



2026:CGHC:17397



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 3219 of 2020

Shree Nakoda Ispat Limited Having Its Registered Office Near Railway Crossing, Mowa, Vidhan Sabha Road, Po Saddu , Raipur 492014, Chhattisgarh.

... **Petitioner**

versus

1 - Union of India Through Secretary, Ministry of Coal Shastri Bhawan, New Delhi 110001.

2 - Coal India Limited Through The Cmd , Coal Bhawan, Premise No 04 Mar , Plot No. AFIII, Auction Area 1A, New Town , Rajarhat, Kolkatta 700156, West Bengal.

3 - South Eastern Coalfield Limited Through The Cmd Seepat Road, Bilaspur , Chhattisgarh 495006.

4 - The General Manager (S And M) South Eastern Coalfield Limited Seepat Road, Bilaspur, Chhattisgarh 495006.

... **Respondents**

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. Abhyuday Singh, Advocate
For Respondent No.1	:	Ms. Sweta Rai, Advocate
For Respondents No.2 to 4	:	Mr. Vinod Kumar Deshmukh, Advocate

Hon'ble Shri Amitendra Kishore Prasad, Judge

Order on Board

16.04.2026

- By filing the present writ petition under Article 226 of the Constitution of India, the petitioner has assailed the legality, validity and propriety of Clause 10.5.2 introduced by way of amendment to the Fuel Supply Agreement (FSA) vide notice dated



18.02.2019 issued by the respondent authorities. The petitioner has prayed for following relief(s):-

“(i) This Hon'ble Court may kindly be pleased to pass appropriate writ quashing the Clause 10.5.2 of notice no SECL/BSP/M&S/ FSA/NCDP/3544 dated 18th Feb 2019 of respondent no 03/ South Eastern Coalfield Limited (SECL) as being violative of Article 14 of the Constitution of India as being arbitrary and discriminatory.

(ii) This Hon'ble Court may kindly be pleased to pass appropriate writ directing the Respondents to reconcile the annual accounts of the Petitioner as per clause no 12.5.2 of the FSA on variation of supply grade of coal based upon third party/joint sampling / referee lab report at the earliest.

(iii) This Hon'ble Court may kindly be pleased to pass appropriate writ directing the Respondents to pay the sum due towards Royalty, DMF and NMET that have not been paid under Credit notes, along with interest to the petitioner, as per clause no 13.2 of the FSA

OR

This Hon'ble Court may kindly be pleased to pass appropriate writ directing the Respondents to refund/pay the sum collected towards Royalty, DMF and NMET through Debit notes, along with interest to the petitioner, as per clause no 13.2 of the FSA.

(iv) This Hon'ble Court may kindly be pleased



to pass appropriate writ directing the Respondents to pay the sum due against the Goods and service Tax, which has not be refunded back to the Petitioner due to erroneous calculation on part of the Respondents, along with interest.

(v) This Hon'ble Court may kindly be pleased to pass appropriate writ directing the Respondents to pay the interest on the amount due in each credit note from 30 days from the deemed annual reconciliation date till the date of actual payment.

(vi) Award cost of proceedings in favour of petitioner;

(vii) This Hon'ble Court may kindly be pleased to pass such other and further orders in favour of petitioner as this Hon'ble Court deems fit and proper in the present facts and circumstances of the case.”

2. Learned counsel for the petitioner submitted that the petitioner has assailed the legality, validity and propriety of Clause 10.5.2 introduced by way of amendment to the Fuel Supply Agreement (FSA) vide notice dated 18.02.2019 issued by the respondent authorities. The said clause, to the extent it permits the respondents to indefinitely withhold refunds arising out of credit notes, is ex facie arbitrary, unfair and violative of Article 14 of the Constitution of India. It is contended that the impugned clause creates an unconscionable and one-sided mechanism whereby, in cases of supply of superior grade coal, the petitioner is mandatorily required to make immediate payment along with all



statutory levies including royalty, DMF, NMET and GST; however, in cases of supply of inferior grade coal, the respondents do not refund the corresponding levies and instead restrict the refund only to the basic value and GST, that too without any stipulated timeline, thereby resulting in unjust enrichment at the cost of the petitioner.

