that in light of the recent judgement by the Hon'ble Supreme Court, it is clear that violation if any of the MMDR Act, 1957 should be dealt with in accordance with Section 21 of the said Act. Further, it was mentioned that this Hon'ble Court had also explained the scope of the Committee and hence, there is a need to re-look at the matter. Copy of the letter dated 22.07.2019 is annexed hereto and marked as ANNEXURE A-9 [PAGE NO.259 TO x]



- (xvi) The representative of the Appellant appeared before the Committee in its sixteenth sitting on 23.07.2019 and submitted the above representation dated 22.07.2019 to the Committee. It was further submitted that the Appellant shall furnish the required information supported by the relevant documents provided time is granted for gathering all the information as more time is required to collect the information sought for by the Committee. The Committee directed the Appellant to depute a representative in the next sitting dated 14.08.2019 along with all information. Copy of the minutes of meeting dated 23.07.2019 is annexed hereto and marked as ANNEXURE A-10. [PAGE NO.260 TO 311]
- (xvii) Vide letter dated 05.08.2019, the Additional Principal Chief Conservator of Forests (Planning Development and Legal Matters), Government of Meghalaya informed inter-alia the Appellant herein to depute a duly authorized representative to remain present before the Committee in its seventeenth sitting to be held on 14.08.2019 at 10 AM onwards and to produce the required information and documents as indicated in the record of the sixteenth sitting. Copy of the letter dated 05.08.2019 is annexed hereto and marked as ANNEXURE A-11. [PAGE NO.312 TO 330]
- (xviii) Vide letter dated 12.08.2019, the Appellant submitted all the required documents to the Additional Principal Chief Conservator of Forests (Planning Development and Legal Matters), Government of Meghalaya. The Appellant submitted information on clinker production and capacity utilization for the years 2014-



2019, coal consumption for the years 2014-2019, total production of thermal power plants and capacity utilization for the years 2014-2019, coal consumption in the TPPs for the years 2014-2019. Copy of the letter dated 12.08.2019 is annexed hereto and marked as ANNEXURE A-12. [PAGE NO.331 TO 335]

(xix) The Seventeenth sitting of the Committee was held on 14.08.2019 wherein the representative of the Appellant was present. It was observed that the Appellant submitted information relating to one cement plant and one 10 MW capacity captive power plant. It is submitted that the Committee noted without any basis and despite evidence to the contrary that there is a gap of 4,94,415 MT of coal between the coal required by the Appellant herein and that procured from legal sources, and therefore the gap in all probability has been met from illegally sourced local coal. The Committee based its conclusion on the basis of the following:

- a. The Committee after examination of the Techno Economic Feasibility Report of the Augmentation of the Clinkerization capacity of the plant from 900 TPD to 2600 prepared by Holtec Consulting Private Limited 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 %.

- b. 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., 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 this 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.

The Minutes mention the 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 in the table 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	1,17,042	1,23,703	1,02,044	1,23,134	1,22,886	5,88,809



	<i>required (MT)</i>						
	<i>Coal procured (MT)</i>	77,457	29,899	30,881	35,220	34,317	2,07,774
	<i>Gap (MT)</i>	39,585	93,804	71,163	87,914	88,569	3,81,035
<i>Captive Thermal Power Plant (TPF)</i>	<i>Power Produced (Million kwh)</i>	27,738	54,472	58,191	68,590	69,887	278,88
	<i>Coal required (MT)</i>	19,971	39,220	41,898	49,385	50,319	2,00,792
	<i>Coal procured (MT)</i>	19,076	14,787	15,087	18,792	19,670	87,412
	<i>Gap (MT)</i>	895	24433	26811	30593	30649	1,13,380
<i>Total for the Clinker/Cement and TPP</i>	<i>Coal required (MT)</i>	1,37014	162923	143942	172519	173204	7,89,601
	<i>Coal procured (MT)</i>	96,533	44,686	45,968	54,012	53,987	2,95,186
	<i>Gap (MT)</i>	40,481	1,18,237	97,974	1,18,507	1,19,217	4,94,415

Copy of the minutes of the meeting held on 14.08.2019 is annexed hereto and marked as ANNEXURE A-13.

[PAGE NO.336 TO 388]



- (xx) The matter was further considered by the NGT on 22.08.2019 in light of the 3rd Interim Report dated 02.08.2019 received from the Committee and certain directions were passed by the Tribunal. Copy of the order dated 22.08.2019 is annexed hereto and marked as ANNEXURE A-14. [PAGE NO.389 TO 401]
- (xxi) In the 4th Interim Report dated 31.08.2019, the Committee considered the mechanism to deal with complaints under Section 21 of the MMDR Act of illegal raising and transportation of coal, procedure for exercise of powers under Section 21(5) of the MMDR Act, action to be taken in new cases of illegal mining/storage and transportation, action for preventing illegal mining and storage, recovery of fresh stock of coal extracted prior to ban, action for violation of Water (Prevention and Control of Pollution) Act, 1974 and Environment Protection Act apart from action under MMDR Act. The Committee also considered steps for mitigating environment pollution caused by acidic water and emitting from the coal depots/dumps, mechanism in term of EIA Notification of 2006, video recording of consignments for illegal transportation of coal, scheme to reward informers giving information about illegal mining/transportation, establishing coal mine surveillance system and SOP to deduct illegal mining or dumping of coal, disposal of coal confiscated under Section 21(5) of MMDR Act. It also considered preparation of geological and feasibility report for scientific coal mining, execution of pilot project for treatment of acidic water and for afforestation and reclamation of coal mining affected land, preparation of draft guidelines for utilization of amounts of MEPR fund including



amount of Rs.100 Crore transfer to CPCB as well as continuation of Prof. (retired) A.K. Singh, from Indian School of Mines, Dhanbad as Member of the Committee, recording of coal depots where coal is to be handed over to Coal India Limited by Joint Committee. In this connection the Committee gave various directions in its report dated 31.08.2019.

(xxii) After receipt of the Minutes of Meeting dated 14.08.2019, vide letter dated 10.09.2019 addressed to the Hon'ble Chairman of the Committee, the Appellant requested to review the observations made against the Appellant during the Seventeenth sitting of the Committee held on 14.08.2019. The submissions are extracted hereinbelow:

1. *"That the objective of Techno-Economic Feasibility Studies/ Detailed Project Reports is to determine the technical feasibility and financial viability of the project, assess the risks associated with the project and enumerate imminent actions that are required to be taken.*
2. *The same is required by financial institutions to assess the viability, site conditions, availability of resources, background, market etc. and funding of the project within the desired limits. Further, Plant & Machinery is ordered based on the current technology available, industry trends, market standards, fuel efficiency, design and technical specifications released by the consultant during project execution. Details and data*



given in TEFRs would therefore, may vary as per site conditions.

3. It is very much feasible by Plants of this calibre, to use alternate fuel without any hindrance. Alternate fuels are being successfully used world-wide and usage at our plant also, can be verified by a technically competent agency. Several seminars and conferences are being held time to time to promote the use of alternate fuel within the same infrastructure, by Government agencies along with Cement manufacturers Association, Pollution Control Board, CII etc. aided by research scholars and technology experts. The Government of India vide its different programs is keen to ensure a seamless transition to Alternate fuel by Cement Industry.

4. All our procurements, including alternate fuel procurements are made by way of banking transactions, duly paid by cheque; Sales tax/GST paid on the same time to time and accounted for. It duly appears on our Books of accounts submitted with Income Tax department & Annual returns filed with Registrar of Companies, Shillong.

5. Royalty have also been paid on the same periodically, from April 2014 to September'2017. Balance payments till March 2019 is under progress.

6. The use of alternate fuel (Slate/ MuSlate) has duly been reported in Environmental Statements to Meghalaya State Pollution Control Board, Shillong every year as compliance."



