

GOVERNMENT OF ARUNACHAL PRADESH
DEPARTMENT OF GEOLOGY AND MINING
ITANAGAR

File No: DGM-11021/6/2021- 22266 | 2070 - 71

Dated 14th October, 2021

The Secretary
Ministry of Mines
Govt. of India
Room No: 320 - 'A' Wing
SHASTRI BHAWAN,
DR. RAJENDRA PRASAD ROAD,
NEW DELHI -110 001

AS(SL)Shw
SP

Sub: Request to provide suggestions and necessary guidance on amendment of MM(D&R),Act, 2021:Reg
Ref: 1). MoM, D.O. No. 16/44/2021-M.VI,dated 11th June,2021.
2) No.16/44/2021-M.VI,dated 12th April,2021

Respected Sir,

As you are aware that the Ministry of Mines, Govt of India has made an amendment to the Mines & Mineral (Development & Regulation), Act, 2015 on 28th March 2021. One of the important provisions in the amended Act is amended section 8-B., which provides that the statutory clearances of the existing mining leases shall be valid even after expiry or termination of the Mining Lease and shall be transferred to the successful bidders of the auction.

2. It is brought to your notice that presently there is no such mine that is under operational in the state of Arunachal Pradesh. However, Provisional Mining Lease in respect of the following mineral blocks has been granted by the Deptt subject to compliance of the statutory clearances /permission, etc.: -

S. No.	Name of the Company	Mineral	Village/ District	Status
1	M/s Tasso Alloys Pvt.Ltd, Kolkata	Graphite	Bopu/Kamle	Provisional Mining Lease Deed Executed on 29 th Jan,2021
2	M/s Tasso Alloys Pvt.Ltd, Kolkata	Graphite	Dodeserum/ Lower Subansiri	-do-
3	M/s Tasso Alloys Pvt.Ltd, Kolkata	Graphite	Tai/ Leparada and U/Subansiri	-do-
4	M/s Skamord Mining Pvt Ltd, Kolkata	Graphite	Laa Lamdak/ Kamle	-do-
5	M/s Sthenos Cement Pvt. Ltd. Kolkata	Graphite	Talihu/Upper Subansiri	-do-

It is to mention here that the above Provisional Mining Leases fall under the 10 A 2 (b) cases of the MM (D&R), Act. Statutory clearances in respect to the above provisional mining lease are yet to be obtained by the mineral concession holders.

In view of the above, it is to mention here that the modifications of rules, acts, and guidelines in respect of MM (D&R) are fall under the preview of the Central Govt. Therefore, it is requested kindly provide the necessary guidance and clarification on the above issue Thanking you,

Yours faithfully,

(T.Rumi)

Deputy Secretary (Geology & Mining)
Govt. off Arunachal Pradesh

Itanagar

Dated 14th October, 2021

Memo No. DGM-11021/6/2021- 22266

Copy to:-

1. PPS to HM(G&M),Arunachal Pradesh for information please.
2. PPS to Hon'ble Advisor (G&M), Arunachal Pradesh for information please.
3. All Mineral Concession holders for information please.
4. SPA to Secretary (G&M),Govt. Of Arunachal Pradesh for information please.
5. Office copy

(T.Rumi)

Deputy Secretary (Geology & Mining)
Govt. off Arunachal Pradesh
Itanagar

स्मर्जीत कुमार बिस्वास / Smarjiti Kumar Biswas
निदेशक / Director
खान मंत्रालय / Ministry of Mines
भारत सरकार / Government of India
नई दिल्ली / New Delhi



DGM/MC/659/2021/ 2041 - 45

Dated 25th October, 2021

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To,

The Additional Secretary
Ministry of Mines
Govt. of India
Room No: 327 - 'A' Wing
SHASTRI BHAWAN,
DR. RAJENDRA PRASAD ROAD.
NEW DELHI -110 001

Sub: Status of Mineral Concessions falls under Section 10 A(2) (b) of MM(D&R), Act,2021:Reg

- 1) Please refer to Amendment made to MM(D&R),Act,2015, Dated 28th March,2021.
- 2) Please refer to the letter from the Ministry of Mines, dated 9th April,2021.