3. It is further submitted that the impugned Clause 10.5.2 is contrary to and inconsistent with Clauses 9.2 and 12.5 of the FSA, which contemplate proper reconciliation of accounts and equitable adjustment in cases of grade variation. The action of the respondents in withholding legitimate dues of the petitioner, despite repeated requests, reflects a callous and arbitrary exercise of power, leading to blockage of substantial working capital of the petitioner and causing severe financial prejudice to its industrial operations. Such conduct, it is argued, is not only in breach of contractual obligations but also fails the test of fairness and reasonableness expected from “State” instrumentalities.
4. It is also contended that the respondents have deliberately carried out erroneous assessments while issuing credit notes, particularly by excluding statutory components such as royalty, DMF and NMET, and by improperly dealing with GST implications, thereby depriving the petitioner of the full and lawful refund due to it. This action is stated to be contrary to the statutory framework governing Goods and Services Tax and amounts to illegal



retention of tax components, which otherwise ought to have been duly adjusted and refunded. The petitioner further submits that such arbitrary retention of amounts, without any authority of law, is wholly impermissible and liable to be set aside.

5. It is further submitted that in terms of Clause 13.2 of the FSA, the petitioner is also entitled to interest on the delayed payment of the refund amount from the date it became due till its actual realization. In view of the aforesaid facts and circumstances, learned counsel submits that the impugned clause and the consequential actions of the respondents deserve to be quashed, and appropriate directions be issued for refund of the withheld amounts along with applicable interest, in the interest of justice.
6. Lastly, It is submitted that the issue involved in the present petition is no longer res integra in view of the judgment rendered by Co-ordinate Bench of this Court in ***D.B. Power and Others vs. Union of India and analogous cases (WPC No. 3366/2020 decided on 03.09.2024)***, wherein in similar circumstances, this Hon'ble Court has already directed the respondents, particularly SECL, to place the claim of the petitioner companies before the State Government of Chhattisgarh for refund/adjustment of excess royalty on account of grade slippage, and further directed the State Government to consider and decide the same expeditiously in light of the second proviso to Rule 64B of the Mineral Concession Rules, 1960 and the communication issued by the Ministry of Coal dated 12/8-



9/2023. It is also submitted that subsequent to the said judgment, the Ministry of Coal, Government of India has issued a clarification dated 13.01.2026, categorically stating that any amount collected on the basis of higher grade of coal, which is subsequently found to be of lower grade, must be refunded, as retention of such excess amount would be contrary to settled legal principles and would amount to unjust enrichment.

7. In view of the aforesaid, learned counsel submits that the present writ petition may also be disposed of in terms of the directions issued in the case of **D.B. Power** (supra), with an additional direction to the respondents to take into consideration the aforesaid clarification dated 13.01.2026 while processing and deciding the claim of the petitioner within a time-bound manner. The chart has been produced by learned counsel for the petitioner, which is reproduced below :-

S. No.	FSA No.	Qty (TPA)	Grade	Supply Location	By Road/ Rail	Agreed Basic Price (PMT)	End use plant
01	A-238	2,700	G5	Vijay West	Road	2775	Sponge Iron Plant (200 TPD)
02	A-623	27,500	G11	Gevra OC	Road	1245	-do-
03	A-624	13,600	G11	Kusmunda	Road	1245	-do-
04	A-1247	18,400	G13	Manikpur OC	Road	1180	-do-
05	A-1248	6,300	G11	Gevra OC	Road	1295	-do-
06	A-9	20,000	G11	Gevra Road	Rail	970	Sponge Iron Plate (350 TPD)
07	A-206	43,200	G6	Kumda	Rail	2280	-do-
08	A-395	15,400	G11	Kusmunda	Road	970	-do-
09	A-396	15,400	G11	Gevra OC	Road	1070	-do-
10	A-625	6,900	G11	Gevra OC	Road	1245	-do-