Copy of the letter dated 10.09.2019 is annexed hereto and marked as ANNEXURE A-15. [PAGE NO.402 TO 404]

The North East Regional Directorate of CPCB in its letter dated 13.09.2019 mentioned that prima facie the use of alternate fuel by cement and power plants is technically feasible and is in fact encouraged by Pollution Control Board. It is further mentioned that if the Industries use Pet Coke or slate as alternate fuel resource (ARF) it is not required to modify or attach a new fuel/material feeding system. AFR are generally used together with coal. As the physical characteristics of pet coke and slate are similar to coal these alternate fuels can be used in the existing coal mills for pulverization before feeding into the kiln or boilers after blending with coal. It is further mentioned that by using AFR/HW/RDF in kiln/boiler furnace, use of conventional fuel like coal is reduced. This arrangement helps in reducing the consumption of conventional fuel like coal and this brings in reduction in greenhouse gas emission. This is also referred to by the committee in its 5th Interim Report dated 02.12.2019. Copy of the CPCB letter dated 13.09.2019 is annexed herewith and marked as ANNEXURE-A-16. [PAGE NO.405 TO 407]

(xxiii) That the Committee submitted the 5th Interim Report dated 02.12.2019 with findings and recommendations on the coal requirements of the cement companies and the feasibility of Slate as an alternate fuel. The findings as regards the Appellant were recorded in Para 3.1 and the recommendations in Para 3.2 of the Report.



Shockingly, the Committee in its 5th Interim Report submitted to the NGT concluded that during the years 2014-15 to 2018-19 the coal required by the Appellants herein for producing clinker was 8,39,511 MT whereas the coal procured during this period was 2,95,186 MT and therefore, there was a gap of 5,44,325 MT between the coal required and that procured (the purchase of the entire quantity of Alternate Fuel/MuSlate was disregarded) and that this gap of 5,44,325 MT has been met from the illegally mined local coal. The Committee recommended to the NGT to realize royalty, GST/VAT and contribution to MEPRF amounting to Rs. 84.915 crores from the Appellants herein as per the details given below:

Royalty	-	Rs. 36.742 crores
MEPRF	-	Rs 26.400 crores crores
GST/Vat	-	Rs. 21.773 crores
TOTAL	-	Rs. 84.915 crores

The above figure of alleged use of illegal coal has been arrived at by the committee by considering that coal requirement is at least 15% of the clinker produced and that no alternate fuel has actually been used at all.

In addition, the Committee also recommended to the NGT that an amount of Rs.400 MT of coal to be utilized by the Appellant herein (and other plants) on or after the date of the order shall be directed to be deposited in the MEPRF. It was further stated 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. 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."

"3.1.8 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."

Copy of the 5th Interim report of the Committee dated 2.12.2019 is annexed hereto and marked as ANNEXURE A-17.

[PAGE NO.408 TO 484]

- (xxiv) That the Committee further submitted its 6th Interim Report dated 03.12.2019 to the NGT. The 6th Interim Report dealt with the objections raised by the State of Meghalaya before the Committee on the ground that the same is in violation of directions of this



Hon'ble Court. It is pertinent to mention that the objections did not pertain to the issues concerning the Appellants herein.

-) That the NGT vide impugned order dated 17.01.2020 accepted all the recommendations of the Monitoring Committee submitted in its 4th, 5th and 6th Interim Report dated 31.08.2019, 02.12.2019 and 03.12.2019 respectively and accordingly directed the Chief Secretary of the State to take punitive measures for illegal mining without giving any opportunity of hearing to the parties aggrieved by the implementation of such recommendation of the committee. Further, the objections of the State of Meghalaya were rejected. No notice whatsoever was served to the aggrieved parties and in fact no opportunity to submit objections to the the 5th Interim Report of the Committee was given to the concerned parties. The NGT before accepting the recommendations of the committee which had a large bearing on the various companies including the Appellant company were not made party in the case pending before the Tribunal. Acceptance of the recommendations of the Committee which adversely affected the Appellant company, without giving any opportunity of hearing is a clear violation of the principles of natural justice. It is a well settled principle of natural justice that before passing of any order, adequate opportunity of hearing must be given to the effected part by way of issuance of notice and no order having adverse consequences shall be passed without giving an opportunity of hearing to the effected parties.



(xxvi) Subsequent to the passing of the impugned order Vide Notice dated 19.02.2020, the Director of Mineral Resources, Meghalaya Shillong enclosed Para 3.1.4 of the Fifth Interim Report of the Independent Committee on Resource (Coal) Audit of Cement Industries and Thermal Power Plants in Meghalaya submitted to the NGT on 02.12.2019 and directed the Appellant to make payment of Rs. 84.915 crores for allegedly using illegally mined coal. It was further stated that on failing to make payment, necessary action as per law will be initiated.

(xxvii) The Superintendent of Taxes, West Jaintia Hills, Jowai issued a notice dated 12.03.2020 directed the Appellant to pay the tax component (MVAT and GST) and outstanding electricity duty to the Government for procuring of 7,41,092 (MT) coal from unknown sources. It was directed that reply to the notice may be submitted on or before 31.03.2020. The said notices are based on the recommendations made in the 5th Interim report of the Independent committee appointed by Hon'ble National Green Tribunal in O.A. No. 110 (THC)/2012.

(xxviii) The Office of the Commissioner of Central Goods & Services Tax, issued a letter dated 18.05.2020 stating, inter alia that as per para 3.1 of the Fifth Interim Report of the Independent Committee on Resource (coal) Audit of cement industries thermal power plants in Meghalaya submitted to the National Green Tribunal, Principal Bench on 02.12.2019, the total coal required in respect of Meghalaya Cement Limited (MCL) is 696177 metric tons for the years 2015 16 to 2018 19 and the applicable royalty



calculated is Rs. 46.992 crore @ of rupees 675 per metric ton. It was requested that the following information may be furnished by 05.06.2020:

“(i) Details of payment made as royalty on coal (year -wise and month-wise)

(ii) Details of Service Tax paid on Royalty on coal (year - wise and month-wise). If no Service Tax payment made, reasons thereof with supporting documents to be submitted.

(iii) Details of GST paid on Royalty on coal (year-wise and month-wise). If no GST payment made, reasons thereof with supporting documents to be submitted.

(iv) Details of Cess paid on coal (year -wise and month-wise). If no Cess payment made, reasons thereof with supporting documents to be submitted.”

(xxix) Vide notice dated 16.07.2020, the Director of Mineral Resources, Government of Meghalaya, Shillong, Meghalaya called upon the Appellant to make payment of royalty, MEPRF on allegedly illegally sourced coal in continuation of the earlier letter dated 19.02.2020.

(xxx) The order dated 17.01.2020 in OA 110 (THC)/2012 was subject matter of challenge in CA No. 15528 of 2020 (Star Cement Limited versus State of Meghalaya & Ors.), which was filed on 21.07.2020 and which is pending consideration before this



Hon'ble Court. Vide order dated 17.9.2020, notice has been issued in the said Appeal.

Thereafter, after the passing of the impugned order, the following subsequent events have occurred. The Appellant is preferring a separate application seeking permission to bring the same on record and permission to place on record additional documents not forming part of court below which are necessary for the proper adjudication of the case.

(xxxix) Vide order dated 27.07.2020, the NGT considered the 7th Interim Report dated 30.04.2020 by the Committee which dealt with finalization of comprehensive plan prepared by the Government of Meghalaya for handing over of extracted coal to CIL for auction and measures for restoration of the environment.

