IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.32466 of 2026

CNR No.ODHC010773042026

Steel Authority of India Ltd. (SAIL) .... ***Petitioner***

Mr. Durga Prasad Nanda, Senior Advocate
assisted by Mr. Diptanshu Nanda, Advocate

-versus-

State of Odisha and others .... ***Opp. Parties***

Mr. Kailash Chandra Kar, Government Advocate

CORAM:
THE HON'BLE THE CHIEF JUSTICE
AND
THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER
12.11.2026

Order No.

02.

1. Challenging the order dated 6th May, 2024 (Annexure-1) passed by the Additional Secretary and Revisionary Authority in Revisional Application No.22/25/2023-RC-I filed under Section 30 of the Mines and Minerals (Development and Regulation) Act, 1957 (for short, "the MMDR Act") read with Rule 36 of the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016 (for short, "the Rules, 2016") affirming the notice of demand issued *vide* Letter No.167/Mines, dated 25th January, 2023 by the Deputy Director of Mines, Rourkela (Annexure-11), the petitioner has approached this Court beseeching to invoke extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India.

2. The background facts as enumerated in the writ petition reveals that the petitioner, a Public Sector undertaking of the Government of India carrying on business in manufacturing of

steel and undertakes mining operations for captive consumption, was granted mining lease with respect to the Purnapani Limestone and Dolomite Quarry situated at Purnapani in the district of Sundargarh in the year 1960 and the mineral is stated to be extracted for its captive use. The petitioner in the year 2003-04 realised that the stock of processed Limestone accumulated at the quarry site had higher Silica content (more than 6%), as opposed to 4%. The mineral being found unsuitable for captive consumption, it resulted in the closure of mining operation.

2.1. The petitioner submitted notice in Form-F as prescribed under Rule 24 of the Mineral Concession Rules, 1960 (for short, "the Rules, 1960") notifying temporary discontinuance of mine with effect from 29th February, 2004 on the ground of lack of demand and the mining operations became uneconomical. A notice of closure in terms of requirement under the Metalliferous Mines Regulations, 1961 was submitted on 27th January, 2004. This apart, an annual return was also submitted to the Indian Bureau of Mines disclosing the quantity of lumps and fines.

2.2. Subsequently, contemplating the use of mineral remained in the leased area to be utilised for its own consumption, the petitioner executed a supplementary agreement with the Government of Odisha on 31st May, 2016, which expressly provided that the lease would remain valid for a period up to 31st March, 2020. Before expiry of said period of validity, the petitioner made an application on 27th March, 2019. Nonetheless, as per Rule 72(4) of the Rules, 2016, lease granted would remain valid till 5th January, 2030. A conscious decision in the Board of the

petitioner-company was taken for closure of the mines as the mineral was not suitable for captive consumption for manufacturer of steel, which led to filing of an application for surrender of mines.

2.3. As a sequel to such application for closure, a joint verification of Limestone was conducted by the Government on 26th July, 2022, wherein only estimate of the minerals in dumps were taken. Though the dumps were exposed to the vegaries of nature for more than 18 years and the stock position was furnished to the authority concerned by way of filing an annual returns pertaining to the year 2003-04, a show-cause notice dated 17th October, 2022 was issued to clarify the discrepancies in the stock position. Despite a reply *vide* letter dated 31st October, 2022 (Annexure-10) was submitted to the authority concerned, the Government without appreciating the factual aspect in proper perspective, issued impugned demand notice dated 25th January, 2023 by treating 1,82,760.320 MT of Limestone as shortage and invoked Section 21(5) of the MMDR Act, which was challenged by the petitioner before the Revisionary Authority by way of revision application dated 5th September, 2023. *Vide* order dated 6th May, 2024 rejected the said application by stating that the Revisionary Authority, namely the Additional Secretary and Revisionary Authority, Government of India, Ministry of Mines has no authority to proceed with the matter.

2.4. Being aggrieved thereby, the petitioner has approached this Court by way of filing this writ petition.

3. Learned Senior Advocate appearing for the petitioner taking this Court to demand notice *vide* letter dated 25th January, 2023

(issued by the Deputy Director of Mines, Rourkela Annexure-11) laid emphasis on the following:

"As per last assessment in this Office the total stock position was 550852.320 M.T. Limestone (357800.000 MT Lumps & 71642.060 Mt Fines). But as per stock verification report on Dt.26.03.2004 the stock of Limestone is 368092.000 MT (246682.00 MT Lumps and 121410.000 MT fines) is available in the field, resulting a shortage of 182760.320 MT of Limestone (111118.260 MT Lumps & 71642.060 MT Fines) for which you are liable to pay the cost price of mineral Limestone as detailed below:

Stock as per assessment (in MT)	*Stock as per physical verificati on (in MT)*	*Shortage Qnty. (in MT)*	*Cost price per MT (in Rs.)*	*Total cost price. (in Rs.)*
550852.320	*368092.000*	*182760.320*	*731.83*	*13,37,49, 485/-*

(PMV as per Annual Return in Form-HB for Financial Year 2003-04 submitted by you taken as Cost price of Limestone)."