11	A-626	3,400	G11	Kusmunda OC	Road	1245	-do-
12	A-1246	3,800	G11	Gevra OC	Road	1295	-do-
13	A-131	9,000	G11	Gevra OC	Road	970	Ferro Alloy
14	A-1002	2,000	G7	Chirmiri OC	Road	2411	Power Plant
15	A-1003	7,600	G15	Jampali OC	Road	708	Power Plant
		1,94,800					

8. In view of the aforesaid chart, learned counsel for the petitioner submits that a bare perusal thereof clearly reveals that the petitioner has been allotted coal under multiple Fuel Supply Agreements (FSAs) across different grades, quantities, sources and modes of transportation, strictly in accordance with the contractual stipulations, and the agreed basic price per metric tonne varies from Rs.708/- to Rs.2775/- depending upon the grade of coal, source of supply and mode of dispatch, thereby demonstrating that the pricing is regulated and not arbitrary; it is further contended that the petitioner has been receiving coal from various coalfields such as Gevra OC, Kusmunda, Manikpur OC, Vijay West, Chirmiri OC and Jampali OC, both by road and rail, for its sponge iron, ferro alloy and power plants, with a total contracted quantity of 1,94,800 TPA, which reflects the scale of its operations and its reliance on such scheduled supplies, and thus any attempt on the part of the respondent authorities to impose a uniform or enhanced financial liability de hors the agreed terms of the FSAs, or to revise the price retrospectively, is wholly arbitrary and settled principles of law, as the terms of the FSAs cannot be unilaterally altered to the prejudice of the petitioner.



9. Learned counsel appearing for respondent Nos. 2 to 4, has filed the reply and does not dispute that the controversy involved in the present writ petition is identical and squarely covered by the judgment rendered in **D.B. Power** (supra) decided on 03.09.2024. It is submitted that the directions issued in the said judgment, particularly with regard to placing the claims of the petitioner companies before the State Government of Chhattisgarh for refund/adjustment of excess royalty, DMF and other levies on account of grade slippage, and the consequential obligation cast upon the State Government to consider and decide the same in light of the second proviso to Rule 64B of the Mineral Concession Rules, 1960 and the communication issued by the Ministry of Coal dated 12/8-9/2023, would adequately govern the present case as well. Learned counsel further submits that the respondents have no objection if the present writ petition is disposed of in similar terms, and appropriate directions are issued in line with the aforesaid judgment, subject to compliance within a reasonable and time-bound manner, in accordance with law.
10. I have heard learned counsel for the parties at length and have perused the material available on record.
11. It is not in dispute that the issue involved in the present writ petition is identical to the one already adjudicated by Co-ordinate Bench of this Court in **D.B. Power** (supra). Both sides fairly submit



that the controversy stands covered by the aforesaid judgment and the present petition can be disposed of in terms thereof.

12. After appreciating the contentions advanced by learned counsel for the parties, the Co-ordinate Bench of this Court in **D.B. Power** (supra), has passed the order in the following terms :-

“10. Indisputably, petitioner company, in all writ petitions, having thermal power plant are engaged in manufacture and distribution of electricity. They use coal as primary / only raw material in their respective thermal power plant for manufacture of electricity. In thermal power plant, chemical energy in coal gets converted to heat energy which in turn gets converted to mechanical energy which ultimately gets converted to electrical energy. SECL is a Government of India undertaking and is engaged in the business of mining of coal and its sale. SECL is engaged in supply of coal to various power plants and industries within and outside the territory of Chhattisgarh including petitioners in these writ petitions. To fulfill requirement of coal, petitioner company purchases coal from respondent SECL through e-auction under e-auction schemes for power producers and also entered into Coal Supply Agreement/Fuel Supply Agreement with the SECL For the purchase/ supply of coal. As per agreement, respondent SECL was under obligation to supply particular grade of coal assured under the agreement. Price of coal means sum of base price, other charges and



statutory charges, as applicable at the time of delivery of coal. In case of grade slippage, the SECL shall give regular credit note to the extent of difference in the Base Price of declared grade and analyzed grade of coal.