(xxxixii) Vide show cause notice dated 21.09.2020, the Director of Mineral Resources, Government of Meghalaya, Shillong called upon the Appellant to show cause as to why a case may not be registered under Section 21 (1) of the MMDR Act, 1957. The said notice is based on the recommendations made in the 5th Interim report of the Independent committee appointed by Hon'ble National Green Tribunal in O.A. No. 110 (THC)/2012. It is pertinent to mention that the said notice was received by the Appellant on 29.10.2020.

(xxxixiii) A Committee was constituted vide Government Notification MG.48/2020/94 dated 14.10.2020 to review the quantity of clinker and/or power produced by Cement Plant and



Thermal power plants and quantity of coal purchased and legal source of coal to comply with the NGT's order dated 17.01.2020. The Committee was chaired by the Chief Secretary to the Government of Meghalaya.

v) Vide Reply dated 09.11.2020, the Appellant responded to the notices dated 19.02.2020 and 16.07.2020 for payment of royalty, MEPRF to the Director of Mineral Resources, Government of Meghalaya. The Appellant denied all allegations that it has used any illegally sourced coal in its cement manufacturing and captive power plants as reported by the committee, and its consequent liabilities to pay any royalty, MEPRF on such alleged illegally sourced coal. It was objected that no opportunity has been given to the Appellant to raise objections to the report, either before the independent committee or before the Hon'ble Tribunal. Further, it was explained that the findings of the Committee were erroneous for the following reasons in brief:

1. No concrete evidence whatsoever to establish that the Appellant has purchased illegally sourced coal. The entire report is based on conjectures and premises based on an analysis of another Cement manufacturing plant and Thermal power plant.
2. The committee has taken an erroneous view on the assumption that specific coal requirements of Cement manufacturing plants and Captive Thermal power plant of MCL are same as specific coal requirements of another plant, Star Cement Limited and on that basis has wrongly



calculated alleged year wise gap on total coal required and coal procured.

3. That the Appellant cannot be subjected to a huge penalty based on the assumption that the coal requirement of MCL is 15% of the clinker produced. This is wholly erroneous since the same had to be assessed on the basis of actuals. The Committee failed to take into consideration the technical factors involved while making its assessment and hence, method of calculation adopted by the Committee is inherently wrong which is based on mere surmises.

4. That the Appellant had informed about the use of alternate fuel which is also recorded in the Fifth Interim Report, however, while assessing the requirement of coal the Committee completely ignored the use of other alternate fuel.

5. If given an opportunity, the Appellant can substantiate its claim that the quantity of coal procured by the Appellant as mentioned in the documents submitted before the Committee along with other alternate fuel was sufficient for running of its plants to produce the reported quantity of clinker and power during the resource audit period. The Appellant had not been given an opportunity to prove that the design of its plants are such so as to support use of other alternate fuel including slate.

(xxxv) Vide Reply dated 09.11.2020, the Appellant responded to the notices dated 21.09.2020 sent by Director of Mineral Resources, Government of Meghalaya for Section 21(1) of the MMDR Act.



173

The Appellant denied all allegations that it has used any illegally sourced coal in its cement manufacturing and captive power plants as reported by the committee. It was objected that no opportunity has been given to the Appellant to raise objections to the report, either before the independent committee or before the Hon'ble Tribunal. The response dated 09.11.2020 to the notices dated 19.02.2020 and 16.07.2020 for payment of royalty, MEPRF to the Director of Mineral Resources, Government of Meghalaya was enclosed. The following submissions were made as well:

1. Penal provisions have to be construed strictly and therefore no case can be registered when there is no evidence to show that the Appellant has either done illegal mining or transported or stored mineral which has been excavated contrary to the provisions of the Act and thus there is nothing to show that the ingredients that constitute an offence under Section 21 are present.
2. Without prejudice to the above, it may be noted that there is no recommendation made in the Fifth interim report to proceed against the Cement Companies under Section 21(1) of the MMDR Act. It is only the seized coal that had to be dealt with under Section 21 of the MMDR Act. There is no finding that illegally mined coal has been seized from the Appellant.



(xxxvi) The Committee headed by the Chief Secretary held a meeting on 19.10.2020. The Committee found that there is a gap of 26508 MT for Appellant and 3715 MT for the Appellant's Captive Power Plant between the estimated coal requirement and coal procured for the period of February 2020 to July 2020. The Committee directed the Director of Mineral Resources to issue Show Cause Notice to explain the reason for gap in quantity. It was further noted that the Appellant has not produced transport challans for 8476 MT to prove legal sources of coal. The Committee directed all cement plants including the Appellant to furnish transport challans issued by the Mining Department of the origin state or documents of Coal India Limited as proof of coal procured during the period. The Committee decided to issue show cause notice to companies who failed to submit the same within one week. The Committee further directed inter-alia the Appellant to submit data for August and September 2020.

(xxxvii) Vide letter dated 20.11.2020, the Appellant replied to the Notice dated 12.03.2020 issued by the Superintendent of Taxes, West Jaintia Hills, Jowai. The Appellant denied all allegations that it has used any illegally sourced coal in its cement manufacturing and captive power plants as reported by the committee, and its consequent liabilities to pay any tax or electricity duties on such alleged illegally sourced coal. It was objected that no opportunity has been given to the Appellant to raise objections to the report, either before the independent committee or before the Hon'ble Tribunal. Further, it was explained that the findings of the Committee were erroneous for the following reasons in brief:



175

1. No concrete evidence whatsoever to establish that the Appellant has purchased illegally sourced coal. The entire report is based on conjectures and premises based on an analysis of another Cement manufacturing plant and Thermal power plant.
2. The committee has taken an erroneous view on the assumption that specific coal requirements of Cement manufacturing plants and Captive Thermal power plant of MCL are same as specific coal requirements of another plant, Star Cement Limited and on that basis has wrongly calculated alleged year wise gap on total coal required and coal procured.
3. That the Appellant cannot be subjected to a huge penalty based on the assumption that the coal requirement of MCL is 15% of the clinker produced. This is wholly erroneous since the same had to be assessed on the basis of actuals. The Committee failed to take into consideration the technical factors involved while making its assessment and hence, method of calculation adopted by the Committee is inherently wrong which is based on mere surmises.
4. That the Appellant had informed about the use of alternate fuel which is also recorded in the Fifth Interim Report, however, while assessing the requirement of coal the Committee completely ignored the use of other alternate fuel.
5. If given an opportunity, the Appellant can substantiate its claim that the quantity of coal procured by the Appellant as mentioned in the documents submitted



before the Committee along with other alternate fuel was sufficient for running of its plants to produce the reported quantity of clinker and power during the resource audit period. The Appellant had not been given an opportunity to prove that the design of its plants are such so as to support use of other alternate fuel including slate.

6. The tax liability cannot be imposed only in view of the report of a committee since it is not a situation envisaged under the taxation statutes. The manner of levy of taxes and recovery under different statutes are hedged by various limitations and subject to fulfilment of various pre-conditions. Without there being any determination of liability and assessment thereof being completed by competent authority after examining books of record, demand and recovery of the levy does not arise. The committee or the Hon'ble NGT have no power to levy taxes and other dues payable under various statutes as mentioned above.

(xxxviii) Vide letter dated 24.11.2020, the Appellant replied to the Notice dated 18.05.2020 issued by the Office of the Commissioner of Central Goods & Services Tax. After reiterating the submissions made vide replies dated 20.11.2020 and 09.11.2020, the Appellant furnished the information as regards royalty paid on coal procured, service tax on Royalty, GST on Royalty and cess reimbursed to the vendor of the coal.



(xxxix) Vide Memo dated 30.11.2020 issued by the DMR, Meghalaya, it was stated that:

"The Committee found that there is a gap of 2,31,120 MT between quantity of coal required to produce clinker/ power and coal purchased by these cement plants/thermal power plants during the period of February, 2020 to July, 2020. Prima facie it appears that cement plants/ thermal power plants have concealed 2,31,120 MT coal used by them. The committee directed DMR to issue show cause notice to explain the reason for gap in quantity required to produce clinker / power and quantity purchased / used by respective Cement plants/ Thermal power plants."

