

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 7451 of 2017

***M/s. Ferro Alloys Corporation
Ltd.and another.***

.....

Petitioners

Mr. Saswat Acharya, Advocate

Vs.

State of Orissa

.....

Opposite Parties

Mr. J. P. Patnaik, G.A.

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE SANJAY KUMAR MISHRA

ORDER

06.07.2022

Order No.
04.

This matter is taken up through hybrid mode.

2. Heard Mr. S. Acharya, learned Counsel appearing for the Petitioner and Mr. J.P. Patnaik, learned Government Advocate for the State.

3. The Petitioner has filed this Writ Petition for grant of permission in its favour to remove 36,112.723 MT of Sub-grade Chrome Ore lying at pit-head of Boula Chromite Mines in village Boula of Keonjhar by quashing the letter dated 20.04.2017 issued by the Mining Officer, Keonjhar, Opposite Party No.3 under Annexure-16, whereby, while rejecting the show cause filed by the Petitioner, it has been opined that the Petitioner has neither reflected the said quantity in the Books of Accounts nor intimated the Authority which violates Rule-27 (1)(i) of M.C. Rules 1960 & Clause-10 of Part-VII of Form-K.

4. Mr. S. Acharya, learned Counsel for the Petitioner, referring

to the document at Annexure-10 contended, that the Director Mines had made a communication to the Mining Officer stating that in reference to his letter dated 04.03.2017 and on the representation dated 06.03.2017 received from the Resident Manager of M/s FACOR Ltd., a joint verification was made and it was observed that there was a stock of 70.875 MT of Sub grade Processed Chrome Ore in one stack, totaling to 36112.273 MT of Sub-grade Chrome Ore in 41 stacks, and 10,870 MT of Sub-grade Serpentine in one stack available in the Boula Chromite Mines. The lessee Company intends to lift these stock of Ores, except the Serpentine stock, as observed from their request letter to the Authority concerned. It is further mentioned therein that these stock of minerals were not reflected in the corresponding Books of Accounts for which it was not permissible to allow the lessee for lifting of the mineral stock available at the Mines. Therefore, the Director of Mines, Odisha requested the Mining Officer, Keonjhar to verify the authenticity of the minerals available at the pit-head by examining the available records and on being satisfied about the authenticity of the mineral available at the Mines allow lifting of the minerals available at the pit-head after making necessary entries in the concerned Books of Account and regularizing the stock thereof. However, the same has been rejected by the Mining Officer vide Annexure-16, for which, the Petitioner has approached this Court by way of this Writ Petition.

5. Mr. J. Patnaik, learned Government Advocate contended that if the Director has issued a direction on 16.03.2017 under Annexure-10 and on consideration of the same, the Mining Officer has rejected the claim of the Petitioner, it is open to him to approach the Director

against such rejection and instead of doing so, the Petitioner has approached this Court in the present Writ Petition, which is not maintainable. Accordingly, he prayed for dismissal of the same.

6. Having heard learned Counsel for the Parties and after going through the records, it appears that M/s FACOR Ltd. held a mining lease over 187.03 hecets in village Boulla. The said lease was expired w.e.f. 08.02.2012. The lessee had challenged the period of expiry of lease in this Court in W.P (C) No. 2297 of 2012. As per order of this Court, dated 13.02.2012, the Writ Petition was dismissed and the lessee was directed to remove the machinery from the lease-hold area within two weeks. Against the said Order of this Court, the lessee filed Special Leave Petition (Civil) No. 6810 of 2012 in the apex Court. The physical stock of raised Ores at pit-head was verified by the Asst Mining Officer, Keonjhar, in presence of Mines Manager, Boula Chromite Mines of M/s FACOR Ltd. on 14.02.2012, i.e. after expiry of the lease. It was revealed that the stock of Chrome Ore at pit-head was 25002.116 MT. The lessee was allowed to lift 25002.116 MT of Crome Ore, out of the Ore lying in the leasehold in pursuance of the interim order dated 13.03.2012 passed by the apex Court in Special Leave Petition (Civil) No. 6810 of 2012. After that, the Mining Officer, Keonjhar had issued permission and accordingly the lessee removed 24930.768 MT Chrome Ore from the pit-head. The balance quantity, i.e. 71.348 MT was lying in the pit-head. The apex Court dismissed the SLP of the Petitioner and finally the lease expired. Accordingly, the Director of Mines, Odisha, vide letter dated 13.12.2016, intimated that the lease of Boula Chromite Mines of M/s FACOR Ltd can be considered to have reached its finally w.e.f. 07.10.2016. The Mining Officer,

Keonjhar issued notices, as per Clause-5 of Part-IX of Lease Deed, vide Letter No 1601/Mines dated 15.12.2016, to the lessee to remove all the machineries along with stock of Ores lying at pit-head within six calendar months. Instead of lifting the Ores from the Mines, the lessee wrote to the Director of Mines on 21.01.2017 with a request to the Mining Officer, Keonjhar, to assess the quantity of Sub-grade Chrome Ore and allow the lessee for removal on payment of Royalty. The Director of Mines, Opp. Party No. 2 instructed the Mining Officer, Keonjhar to verify the available Sub-grade Chrome Ore lying in the pit-head with the IBM Officials. Accordingly, the stock was verified by the Senior Inspector of Mines, Keonjhar with the Mines Manager, Boula Chromite Mines of M/s FACOR Ltd. and Asst. Controller of Mines, IBM, Bhubaneswar, on 14.02.2017. After inspection it was found that 36,112.723 MT Sub-grade Chrome Ore were sorted from their rejects in the pit-heads of Mines. The samples of these ores have been analyzed by the Analytical Chemist, Keonjhar and the grade of Sub-grade Chrome Ore come under 27% to 36% Cr_2O_3 . Accordingly, the matter was intimated to the Director of Mines by the Mining Officer, Keonjhar on 02.03.2017. The Director of Mines, Odisha requested the Mining Officer, Keonjhar to verify the authenticity of the mineral available at the pit-head by examining the available record. The Books of Account were verified by the Senior Inspector of Mines on 12.02.2017 and it was reported that only 70.875 MT Processed Chrome Ore was available in the Books of Account. A show cause notice was issued by the Mining Officer, Keonjhar, to the lessee as to why the said quantity of Sub-grade Chrome Ore will not be seized and forfeited to the Government due

to non-maintaining in the Books of accounts as well as monthly returns. Opp. Party No.3 also requested the Regional Controller of Mines, Indian Bureau of Mines, Bhubaneswar, vide letter dated 22.03.2017, to re-verify the stocks with IBM returns regarding stock of ores of 36112.723 MT recovered from rejects. In response, the Regional Controller of Mines vide letter dated 17.04.2017, intimated the annual returns for last four years i.e. 2012-13 to 2015-16, along with current monthly returns, which were verified by them and there was no ROM production and the closing stock was 71.168 MT and 0.18 MT and no rejects were reported in these annual returns. The mining operations had been stopped w.e.f. 09.02.2012. Therefore, the prayer of the Petitioner for removal of Ores lying in pit-head was not justified and grantable, as the Petitioner fails to maintain correct account and hide the stock of chrome ore between the range from 27% to 36% of CR_2O_3 , which violates the Rule -27(i) of M.C. Rules, 1960.

7. In view of such position, taking into consideration the correspondences made between the Director and Mining Officer, as mentioned above, it is open to the Petitioner to pursue his remedy before appropriate Authority and as such, this Court has not observed anything to that extent. The Writ Petition thus merits no consideration and the same stands disposed of.

(DR. B.R. SARANGI)
JUDGE

Arun/Banita

(S.K. MISHRA)
JUDGE