3.1. It is submitted that the authority has manifestly committed flagrant error in computing the cost price of alleged shortage of mineral. He submitted that in view of provisions contained in Rule 64D of the Rules, 1960, as it existed before its substation in the year 2009, should have been adhered to for the purpose of calculation of cost price of Limestone. The demand raised in the letter dated 25th January, 2023 (Annexure-11) being not in consonance with the method prescribed under Rule 64D of the Rules, 1960, the Deputy Director of Mines, Rourkela has transgressed his jurisdiction and authority. The demand notice so issued, being incompetent, is liable to be quashed.

4. Learned Government Advocate appearing for the State-opposite parties vehemently opposed and requested this Court not to

interfere with the demand notice as shortage in stock is not in dispute. He referred to the text of the notice of demand dated 25th January, 2023, wherein the authority has stated thus:

"Neither you have attended the hearing nor responded to the above mentioned letter."

4.1. He, therefore, arduously argued that the petitioner cannot be granted relief at this stage as it chose not to participate in the proceeding before the Deputy Director of Mines, Rourkela.

5. Heard Sri Durga Prasad Nanda, learned Senior Advocate appearing for the petitioner and Sri Kailash Chandra Kar, learned Government Advocate appearing for the State-opposite parties.

6. On perusal of record, it reveals that the Deputy Director of Mines has proceeded to assess the total cost price of alleged shortage of Limestone found on physical verification by taking into account "present market value". The record further reveals that on the basis of joint physical verification dated 4th August, 2022, the Deputy Director of Mines, Rourkela invited reply "to show-cause for such discrepancies in the physical stock position at Purnapani Limestone and Dolomite Quarry". In response thereof, the petitioner submitted a reply explaining in detailed the discrepancies.

7. Careful scrutiny of demand raised *vide* letter dated 25th January, 2023 it is observed that though the petitioner has been stated to have not attended the hearing, the Deputy Director of Mines, Rourkela has proceeded to raise demand as if no response to the show-cause notice was available on record. It deserves to be noted that the authority, who is vested with the power to assess stock and determine cost, he is required to be fair and act in

accordance with the provisions of the statute. It is trite that where the statute prescribed a thing to be done in a particular manner, the same has to adhere to in the same manner or not at all.

8. Learned Senior Advocate appearing for the petitioner drew our attention to Rule 64D of the Rules, 1960 as it existed prior to its substitution by Notification in GSR 883(E), dated 10th December, 2009. It is profitable to reproduce the provision contained in Rule 64D, as was inserted by Notification No.GSR 743(E), dated 25th September, 2000:

*"**64-D. Guidelines for computing royalty on minerals on ad valorem basis**.—*

Every mine owner, his agent, manager, employee, contractor or sub-lessee shall follow the following guidelines for computation of the amount or royalty on minerals where the royalty is charged on ad valorem basis, namely:

Guidelines

The guidelines for calculation of royalty in typical cases are as follows, namely:

Case 1: All non-atomic and non-fuel minerals and minerals other than aluminium (bauxite and laterite despatched for use in alumina and aluminium metal extraction), primary gold, silver, copper, lead, zinc, nickel and tin—

The Indian Bureau of Mines publishes "Monthly Statistics of Mineral Production" which contains State-wise total value of each mineral produced during a month in a State. The State-wise average value for different individual minerals as published by Indian Bureau of Mines in the "Monthly Statistics of Mineral Production" shall be the benchmark for computation of royalty by the concerned State Government in respect of any mineral produced any time during a month in any

mine in that State. For the purpose of computation of royalty the State Government shall add twenty per cent. to this benchmark value. This value shall be reckoned to be the sale price for the purpose of computation of royalty. Also the value of the minerals published in the latest published issue of the "Monthly Statistics of Mineral Production" will be deemed to be applicable for the mineral mined in the previous month, irrespective of when the royalty actually accrues. If for a particular mineral, the information for a State is not published in a particular issue, the last information available for that mineral in the State in a previous issue shall be referred, failing which the latest published information for the mineral for all-India shall be referred.

Case 2: For atomic minerals, prescribed under Atomic Energy Act, 1962 (33 of 1962)—

The minerals under this category include ilmenite, leucoxene, rutile and zircon obtained mainly from the beach sand deposits in the coastal States. The basis of collection of royalty shall be the actual mineral content in the beach sand mined.