- (xl) However, it is pertinent to state that no explanation was sought for by the DMR from the cement companies. Further, no SCN was received consequent to the aforesaid Memo.
- (xli) Vide Notice dated 11.12.2020, the Directorate General of Goods and Services Tax Intelligence ("DGGI") sent a summons under Section 70 of the CGST Act 2017 to the Appellant. The summons directed the Appellant to appear before the DGGI, Shillong unit on 18.12.2020 along with the copy of demand notices for payment of royalty, MEPRF issued to the Appellant, copy of show cause notice for violation of MMDR Act, 1957 and year-wise details of procurement of slate from 2016-17 to 2020-21.



- (xlii) Vide reply dated 18.12.2020 to the DGGI, Shillong Regional Unit, the Appellant submitted that the documents sought for did not pertain to any tax payment. However, without prejudice, the Appellant submitted all the documents sought by the DGGI and also requested for postponement of hearing in light of the COVID-19 pandemic.
- (xliii) Vide email dated 18.01.2021, the DGGI rescheduled the personal appearance for 22.01.2021. On 22.01.2021, the representative of the Appellant appeared before the DGGI.
- (xliv) The Appellant submitted all details regarding procurement of clay/slate and royalty paid upon the same by the vendors, as requisitioned in the hearing held by the DGGI, Shillong on 22.01.2021 for the period 2014-15 to 2019-2020.
- (xlv) The DMR, Meghalaya issued a SCN dated 08.02.2021 observing that the Appellant failed to respond to or furnish documents for explanation of the gap in the quantity of coal required and used/purchased to the above Memo dated 30.11.2020. This observation has been made despite the fact that the memo did not call for any documents or explanation thereto. It was directed that a written explanation for not furnishing an explanation may be given failing which action will be initiated for violation of Section 4(1A) of the MMDR Act, 1957. Similar SCNs dated 08.02.2021 were issued for non-furnishing of transport challans by the Appellant, and for non-furnishing of the production and coal procured for the months of August and September 2020. It was



noted that the clinker/power production and coal procured for the months of November 2020 and December 2020 shall also be furnished within a week. The said SCNs were received by the Appellant on 12.02.2021.

(xlvi) The DMR, Meghalaya issued a SCN dated 08.02.2021 observing that the Appellant's Captive Power Plant failed to respond to or furnish documents for explanation of the gap in the quantity of coal required and used/purchased to the above Memo dated 30.11.2020. This observation has been made despite the fact that the memo did not call for any documents or explanation thereto. It was directed that a written explanation for not furnishing an explanation may be given failing which action will be initiated for violation of Section 4(1A) of the MMDR Act, 1957. Similar SCNs dated 08.02.2021 was issued for non-furnishing of transport challans by the Appellant, and for non-furnishing of the production and coal procured for the months of August and September 2020. It was noted that the clinker/power production and coal procured for the months of November 2020 and December 2020 shall also be furnished within a week. The said SCNs were received by the Appellant on 12.02.2021.

(xlvii) Vide response dated 25.02.2021 to the notices dated 08.02.2021 issued to the Appellant, it was explained that the Memo dated 30.11.2020 sought for no explanation and did not direct submission of any documents. However, the response dated 09.11.2020 to the SCN dated 21.09.2020 was enclosed in the letter. It was further mentioned that the reply dated 09.11.2020



contained a detailed explanation to the alleged gaps and the same may be construed as the explanation to the above-mentioned notices.

(xlvi) Vide response dated 25.02.2021 to the notices dated 08.02.2021 issued to the Appellant's Captive Power Plant, it was informed that the Appellant had been submitting the details of clinker and power production and coal procured on monthly basis to the Directorate of Mineral Resources regularly. Copies of such details submitted for the months of August-December were also enclosed.

(xlix) Vide order dated 15.03.2021, the NGT disposed of the proceeding with a direction that ownership of the task of compliance of the judgment of this Hon'ble Court with regard to preventing unscientific and unregulated mining, restoring the environment, rehabilitating the victims and handling of illegally mined coal should be taken over by the State Authorities, to be overseen by an Oversight Committee of 12 members, headed by Additional Secretary, MoEF & CC. The 8th Interim Report of the Committee which included recommendations for handling the MEPRF, method of coal mining, revised comprehensive plan for transport and auction of coal was also accepted.



The Committee headed by the Chief Secretary held a meeting on 09.04.2021 wherein it was observed that:

1. The Committee did not accept the explanation for gap in coal required and coal utilized furnished by the respective companies. The Committee noted that only 4 (four) companies have appealed to Hon'ble Supreme Court against Hon'ble NGT Order dated 17.01.2020. The Committee has decided that the actions in this matter in respect of M/s Star Cement Ltd. and its two subsidiaries as well as for M/s Shyam Century Ferrous Ltd. shall be kept on hold till the case is disposed of.
2. The Committee directed that the remaining cement plants/companies may appeal against the Hon'ble NGT Order dated 17.01.2020 within 15 days, failing of which, it will be deemed that the cement plants have accepted the findings of Hon'ble NGT Committee.
3. A table with the gap between estimated coal requirement and coal used for the months of November 2020- February 2021 was given. For the Appellant, the gap was ascertained to be 4219.24 MT, 4502.37 MT, 5107.49 MT, 4422.26 MT for the aforesaid months respectively. For the Appellant's Captive Power Plant, the gap was ascertained to be 1260.72 MT, 1142.29 MT, 1605.34 MT, 846.69 MT for the aforesaid months respectively.
4. The Committee directed DMR to issue direction to the companies who have not submitted Mineral Transport Challans, for domestic coal purchased from Private dealers, to furnish the



Mineral Transport Challans for the corresponding period given in these minutes.

5. The Committee directed DMR to issue Show Cause Notice to the companies who have not submitted Custom Clearances for imported coal purchased from Private dealers and to furnish the Custom Clearances for the corresponding period given in these minutes.

6. The DMR has been further directed to seek explanation from the companies for gap between coal required and coal utilized by them for production of clinker and/ or power production for the corresponding period given in these minutes.

7. The Committee has directed the Director of Mineral Resources to take necessary steps to ensure receipt of Show Cause Notices by the defaulting Companies.

- (i) It is pertinent to state that the Appellant received the aforesaid minutes of the Meeting 29.04.2021.
- (ii) Vide SCN dated 30.04.2021, the DMR called upon the Appellant provide explanation as to why case should not be registered against the Appellant under Section 21(1) of the MMDR Act, 1957.
- (iii) Vide another SCN dated 30.04.2021, the DMR directed cement plants to submit custom clearances for coal imported for the corresponding periods given in the Minutes within a week from the issue of the letter. Another SCN dated 30.04.2021 directed the companies to furnish Mineral Transport Challan issued by Mining



Department of origin State or by Coal India Limited for February to July 2020. Another SCN dated 30.04.2021 directed the companies to furnish an explanation for the gap in quantity of coal required to produce clinker/power and quantity of coal purchased/used within one week from the issuance of the notice.

- (liv) Hence, the present civil appeal. It is submitted that the Appellant did not prefer the present appeal on an earlier occasion since due to the situation ensuing due to Covid-19 pandemic. Further, after duly responding to the Show Cause Notices issued pursuant to the acceptance of the Committee report by NGT vide the impugned order, the Appellant was engaging with the authorities to adjudicate on the response given. It was only on 09.04.2021 that the Committee in its meeting stated that the explanation furnished by the Appellant, inter alia, is not acceptable.