11. The Coal India Limited, in order to bring transparency in the process of sale and supply of coal, vide notice dated 24.9.2015 issued revised/modified the Standard Operating Procedure (SOP) by introducing provision of third party i.e. agency to be appointed by the seller and agency to be appointed by purchaser, for sampling and analysis of coal for declaration and maintenance of grade/quality. In case of grade slippage/improvement, credit/debits notes, as the case may be, are to be issued by SECL.

12. Grievance of petitioners in these batch of writ petitions is that as per agreement, respondent SECL is providing coal of a particular grade and for the purpose of assessing the quality of coal, provisions are made providing for taking joint samples in respect of coal at power station and the loading point of the petitioner. Coal supplied by SECL to petitioner was tested and found to be of inferior quality than which was agreed to be supplied/invoiced, accordingly, credit notes were issued in favour of petitioner company. As credit notes issued by SECL only include difference in base price and do not include ad valorem taxes such as royalty, DMF, NMET



etc., therefore, petitioner company represented before SECL for adjustment of amount of royalty, DMF, NMET on differential coal base price. Since the royalty, DMF, NMET charged by SECL was deposited with the State Government as per provisions of the Mines and Minerals (Development and Regulation) Act 1957 (for short 'the Act of 1957') and the rules made thereunder i.e. Mineral Concession Rules, 1960 (for short 'the Rules of 1960'), said request of petitioner was forwarded by SECL to the State Government. However, respondent State Government refused to adjust/refund taxes/levies in case of grade slippage of coal.

13. It is not disputed that mining rights have been leased to the SECL by the State Government under the provisions of the Act of 1957. As per Section 4 of the Act of 1957, no mining operation in any area shall be undertaken except under and in accordance with the terms and conditions of a mining lease granted under the Act of 1957 and the rules made thereunder.

14. Section 9 of the Act of 1957 deals with royalties in respect of mining leases and envisages that the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the lease area at the rate for the time being specified in the Second Schedule in respect of that mineral. Section 9B of the Act of



1957 provides for District Mineral Foundation (DMF), a non-profit body, and the holder of mining lease or a prospecting license cum mining lease shall, in addition to the royalty, pay to the District Mineral Foundation of the district in which the mining operations are carried on, an amount which is equivalent to such percentage of royalty paid in terms of Second Schedule. Section 9C provides for National Mineral Exploration Trust (NMET) and the holder of mines is required to make contribution of a sum equivalent to 2% of the royalty paid towards NMET simultaneous with payment of royalty.

15. Thus, it is clear that Section 9 is the charging section, which enables the State to recover/charge royalty in respect of the minerals extracted by the holder from the land given on lease for the purpose of mining. The methodology for calculating the amount of royalty is determined by the Rules and by the Notifications issued by the Central Government from time to time. Rule making power has been conferred on the Central Government by Section 13 of the Act of 1957 and relevant part of Section 13 is extracted and reproduced hereunder:-

“13. Power of Central Government to make rules in respect of minerals. - (1)
The Central Government may, by notification in the Official Gazette, make rules for regulating the grant of [reconnaissance



permits, prospecting licenses and mining leases] in respect of minerals and for purposes connected (sic) (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all of any of following matters, namely:-

(a) to (f) xxx xxx xxx

(g) the terms on which, and the conditions subject to which, any other [reconnaissance permit, prospecting licences or mining leases] may be granted or renewed;

(h) xxx xxx xxx

(i) the fixing and collection of fees for [reconnaissance permits, prospecting licences or mining leases] surface rent, security deposit, fines, other fees or charges and the time within which and the manner in which the dead rent or royalty shall be payable;]

(j) to (qqk) xxx xxx xxx

(r) any other matter which is to be, or may be, prescribed under this Act.”