(a) In case of sale in the domestic market, the per tonne sale price of the separated mineral actually realized, less the cost of transportation from the lease boundary to point of sale as shown by the mine owners in their sale vouchers or bills or invoices shall be considered for computing ad valorem royalty. To avoid payment of taxes on royalty the mine owners in their own interest record the price and royalty separately in the sale vouchers or bills or invoices instead of indicating a composite price inclusive of royalty. In case the price, royalty and transportation cost are not shown separately it shall be assumed that the price indicated in the sale vouchers or bills or

invoices is exclusive of royalty and transportation cost, and royalty shall be charged accordingly.

(b) In case of direct export be mine owners the sale value for the purpose of royalty shall ordinarily be the free on board (FOB) price realized less transportation charges from the lease boundary to the port, loading and unloading charges at the port, port charges (including sampling and analysis and demurrage charges, if any), insurance charges, royalty, taxes and interest charges on loan for export. However, in case of cost insurance and freight (CIF) sales, sea freight insurance and cost of unloading at the destination port shall also be deducted form such price. For such purposes the mine owner may prepare invoices or bills indicating the free on board price or cost insurance freight price as the case may be and each of the other charges separately.

Explanation.—

For the purposes of calculation of royalty in case of minerals produced in captive mines (other than aluminium (bauxite and laterite despatched for use in alumina and aluminium metal extraction) copper, lead, zinc, tin, nickel, gold and silver) and those not actually sold, case 1 and case 2 shall be applicable.

Case 3: For aluminium (bauxite and laterite despatched for use in alumina and aluminium metal extraction) primary gold, silver, copper, lead, zinc, nickel and tin—

The total contained metal in the ore produced during the period for which the royalty is computed and reported in the statutory returns under Mineral Conservation and Development Rules, 1988 or recorded in the books of the mine owners shall be considered for the purposes of computing the royalty in the first place and then the royalty shall be computed as the percentage of the average metal price in the London

Metal Exchange (hereinafter referred to as the LME) for copper, lead, zinc, nickel, silver and tin and London Bullion Market Association price (commonly known as London price) for gold during the period of computation of royalty. The foreign exchange rate for conversion of rupees shall be the selling rate on the last date of the period of computation as published in newspaper, namely, the Economic Times. For the LME prices as well as for London price of the commodity, either of the following three sources shall be referred to, namely:

(i) Non-ferrous Report: Minerals and Metals Review, 28/30, Anantwadi, P.O. Box 2749, Mumbai-400 002

(ii) Metal Bulletin, 16, Lower Marsh, London, SE-17 RJ

(iii) World Metal Statistics; (Monthly or Quarterly Summary), By World Bureau of Metal Statistics, 27A, High Street, Ware, Herts SG 12 9BA, United Kingdom.

Case 4: For by-product gold and silver—

The guidelines for computation of ad valorem royalty shall be linked to the total quantity of metal produced and the LME price for silver and London Bullion Market Association price (commonly known as London price) for gold as in the case 3 above. However, in this case, the actual final production of the metal shall be considered instead of the metal content in the ore produced for the purposes of computing royalty.

LIST

The list of items to be taken into account for computation of the gross cost of production are the following, namely:

(i) Direct cost:

(a) Exploration

(b) Beneficiation

(ii) Overhead cost

(iii) Depreciation

(iv) Interest
(v) Royalty
(vi) Taxes
(vii) Dead rent
(viii) Packing charges
(ix) Research and development expenditure

Note.—

The State Governments may, if necessary, introduce systems of advance payment for the purpose of royalty collection and they may also impose any additional conditions in accordance with the law for the time being in force."

9. Bare perusal of demand notice transpires that the Deputy Director of Mines, Rourkela has not assessed the cost price of alleged shortage in quantity of Limestone pertaining to financial year 2003-04 in conformity with the modality/manner provided in the statute as existed during the relevant period.

10. Having found substance in the argument of the learned Senior Advocate appearing for the petitioner, this Court is inclined to exercise power under Article 226 of the Constitution of India. Accordingly, having not considered the reply dated 31st October, 2022 of the petitioner (Annexure-10) in proper perspective and taking into account the method/guideline prescribed under Rule 64D of the Rules, 1960, the demand notice dated 25th January, 2023 (Annexure-11) issued by the Deputy Director of Mines, Rourkela, is quashed and set aside. However, the matter is remitted to the Deputy Director of Mines, Rourkela for taking a decision afresh upon hearing the petitioner by taking into consideration the reply dated 31st October, 2022. The petitioner is granted liberty to furnish further reply/explanation and cooperate with the authority to arrive at just and rightful conclusion.

11. With the aforesaid observation and direction, the writ petition along with all pending Interlocutory Application(s), if any, shall stand disposed of.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

Laxmikant

Signature Not Verified
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Signed by: LAXMIKANT MOHAPATRA
Designation: Senior Stenographer
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 13-Nov-2026 12:59:01