4. GROUNDS

The Appellants herein craves leave to file the present Appeal on the following amongst other grounds set out herein below without prejudice to one another:

VIOLETION OF PRINCIPLES OF NATURAL JUSTICE

- A. BECAUSE the NGT failed to appreciate that the Committee has erroneously given a finding that the Appellant has used illegally sourced coal during the period 2014-15 to 2018-19. No opportunity has been given to the Appellant to raise objections to



the report, either before the independent committee or before the NGT. It is submitted that the impugned order has been passed in violation of principles of natural justice and therefore non est. It is respectfully submitted that no opportunity of filing written submissions or oral submissions was provided to the appellants herein before the NGT.

It is pertinent to note that the findings and recommendations of the committee accepted by the NGT vide order dated 17.1.2020 in OA 110 (THC)/2012 is subject matter of challenge in CA No. 15528 of 2020 (Star Cement Limited versus State of Meghalaya & Ors.), which is pending consideration before this Hon'ble Court. Vide order dated 17.9.2020 notice has been issued in the said Appeal.

- B. BECAUSE the NGT erred in so far that arguments were advanced only on the 4th Interim Report and the 6th Interim Report of the Committee and even the state of Meghalaya filed its response before the Tribunal only on the 4th Interim Report and the 6th Interim Report.
- C. BECAUSE one of the essential principles of natural justice is that the persons whose rights are to be affected must be given notice of the case or the charges which he has to meet. In the present case, the NGT did not provide any opportunity of hearing to the Appellant before accepting the recommendations of the Committee in gross violation of the principles of natural justice.



185

WITHOUT PREJUDICE TO ABOVE THERE IS NO CONCRETE EVIDENCE TO ESTABLISH THAT APPELLANT HAS PROCURED ILLEGALLY SOURCED COAL

BECAUSE the NGT failed to appreciate that there is no concrete evidence whatsoever to establish that the Appellant has purchased illegally sourced coal. The entire 5th Interim Report is based on conjectures and premises based on an analysis of another Cement manufacturing plant and Thermal power plant. It may be noted that the NGT vide its order of 4.1.2019 had asked the Committee to look into whether illegal coal mining and transportation is continuing and also directed trucks and cranes found to be involved in illegal mining and transportation be seized. Even the Hon'ble Supreme Court in *State of Meghalaya vs. All Dimasa Students Union, Dima Hasao District Committee & Ors* [(2019) 8 SCC 177] has held that 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 shall have the proprietary right in the mineral which shall not be lost. The Court has further held that only the coal which has been seized by the State in illegal transportation and illegal mining for which separate cases have been registered shall be dealt with in accordance with the provisions of Section 21 of MMDR Act, 1957. There is no evidence to show that the Appellant has either been involved in any illegal mining or illegal transporting or has used any such illegally sourced coal.



**IMPUGNED ORDER BASED ON A REPORT, FINDINGS
OF WHICH ARE BASED ON ASSUMPTIONS AND
CONJECTURES AND NOT ON ACTUALS**

- E. BECAUSE the findings of the independent Committee in the 5th Interim Report are prima facie erroneous and perverse and have been wrongly accepted by the NGT vide the impugned judgment. The impugned judgment accepted the findings of the 5th Interim Report without any application of mind and review on merits and the same ought to be set aside for this ground alone. The Report of the Committee is based on conjectures and surmises and completely disregards the factual position as confirmed by the concerned authorities of the state government and central government with documentary evidence.
- F. BECAUSE the NGT failed to appreciate that the committee has taken an erroneous view on the assumption that specific coal requirements of Cement manufacturing plants and Captive Thermal power plant of the Appellant are same as specific coal requirements of another plant, Star Cement Limited, who has also preferred an Appeal before this Hon'ble Court and on that basis has wrongly calculated alleged year wise gap on total coal required and coal procured. The capacity of the Cement plant and Thermal power plant of Star Cement is different from that of the Appellant and the plant is running on different parameters. Therefore no comparison could have been drawn between the coal requirements of the two different plants.



- G. BECAUSE the NGT failed to appreciate that the Appellant cannot be subjected to a huge penalty based on the assumption that the coal requirement of the Appellant is 15% of the clinker produced. This is wholly erroneous since the same had to be assessed on the basis of actuals. It is submitted that the Appellant had sufficient coal and other alternate fuel for production of desired quantity of clinker and power in their plants during the audit period.
- H. BECAUSE the NGT passed the impugned judgment without appreciating that there are various factors on which quantity of coal required per unit of power or per tonne of clinker produced is dependent upon such as plant design, PLF factor, operational efficiency, coal quality, etc. Further, there cannot be any standardization with respect to fuel requirement for all the cement and power plants within the State of Meghalaya as each plant will have different requirement based on the design of their plants and other technical factors as mentioned above. It is further submitted that the quantum of fuel even for the same plant may vary every year. The Committee failed to take into consideration the technical factors involved while making its assessment and hence, method of calculation adopted by the Committee is inherently wrong which is based on mere surmises.
- I. BECAUSE the NGT failed to appreciate that it is a well-known fact that coal requirement for a cement plant is a function of many variables including the design of the plant, process of manufacturing and calorific content of the coal/alternate fuel use. The coal requirement cannot be arbitrarily decided on the basis of



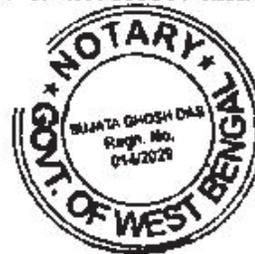
assumptions and the statement made by a competitor of the appellants herein.

J. BECAUSE the NGT failed to appreciate that the Committee has wrongly assumed that the coal requirement of the Captive Thermal plant of the Appellant would be equal to the coal requirement of the captive thermal plant of Star Cement Limited and therefore wrongly assumed coal requirement at the rate of 0.850 kg/ Kwh for the Appellant as well. The Committee did not take into account the fact that Star Cement had a Thermal Power plant of 43 megawatts and the requirement of Thermal Power plant of 10 MW of the Appellant with different plant design cannot be the same. Even otherwise the requirement of coal at the rate of 0.850 kg/kwh has been assumed by the Committee without any technical basis merely on surmises. Therefore, it is submitted that no comparison could have been drawn between the coal requirements of the two different plants.

K. BECAUSE the NGT failed to appreciate that the entire calculation of use of illegal coal is primarily based on the presumption that use of alternate fuel is technically not feasible. However, any independent agency can verify that the same is technically feasible. Unless any evidence is found to the contrary, the details of the same used by the company as recorded in its books of accounts for last many years and as duly confirmed by the State Government and for which royalty has duly been paid to the State Government cannot be disregarded.



- L. BECAUSE the NGT erred in accepting the findings of the Committee despite the fact that the Appellant had informed about the use of alternate fuel which is also recorded in the Fifth Interim Report. However, while assessing the requirement of coal, the Committee completely ignored the use of other alternate fuel. In the report it is incorrectly recorded that year wise quantities of Slate used by the Appellant were not provided to the Committee. It may be noted that in the minutes of the Seventeenth sitting of the Committee held on 14.8.2019 it has been recorded that the Appellant submitted information and documents sought by the Committee. The issue of non-availability of complete information was never raised in the subsequent meetings. In the Background to the Report, it has been recorded at para 1.21 that all cement industries have submitted requisite information. It has also been recorded that the Committee received information sought from MSPCB. It is pertinent to note that the Appellant had been submitting their Annual Environment Statement to MSPCB in which the year wise quantity of slate used was also provided. This shows that the committee had all the requisite information.
- M. BECAUSE it is submitted that given an opportunity, the Appellant can substantiate its claim that the quantity of coal procured by the Appellant as mentioned in the documents submitted before the Committee along with other alternate fuel was sufficient for running of its plants to produce the reported quantity of clinker and power during the resource audit period. The calculation of Gap between coal required and coal procured as calculated by the Committee is incorrect and based on wrong



understanding about consumption of alternate fuel. The Committee failed to take into consideration the opening stock of coal as well as the use of other alternative fuel while making its calculation which is an apparent factual error in its assessment.