16. In exercise of the powers conferred by above quoted Section 13, the Rules of 1960 have been framed. Rules 64A, 64B, 64C & 64D of the Rules of 1960 are relevant Rules, which pertain to calculation of amount of royalty etc. payable by the holder of the lease in respect of the minerals extracted from the land leased to the holder of the mining lease. Rule 64B of the



Rules of 1960 deals with charging and instance of payment of royalty in case of minerals subjected to processing, which reads thus:-

‘64B. Charging of Royalty in case of minerals subjected to processing: (1) *In case processing of run-of-mine mineral is carried out within the leased area, then , royalty shall be chargeable on the processed mineral removed from the leased area.*

(2) *In case run-of-mine mineral is removed from the leased area to a processing plant which is located outside the leased area, then, royalty shall be chargeable on the unprocessed run-of-mine mineral and not on the processed product.”*

Rule 64B underwent following amendment vide Notification dated 7.9.2022 and after first proviso, following proviso has been added:

“Provided further that any royalty paid under the first proviso shall be subject to adjustment on the basis of-

(a) final declaration of the grade of run-of-mine coal or lignite after sampling; or

(b) final declaration of the National Coal Index of the relevant basket of coal grade of National Lignite Index, as applicable, on the date of dispatch or consumption.

as the case may be, and payment of shortfall royalty to the lessor or refund of additional



royalty to the lessee shall be made based on such adjustment.”

17. Upon perusal of above amendment it is clear that royalty paid at the time of dispatch shall be subject to adjustment on the basis of final declaration of grade of run-of-mine coal or lignite after sampling or final declaration of the National Coal Index of the relevant basket of coal grade or National Lignite Index, as applicable, on the date of dispatch of consumption, as the case may be, and payment of shortfall royalty to the lessor or refund of additional royalty to the lessee shall be made based on such adjustment. Thus, insertion of second proviso in Rule 64B of the Rules of 1960, clearly denote intention of the Central Government with regard to adjustment of royalty on the basis of final declaration of the grade of run-of-mine coal considering that final declaration of coal/lignite may not be available at the time of payment of royalty i.e. at the time of dispatch from or consumption within leased area, and quantum of royalty varies with the grade of coal upon sampling.

18. Section 20A of the Act of 1957 empowers the Central Government to issue direction to the State Governments. Relevant portion of Section 20A is reproduced below:-

“20A. Power of Central Government to issue directions.-



(1) Notwithstanding anything contained in this Act, the Central Government may issue such directions to the State Governments, as may be required for the conservation of mineral resources, or on any policy matter in the national interest, and for the scientific and sustainable development and exploitation of mineral resources.

(2) In particular, and without prejudice to the generality of the foregoing powers, the Central Government may also issue directions in respect of the following matters, namely:-

(i) improvement in procedure for grant of mineral concessions and to ensure co-ordination among agencies entrusted with according statutory clearances;

(ii) maintenance of internet-based databases including development and operation of a mining tenement system;

(iii) implementation and evaluation of sustainable development frameworks;

(iv) reduction in waste generation and related waste management practices and promotion of recycling of materials;

(v) minimizing and mitigating adverse environmental impacts particularly in respect of ground water, air, ambient noise and land;



(vi) ensuring minimal ecological disturbance, in terms of bio-diversity, flora, fauna and habitat;

(vii) promoting restoration and reclamation activities so as to make optimal use of mined out land for the benefit of the local communities; and

(viii) such other matters as may be necessary for the purposes of implementation of this Act.”

19. In exercise of its power under Section 20A of the Minor Minerals (Development and Regulation) Act, 1957, which enables the Central Government to take appropriate steps to ensure proper and effective implementation of the Act of 1957, the Ministry of Coal, Government of India issued the order dated 12th August/September, 2023 to the Chief Secretaries of various States, including State of Chhattisgarh, and making reference of second proviso to Rule 64B of the Rules of 1960, which provides for adjustment of royalty so paid after final declaration of grade of coal and also entitles the mining lease holders to a refund of additional royalty, if paid, directed the State Government to refund the differential / excess royalty and payment to DMF in the event of grade slippage within one month from the date of final declaration of the grade of coal else granted leeway to mining lease holders of adjustment from royalty and amount payable to DMF accruing in future. Relevant portion of the



order dated 12th August / September,. 2023 reads thus:-

“Now therefore, in exercise of the said powers under S.20-A(2)viii) of the MMDR Act, for ensuring implementation of the MMDR Act and Rules made thereunder in letter and spirit, the Central Government hereby directs the respective State Governments to refund the differential/excess royalty and payment to DMF in the event of grade slippages within one month from the date of final declaration of the grade of coal/lignite or National Coal Index, as applicable, otherwise the minding lease holders may adjust the same from the royalty and amount payable to DMF accruing in future.”