Respected Sir,

As you are aware that, the Ministry of Mines, Govt of India has made certain amendments to the Mines & Mineral (Development & Regulation), Act, 2015 on 28th March 2021, and the Mineral (Auction) Second Amendment Rules, 2021 on 18th June 2021 respectively.

2. The Deptt. of Geology and Mining, Govt of Arunachal Pradesh granted 16 nos of Prospecting Licenses for the development of Graphite, Limestone, etc to the various companies before the amendment of the Mines & Minerals (Development & Regulation) Act, 2015.

3: Further, Provisional Mining Lease has been granted in respect 5 nos of Graphite Blocks and subsequently of Provisional Mining Lease deed has been executed in on 29th Jan 2021. It is to mention here that the Final approval letter of the Mining Plan in respect of the above 5 nos of Graphite blocks has been received recently from the Indian Bureau of Mines, Gol.

4. Further, a Letter of Intent (LOI) has also been issued in respect of 3 nos of mineral concession holders for Limestone mineral but the Final /Provisional ML deed was not executed till the time of notification of MM (D&R), 2021.

5. The current status of mineral concession holders under Section 10 A (2) (b) of MM(D&R), Act,2021 in respect of Arunachal Pradesh is enclosed herewith at Annexure-A for your information and necessary guidance.

6. We request to kindly clarify as to whether the Mining Plans Submitted after 28th March,2021 are acceptable and whether the Final Mining Lease may be granted to such Provisional Mining Lease Holders/LOI holders.

7. The guidance of your esteemed office is sought in the shorter.

Yours Sincerely,

(Anirudh Singh), IAS
Secretary (Geology & Mining)
Govt. of Arunachal Pradesh
Itanagar

Enclosed: As above

Memo No: DGM-11021/5/2021- 22258 / 2041 - 45
Copy to:-

Dated 25th October, 2021

1. PPS to HM(G&M),Arunachal Pradesh for information please.
2. PPS to Hon'ble Advisor (G&M), Arunachal Pradesh for information please.
3. All Mineral Concession holders for information please.
4. The Director (G&M),Govt. Of Arunachal Pradesh for information please.
5. Office copy

Secretary (Geology & Mining)
Govt. of Arunachal Pradesh
Itanagar

স্মরজীত কুমার বিস্বাস / Smarajit Kumar Biswas

নির্দেশক / Director

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Annexure-A



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**DEPARTMENT OF GEOLOGY AND MINING
GOVERNMENT OF ARUNACHAL PRADESH
ITANAGAR**

**Sub: Status of Mineral Concession holder falls under Section 10 A (2) (b) in respect of
Arunachal Pradesh**

1. Provisional Mining Lease Deed Executed:

S. No.	Mineral	Village/District	Status
1	Graphite	Bopi/Kamle	Provisional Mining Lease Deed Executed on 29 th Jan, 2021
2	Graphite	Dodeserum/Lower Subansiri	-do-
3	Graphite	Tai/ Leparada and U/Subansiri	-do-
4	Graphite	LaaLamdark/ Kamle	-do-
5	Graphite	Tatiha/ Upper Subansiri	-do-

2. Letter of Intent (LOI) Issued.

S. No.	Mineral	Village/ District	Status
1	Limestone	Tidding/Anjaw	<ul style="list-style-type: none"> ▪ Letter of Intent (LOI) issued. Mining Plan not submitted. ▪ ML deed not executed.
2	Limestone	Lokpeng/East Siang	-do-
3	Limestone	Tidding/Anjaw	-do-

3. Prospecting completed and Mining Lease application under process.

S. No.	Mineral	Village/ District	Status
1.	Limestone	Dali/Lower Siang	<ul style="list-style-type: none"> ➢ Prospecting completed. ➢ Applied for Mining Lease. ➢ Mining Lease application is under process.
2.	Graphite	Laa/Upper Subansiri	-do-