- N. BECAUSE the NGT failed to notice the incorrect and misconceived assumption of the Committee that use of two-third amount of slate as alternate fuel is technically not feasible without change or modification in the plant design. The Appellant had not been given an opportunity to prove that the design of its plants is such as to support use of other alternate fuel including slate. Further the same is based on the wrong premise that coal requirement is 15% of clinker production and coal requirement for thermal power plant is 0.850kg/MWH. It is worth mentioning that use of alternate fuel is being encouraged by the Government and in fact MoEF & CC of late has been stipulating specific conditions to a few cement mills in Meghalaya to use Hazardous Waste/Refused Derived Fuel/Alternate Fuel Resources in kilns and even the EC granted to various cement plants in the region stipulates such conditions. Even otherwise, technical feasibility of use of alternate fuel can be verified by any independent technical agency.
- O. BECAUSE the NGT erred in accepting the NGT report as the Committee has drawn a wrong inference that use of slate is not technically feasible for use in 10 MW Captive Power Plant merely on the basis of a Techno-Economic feasibility report where it was not specifically stated that it will be feasible to use



alternate fuel other than coal. In fact, it has also not been stated in positive terms that no other alternate fuel can be used.

- P. BECAUSE NGT failed to appreciate that the objective of the Techno - economic Feasibility Report is to determine the technical feasibility and financial viability of the project, assess the risk associated with the project and enumerate imminent actions that are required to be taken. The same is primarily required for financial institutions to assess viability for funding of the project. The statements made in the report are based on the current technology available. They cannot act as an estoppel for adopting any future improved technology other than that mentioned in the report. Further no scientific analysis was done to examine if slate was compatible to be used in the plants or that in fact it was being used without any adverse technological impact on the plants. The finding that slate is not compatible to be used as alternate fuel is based on assumptions.
- Q. BECAUSE NGT failed to appreciate that even the Commissioner & Secretary to the Government of Meghalaya, Mining and Geology Department has stated before the NGT Committee that *"Local suppliers have supplied muslate or slate sourced from overburden of coal mining carried out prior to the ban imposed by the Hon'ble NGT to the cement plant. The Cement plants have paid royalty on slate or muslate used"* [Refer to para 2.2.25 of the Fifth Interim Report]. Having already paid royalty on the slate used as alternate fuel which is acknowledged by the State, Committee's assessment of gap in coal consumption ignoring use



of slate as alternate fuel and directing the Appellant to pay further royalty and MEPRF on alleged illegally sourced coal is completely unjustified, illegitimate and untenable. Merely because the royalty may have been paid after a delay, the same does not entail penal consequences as have been imposed by the Committee. The only responsibility of user/ purchaser of a mineral is to purchase royalty paid mineral. Till 2016 slate was produced as an overburden during coal mining and only after framing of Meghalaya Mineral Concession Rules, 2016 slate was included as a minor mineral requiring a mining lease and requiring payment of Royalty. In any event, the issue of non payment of royalty on slate, if any, is a cause of action separate from the allegation of allegedly purchasing illegally mined coal.

- R. BECAUSE NGT failed to appreciate that even the North East Regional Directorate of CPCB in its letter dated 13.09.2019 has mentioned that *“prima facie the use of alternate fuel by cement and power plants is technically feasible and is in fact encouraged by Pollution Control Board. It is further mentioned that if the Industries use Pet Coke or slate as alternate fuel resource (ARF) it is not required to modify or attach a new fuel/material feeding system. AFR are generally used together with coal. As the physical characteristics of pet coke and slate are similar to coal these alternate fuel can be used in the existing coal mills for pulverization before feeding into the kiln or boilers after blending with coal.”* It is further mentioned that *“by using AFR/HW/RDF in kiln/boiler furnace, use of conventional fuel like coal is reduced. This arrangement helps in reducing the consumption of*



conventional fuel like coal and this brings in reduction in greenhouse gas emission.” [Refer to para 2.2.17 and 2.2.18 of the Fifth Interim Report].

- S. BECAUSE it is submitted that the Appellant has been submitting the quantity of slate used to MSPCB since 2014-15 and at no point of time was an objection raised that the use of raw material was impermissible. It is submitted that despite the above statements, the Committee went ahead with its calculation without any technical evaluation based on its own surmises to arrive at the conclusion that there was gap in coal procured and coal consumed by the Appellant during the resource audit period.
- T. BECAUSE the NGT failed to appreciate that in Meghalaya about 2800 trucks transporting illegal coal have been seized by the concerned authorities. If the appellants herein were actually involved in the use of illegal coal on a massive scale as has been concluded by the NGT Committee, at least in a few cases the coal being procured by the Appellants herein would have also been seized/detected. There is not even a single reported case, involving appellants, of seizure/detection of illegal coal in transit by the concerned authorities.
- U. BECAUSE the NGT failed to appreciate that all the information provided by the Appellants herein has duly been confirmed by the concerned department of the State Government and the Central Government and the State Pollution Control Board.



- V. BECAUSE the NGT failed to appreciate that the Committee had earlier taken the coal requirement as 14% of the clinker production. This was done on the basis of the Statement given by some companies that the requirement varies between 9-14%. Without any supporting data and based on assumptions and presumption, the Committee subsequently concluded that the coal requirement is at least 15% of the clinker production. No reliable data has been used at all for the same and the factual details have completely been overlooked. Selective use of information provided to the Committee by the CPCB and the competitor of the appellants herein has been made.

**DIRECTION TO RECOVER ROYALTY, TAX AND
OTHER MONETARY PAYMENTS CONTRAY TO
STATUTE AND IN EXCESS OF POWER CONFERRED ON
NGT**

- W. BECAUSE without prejudice to the above it is submitted that the Appellant has not been engaged in any coal mining activity and hence the liability to pay royalty and MEPRF on alleged illegal mining cannot be imposed on the user. There is no provision under the MMDR Act, 1957 or any other statute under which the liability, that is being imposed by the committee and that too on mere assumptions and no cogent evidence, is sustainable.
- X. BECAUSE the NGT failed to appreciate that the NGT committee has also recommended for pay @ Rs.400/MT of coal to be utilised in future by the Petitioner companies and others in



Meghalaya. This coal will primarily comprise of coal imported from other countries and states that was purchased in the auction undertaken by the Coal India Ltd. and that may be produced after grant of Mining Lease by the authorities. This is totally arbitrary that such type of cess can be imposed only under a valid statute and not on the basis of an order without any basis at all.

BECAUSE show cause notices for recovery of MVAT, GST and electricity duty have been issued to the Appellant basis the recommendations of the 5th Interim Report of the Committee, the findings and recommendations of which have been erroneously accepted by NGT without any independent application of mind. In the present case the department has completed the assessment for the relevant years without finding any discrepancy in the returns filed by the Appellant. In any event, if the department is of the opinion that any tax is short paid or not paid and wants to reopen assessment, the procedure prescribed under the MVAT Act, 2002 or CGST Act 2017 or Meghalaya Electricity Duty Act, 2003 will have to be adhered to before initiating any action against the Appellant. The tax liability cannot be imposed only in view of the report of a committee since it is not a situation envisaged under the Acts in which levy can. The manner of levy of taxes and recovery under different statutes are hedged by various limitations and subject to fulfilment of various pre-conditions. Without there being any determination of liability and assessment thereof being completed by competent authority after examining books of record, demand and recovery of the levy does not arise. The Committee or the NGT have no power to levy



taxes and other dues payable under various statutes as mentioned above. It is further submitted that the GST on coal is on a reverse charge basis. In the absence of any evidence of any known supplier, levy of GST based on a hypothesis would cause grave injustice.