20. In the case at hand, it is not in dispute that petitioner company entered into Coal Supply Agreement with respondent SECL under SECL agreed to supply a particular grade of coal. It is also not in dispute that petitioner company paid the price of coal as per invoices raised by SECL, which includes all levies and taxes. It is also not in dispute that the amount received by SECL towards royalty and other taxes have not been retained by it and the same has been deposited in the treasury of the State. It is also not in dispute that State Government denied to adjust/refund differential amount of royalty etc. on account of slippage of grade of coal supplied to petitioner company, although, as



per second proviso to Rule 64B of the Rules of 1960 the State Government is bound to refund differential/excess royalty etc. in the event of grade slippage.

21. A meeting between Secretary, Ministry of Coal, Govt. of India and the Association of Power Producers was held on 13.3.2020 to resolve several issues including issue of refund of royalty, taxes, levies etc. arising out of grade slippage. It was resolved in said meeting that Coal India Limited shall refund all pending excess levies/taxes on account of grade slippage and in case of any difficulty is faced by CIL, the Ministry of Coal shall take up the same with the concerned State Government of India issued an Ministry of Coal, order dated 12th August/September, 2023 to the Secretaries of various States including State of Chhattisgarh, directing the State Governments to refund differential / excess royalty and payment to DMF in the event of grade slippage.

22. In the above circumstances, these writ petitions are disposed of with a direction to the SECL to put-forth the claim of petitioner in all these writ petitions for refund/adjustment of excess amount towards royalty etc. on account of slippage of grade of coal supplied, before the State Government of Chhattisgarh within a period two months and in turn, the State Government of Chhattisgarh is directed to reconsider and take decision with respect to claim of petitioner companies as also SECL



expeditiously, keeping in mind second proviso to Rule 64B of the Rules of 1960 as well as the order dated 12/8-9/2023 issued by the Ministry of Coal, Govt. of India, New Delhi.

23. No order as to costs.”

13. In view of the aforesaid and having regard to the fact that the controversy involved in the present writ petition is squarely covered by the judgment rendered by the Co-ordinate Bench of this Court in **D.B. Power** (supra), this Court is of the considered opinion that no useful purpose would be served in keeping the present petition pending, and the same deserves to be disposed of in terms of the directions already issued therein.
14. Accordingly, the present writ petition stands disposed of with a direction to respondent No.3 – SECL to put forth the claim of the petitioner for refund/adjustment of excess amount towards royalty, DMF and NMET on account of slippage of grade of coal supplied, before the State Government of Chhattisgarh within a period of two months from the date of receipt of a copy of this order. Upon such claim being made, the State Government of Chhattisgarh is directed to consider and take a decision with respect to the claim of the petitioner expeditiously, strictly in accordance with law, keeping in mind the second proviso to Rule 64B of the Mineral Concession Rules, 1960.
15. While doing so, the State Government shall also take into consideration the directions issued by the Ministry of Coal,



Government of India vide communication dated 12/8-9/2023, as well as the subsequent clarification dated 13.01.2026, which categorically mandates that the differential/excess royalty and other statutory levies collected on account of higher grade of coal, which is subsequently found to be of lower grade, are liable to be refunded/adjusted, and retention thereof would amount to unjust enrichment.

16. It is further directed that the entire exercise, as directed hereinabove, shall be completed by the State Government within a further period of three months thereafter, and the admissible amount, if found due, shall be refunded/adjusted in favour of the petitioner in accordance with law. Needless to observe that the petitioner shall be at liberty to avail appropriate remedy, in accordance with law, in case of any grievance surviving thereafter.
17. With the aforesaid observations and directions, the writ petition stands disposed of.
18. There shall be no order as to costs.

Sd/-

(Amitendra Kishore Prasad)
Judge

Yogesh