स्मरजीत कुमार बिस्वास / Smarajit Kumar Biswas
निदेशक / Director
खान मंत्रालय / Ministry of Mines
भारत सरकार / Government of India
नई दिल्ली / New Delhi

CCO

P/S

Clarification on approval of five numbers of Mining Plans in respect of Graphite Mineral in Arunachal Pradesh-Part-I

From : RO Guwahati <ro.guwahati@ibm.gov.in>

Mon, Nov 29, 2021 01:44 PM

Subject : Clarification on approval of five numbers of Mining Plans in respect of Graphite Mineral in Arunachal Pradesh-Part-I

2 attachments

To : CCOM Nagpur <ccom@ibm.gov.in>

Sir,

This is having reference to the telephonic discussion in respect of five numbers approved Mining Plan of Graphite Mineral in the state of Arunachal Pradesh (NE States) wherein undersigned was advised to confirm the lease status in respect of date and it's relevance and authenticity with the date of commencement of MMDR (Amendment) act, 2021 i.e 28.03.2021.

- A) a) In this regard, please refer highlighted text on MMDR Amendment Act, 2021, which clearly states that the rights of obtaining a Mining Lease in respect of pending cases of 10(A)(2)(b), shall lapse on the commencement of the act i.e 28.03.2021. (**Annexure-1**).

Please read the act along with the MCR-2016 rules 7(6).

MCR-2016 Rule 7(6) states as follows " ***The State Government shall, on being satisfied that the conditions specified in sub-clause (i) to sub-clause (iv) of clause (b) of sub-section (2) of section 10A have been complied with, within a period of sixty days from the date of receipt of the duly completed application, (a) communicate through an order its decision to grant the mining lease for any mineral other than those specified in the First Schedule to the Act, or (b) forward the application to the Central Government for its previous approval for grant of a mining lease for any mineral specified in Part C of the First Schedule to the Act.***"

- B) b) **Section 5(2)(b) of MMDR Act-1957** is applicable to minerals listed in Part-A, B & C of First schedule and Fourth schedule of MMDR Act, 1957. Graphite is a mineral which is not listed either in Part-A, B & C of First schedule of MMDR Act, 1957 or in its Fourth schedule as a notified mineral. Hence, the state government had right to Grant, execute and register mining lease deed after satisfaction in respect of Graphite Mineral which is not in violation of **Section 5 (2)(b) of MMDR Act-1957**.

Please also refer to executed and registered lease deed copy (**Annexure-2, 3, 4, 5, 6**) which clearly shows that all the five cases have been executed and registered by state govt. (Government of Arunachal Pradesh) before 28.03.2021, i.e, before the MMDR amendment act and there is no such provisional condition /provisional word used or mentioned anywhere in the executed and registered mining lease deed.

Therefore it clearly implies that the above leases were not any more pending case under 10(a)(2)(b) as on processing date.

Further, vide CCOM circular dated 13.04.2021 it has been very clearly advised to revoke the approved mining plan which had turned in fructuous after the MMDR (Amendment) Act-2021 come into force i.e from 28.03.2021, however these five Graphite Mineral

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Concession cases are in contrary to the aforesaid circular where the lease deed was executed and registered before the effective date of lapsing of right to obtain a Mining Lease.

It may be noted that the State of Arunachal Pradesh is not having the cadastral land records and all the land falls under community private land. The status of Map digitisation is attached as **Annexure-7**.