- Z. BECAUSE NGT failed to appreciate that the Committee in making recommendations for recovery of royalty, taxes and other statutory dues from various industries including that of the Appellant company and the order of the NGT accepting the recommendations of the NGT Committee and directing the State to recover the amount as recommended by the Committee is absolutely without jurisdiction inasmuch as it amounts to entrenchment of powers specifically reserved for some other State authorities under some different statutes. The recommendation of the Committee as well as the order of the NGT with regard to the recovery of royalty, taxes and other statutory dues is clearly usurpation of powers conferred on some other authority by some statutes and thereby neither the Committee nor the NGT has the authority to make any recommendation or make directions for recovery of the royalty, taxes and other statutory dues and thereby the said recommendations of the Committee and the order of the NGT accepting those recommendations is absolutely arbitrary, and liable to be set aside.
- AA. BECAUSE NGT Committee failed to take into consideration that the Meghalaya Goods and Service Tax Act, 2017 was enacted and the Meghalaya VAT Act was repealed by the said GST Act. No



197

proceedings for recovery of any VAT for the period prior to enactment of Meghalaya GST Act was pending before any authority at the any point of time and thereby the same is not saved by the provisions of the Meghalaya GST Act and thereby the recovery for realization of the VAT prior to the enactment of the Meghalaya GST Act without there being any proceeding pending before any taxing authority is absolutely illegal, without jurisdiction and in complete violation of the Meghalaya GST Act and thereby the recommendation of the Committee for recovery of Vat and the order of the NGT accepting those recommendations and directing the State for recovery of the same is absolutely illegal, arbitrary and liable to be set aside and/or quashed.

BECAUSE the NGT has no jurisdiction to enquire into questions arising out of Meghalaya VAT Act, 2003, the Meghalaya GST Act, 2017 and the Mines and Minerals (Development and Regulation) Act, 1957 under the NGT Act 2010. Consequently, the Committee constituted by the NGT equally has no power to enquire into questions arising out of the aforesaid Acts inasmuch as the powers have been conferred on specific authority by the said enactments and the Committee and the Tribunal cannot entrench upon the powers and jurisdiction reserved for a particular authority.



5. That the Appellant state that no other Appeal/Petition are filed by the Appellant before this Hon'ble Court or before any other Court against impugned final Judgment and Order dated 17.01.2020 passed by the National Green Tribunal Principal Bench at New Delhi in O.A No. 110 (THC) of 2012.

6. MAIN PRAYER:

In the circumstances mentioned above it is most respectfully prayed that this Hon'ble Court may be pleased to:

- (a) Admit and allow the present appeal and aside the final Judgment and Order dated 17.01.2020 passed by the National Green Tribunal Principal Bench at New Delhi in O.A. NO. 110 (THC) of 2012 ;
- (b) Pass such further and other orders and directions as this Hon'ble Court deems fit and proper.

AND FOR THIS ACT OF KINDNESS THE APPELLANT AS
IN DUTY BOUND SHALL EVER PRAY.

DRAWN & FILED BY:

DRAWN ON: 07.05.2021
FILED ON: 28.05.2021
NEW DELHI

Vanita Bhargava
VANITA BHARGAVA A O R
ADVOCATES FOR THE APPELLANT



Item No. 28

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 110(THC)/2012

Threat to life arising out of coal mining
in south garo hills district

Applicant

Versus

State of Meghalaya & Ors.

Respondent

Date of hearing: 22.08.2023

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, CHAIRPERSON
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

ORDER

1. Since the matter relates to the Eastern Zone Bench, Kolkata, thus, the matter is transferred to Eastern Zone Bench, Kolkata
2. Thus, the Registry is directed to transfer and transmit the records of this matter to Eastern Zone Bench, Kolkata where the Registrar shall register the case and place before the Bench for further proceedings according to Rules.
3. List this matter before NGT Eastern Zone Bench, Kolkata on the date already fixed.

Sheo Kumar Singh, CP

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

August 22, 2023
SN



Item No.11

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.154/2023/EZ
(I.A. No.58/2023/EZ)

Threat to Life arising out of
Coal Mining in south Garo Hills District

Applicant(s)

Versus

State of Meghalaya &Ors.

Respondent(s)

Date of hearing: 19.10.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : *Suo Motu*,

For Respondent(s): Mr. Anuj Singh, Advocate for R-10, (in Virtual Mode)
Mr. Sudipto Sirkar, Advocate for R-11-13,
Mr. Rohan Talwar, Adv. (in Virtual Mode) a/w
Ms. Sneha Singh & Ms. Bipasha Jaiswal, Advocates
For Goldstone Cements Ltd.,
Ms. Vanita Bhargava, Advocate (in Virtual Mode) a/w
Ms. Shivangi Thard, Advocate for Meghalaya Cements Ltd.
Mr. Kanisk Kejiriwal, Advocate (in Virtual Mode)
For Amrit Cement Ltd.,

ORDER

1. The case records of this case have been received in the Eastern Bench of the National Green Tribunal at Kolkata on 26.09.2023 on being transferred from the New Delhi Bench of the Tribunal vide its order dated 22.08.2023.
2. The Office of the Tribunal is also directed to give fresh numbers to the various Respondents appearing in this Original Application.
3. Today is the first date. issue notice to the Respondents, returnable within four weeks.
4. Ms. K. Enatoli Sema, learned Counsel appearing (in Virtual Mode) has put in appearance on behalf of the Respondent No.8, Meghalaya State Pollution Control Board.



5. Mr. Anuj Singh, learned Counsel appearing (in Virtual Mode) has put in appearance on behalf of the Respondent No.10, Dalmia Cement (Bharat) Limited.
6. Mr. Sudipto Sircar, learned Counsel has put in appearance on behalf of the Respondent Nos.11, 12 & 13, Star Cement Ltd., Star Cement Meghalaya Ltd. and Meghalaya Power Limited.
7. Ms. Vanita Bhargava, learned Counsel appearing (in Virtual Mode) assisted by Ms. Shivangi Thard, states that she represents the Meghalaya Cements Ltd. who had filed Civil Appeal No.2355/2021 before the Hon'ble Supreme Court and, therefore, the Meghalaya Cements Ltd. needs to be impleaded in the array of Respondents. Learned Counsel prays for and is granted two weeks time for filing I.A. for impleadment of the said Respondent.
8. Mr. Kanisk Kejiriwal, learned Counsel appearing (in Virtual Mode) states that he represents Amrit Cement Ltd. who had filed Civil Appeal No.4962/2022 before the Hon'ble Supreme Court and, therefore, the Amrit Cement Ltd. needs to be impleaded in the array of Respondents. Learned Counsel prays for and is granted two weeks time for filing I.A. for impleadment of the said Respondent.
9. Mr. Anuj Singh, learned Counsel appearing for Respondent No.10, Mr. Sudipto Sircar, learned Counsel appearing for Respondent Nos.11 to 13, Mr. Kanisk Kejiriwal, learned Counsel appearing for Amrit Cement Ltd., and Ms. Vanita Bhargava, learned Counsel appearing for Meghalaya Cement Ltd., state that they may be permitted to inspect and collect the records of the case since they were not parties at any stage of the proceedings before the New Delhi Bench of the Tribunal. Counsel may inspect and collect the



case records that may be required for purposes of the present case as per rules of the Court.

10. Learned Counsel also pray that they may be granted liberty to file their affidavits post inspection of the records of the case. Let them file such affidavits as they may require before the next date of listing.
11. No one is present on behalf of the State of Meghalaya, though the case records show that Mr. Avijit Mani Tripathi, Advocate appeared before the New Delhi Bench of the Tribunal. We, therefore, direct the Office to send him information of this case on his e-mail.
12. The Counsel for the parties shall exchange copies of their affidavits among themselves before the next date of listing.
13. Learned Counsel for the parties also earnestly requested that the matter may be listed in the second week of January, 2024.
14. **List on 09.01.2024.**

(I.A. No.58/2023/EZ):-

1. This I.A. has been filed by the Goldstone Cements Limited, praying that it be impleaded in the array of Respondents in the Original Application. It is stated that Applicant has been fasten with the huge penalty/compensation under the 5th Interim Report of the Katakey Committee constituted by the New Delhi Bench of the Tribunal.
2. We are satisfied that grounds for impleadment have been made out. The I.A. No.58/2023/EZ is, therefore, allowed. Let Goldstone Cements Limited be impleaded in the array of Respondents as Respondent No.14.



- 3. Affidavit dated 16.10.2023 has been filed on behalf of the Goldstone Cements Ltd.; the same is taken on record.
- 4. Mr. Rohan Talwar, learned Counsel appearing (in Virtual Mode) for the newly added Respondent No.14, prays that he may be permitted to inspect the record of the case and be granted liberty to file affidavit post inspection of records, if necessary.
- 5. Liberty as prayed is granted.

.....
B. Amit Sthalekar, JM

.....
Dr. Arun Kumar Verma, EM

October 19, 2023,
 Original Application No.154/2023/EZ
 (I.A. No.58/2023/EZ)
 AK

SOLENNY AFFIRMED
 BEFORE ME ON IDENTIFICATION
S. Sthalekar
 NOTARY

22 DEC 2023



Identified by me
Tina Das
 TINA DAS
 Advocate
 Reg. No. - F-1322/21



VAKALATNAMA

BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO. 154 OF 2023 (EZ)

[PREVIOUSLY NUMBERED AS OA No. 110 OF 2012 (PB)]

IN THE MATTER OF:

THREAT TO LIFE ARISING OUT OF COAL MINING IN SOUTH GARO HILLS DISTRICT

... Petitioner

Versus

STATE OF MEGHALAYA & OTHERS... Respondent

KNOW ALL MEN by these that I, Mahendra Kumar Agarwal, Managing Director of M/s. Meghalaya Cements Limited do hereby in our behalf constitute and appoint **Smt Vanita Bhargava**, Advocate, **Sri Ajay Bhargava**, Advocate, **Sri Shounak Mitra**, Advocate, etc of Khaitan & Co LLP, Advocates and Solicitors, true and lawful pleader/Advocate & attorney to appear and act for me/us in the matter noted above to file suit, written statement, affidavits, oppositions, conduct suit appeal from original suit order etc. and for that purpose to do all acts and thinks, whatsoever in that connection including compromise of the above matter deposing and/ or withdrawing money from filing or taking out or appear, document and payment order from Court referring matter in dispute between the parties hereto arbitration, withdrawing the above matters with liberty to file afresh, filing applications for release from attachment, filing execution or miscellaneous cases and other petitions, bidding at execution /sale, obtaining payment from court, withdrawing petitions and other fees and doing on my/our behalf such other acts in the above matters as are necessary and proper. I/We hereby agree to ratify and confirm all acts so done by the said Advocate or attorneys as me/our own acts and as if done by me/us to all intents and purposes.

Date. 17.10.2023

ADVOCATES

Vanita Bhargava, Advocate

Ajay Bhargava, Advocate

Shounak Mitra, Advocate

Zulfiqar Ali Alquaderi, Advocate

Vaibhavi Pandey, Advocate

Shivangi, Thard, Advocate

C/o. KHAITAN & CO, LLP

Advocates, Notaries, Patent & Trademark Attorneys

Emerald House

1B, Old Post Office Street, Kolkata 700001

Email: vanita.bhargava@khaitanco.com

ajay.bhargava@khaitanco.com

shouank.mitra@khaitanco.com

[M] 93303 03434

Meghalaya Cements Limited

Managing Director

Vanita Bhargava

Received & accepted by me
Zulfiqar Ali Alquaderi
Advocate

Received & accepted by me
Vaibhavi Pandey
Advocate



CERTIFIED TRUE COPY OF THE RESOLUTION PASSED AT THE MEETING OF THE BOARD OF DIRECTORS OF MEGHALAYA CEMENTS LIMITED HELD AT THE SALES AND MARKETING OFFICE AT MEGA PLAZA, 4TH FLOOR, CHRISTIAN BASTI, G.S. ROAD, GUWAHATI-781005, ASSAM ON MONDAY, THE 16TH DAY OF OCTOBER 2023 AT 11:00 A.M.

AUTHORISATION TO REPRESENT THE COMPANY BEFORE THE NATIONAL GREEN TRIBUNAL, EASTERN ZONE BENCH, KOLKATA

RESOLVED THAT the consent of the Board of Directors of the Company be and is hereby accorded to authorize Mr. Mahendra Kumar Agarwal (DIN: 00044343), Managing Director of the Company to represent the Company in legal proceedings initiated before The National Green Tribunal, Eastern Zone Bench, Kolkata, in the matter of **Threat to life arising out of coal mining in South Garo Hills District Versus State of Meghalaya & Others [ORIGINAL APPLICATION NO. 154 OF 2023 (EZ)]**.

RESOLVED FURTHER THAT Mr. Mahendra Kumar Agarwal (DIN: 00044343), Managing Director of the Company be and is hereby authorized to make, sign and affirm as the case may be all papers and documents relating to and/or arising from the aforesaid matter and to appear and represent before any Competent Court/Tribunal/Forum/Authority and to deal with all the involved legal issues and to adduce/lead evidence before any Court/Tribunal/Forum/Authority and to sign all the papers, documents, affidavits, verifications and vakalatnama and to appoint and/or engage Advocate(s)/Solicitor(s)/Counsel(s) for safeguarding the interests of the Company.

"RESOLVED FUTHER THAT certified copies of the resolution may be provided under the signature of any one of the Directors or Company Secretary of the Company to the above mentioned authorities

CERTIFIED TRUE COPY

For Meghalaya Cements Limited

MEGHALAYA CEMENTS LTD.

Kiran Agarwal

Director

Kiran Agarwal
Whole Time Director
DIN: 00818916



Sales & Marketing Office:
Mega Plaza, 4th Floor, Christian Basti
G. S. Road, Guwahati- 781 005, Assam
Tel.: 0361 2345421/22/23, Fax: 0361-2345419,
E-mail: guwahati@topcem.in

Corporate Office:
BE-77, Salt Lake City
Sector - 1, Kolkata - 700064
Tel.: +91 33 2334 0666 / 0004
Fax: 033 2334 0505
E-mail: kolkata@topcem.in

Registered Office:
Village Thangskai, P.O. Lumshnong
Pin-793 210, District Jaintia Hills, Meghalaya
Tel. : 03655 278324 / 363 / 364
Fax : 03655 278327
E-mail : meghalaya@topcem.in



From: [Deepak Singh](#)
To: "[enatoli@gmail.com](#)"; "[avijitmani@gmail.com](#)"
Cc: [Nikitha Shenoy](#)
Subject: OA 154 of 2023(EZ) Threat to life arising out of coal mining in south garo hills district Vs. State of Meghalaya & Ors.
Date: 26 December 2023 15:49:39
Attachments: [Impleadment Application Meghalaya Cement.pdf](#)

Dear Sir/Madam

Please find attached [Application seeking impleadment of Meghalaya Cements Ltd.](#) is being filed on behalf of Applicant/Respondent in OA 154 of 2023(EZ) Threat to life arising out of coal mining in south garo hills district Vs. State of Meghalaya & Ors.

Please acknowledge the receipt.

Regards
Deepak Singh
Court Clerk
Advocate for Applicant/Respondent
9911180884