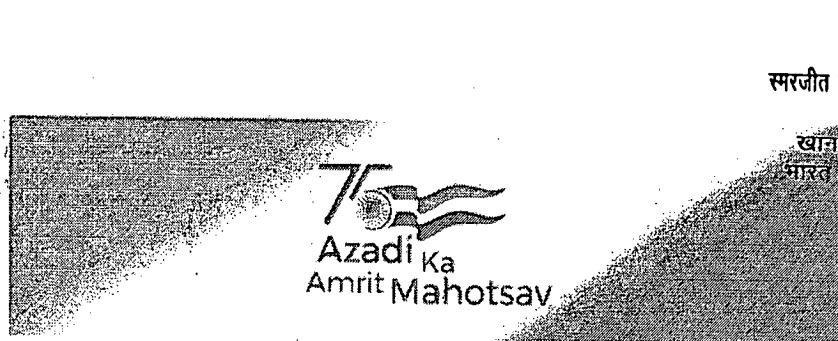
Thus the **Section 5 (2)(b) of MMDR Act-1957 is not Violated** in respect of the five cases of approval of Mining Plan in respect of Graphite Mineral in the state of Arunachal Pradesh.

It is submitted for kind information and perusal please.

Annexure-3 to 7 will be send in next three email.

Regards,

(K.K.Tardia)
Regional Controller of Mines
IBM-Guwahati



स्वराजीत कुमार बिस्वास / Smarajit Kumar Biswas
निदेशक / Director
राष्ट्रीय मंत्रालय / Ministry of Mines
भारत सरकार / Government of India
ई दिल्ली / New Delhi

Annexure-1.pdf
982 KB

Annexure-2.pdf
15 MB



भारत सरकार / Government of India
खान मंत्रालय / Ministry of Mines
भारतीय खान ब्यूरो / Indian Bureau of Mines
मुख्य खान नियंत्रक का कार्यालय / Office of the Chief Controller of Mines

No.R-11013/1/MISC/MP-SOM (EZ)/2006-CCOM-Vol II

Nagpur, dated: 30.11.2021

To,

The Regional Controller of Mines
Indian Bureau of Mines
Guwahati, Assam

Subject: Clarification on approval of five numbers of Mining Plans in respect of Graphite Mineral in the State of Arunachal Pradesh.

Reference: 1. Email from the Office of Regional Controller of Mines dated 29.11.2021.
2. Email from the Office of Regional Controller of Mines dated 30.11.2021.

Sir

This has reference to your email dated 29.11.2021 regarding clarification on approval of five number of Mining Plans in respect of Graphite Mineral in the State Arunachal Pradesh. As per the attached copies of executed lease deed with the email dated 29.11.2021, it is understood that all the five lease deeds have been executed before the provisional approval of Mining Plan. That Mining Plan for the five areas were approved first provisionally and subsequently final approval was accorded. The details of the date of execution and dates of approval of provisional & final mining plan as per details annexed in your email are as follows:

S.no	Area (in hect) & date of execution of lease deed	Date of provisional approval of mining plan	Date of final approval of mining plan
1	Dodeserum Graphite deposit (183 ha) executed on 29.1.2021.	19.5.2021	13.8.2021
2	Bopi Graphite deposit (37 ha) executed on 1.2.2021.	19.5.2021	16.8.2021
3	La Lamdak Graphite Deposit (79 ha) executed on 29.1.2021.	20.5.2021	16.8.2021
4	Doni Graphite Déposit (196 hect) executed on 29.1.2021.	20.5.2021	17.8.2021
5	Taliha Graphite Deposit (496 hect) executed on 29.1.2021	20.5.2021	12.8.2021

1608630/2021/DIR (MA)

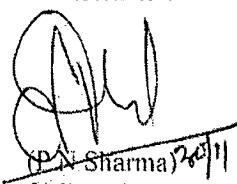
As per the section 5(2)(b) of MMDR act no mining lease shall be granted by the State Government unless it is satisfied that there is mining plan duly approved by the Central Government or by the State Government in respect of such category of mines as specified by the Central Government for the development of mineral deposits in the area concerned. It is clear that the lease deed for all the five areas has been executed in contravention of the section 5(2) (b) of the MMDR act 1957.

Also, your attention is drawn to erstwhile Rule 7(10) (c) of The Minerals (other than Atomic and Hydro Carbons Energy Minerals) Concession Rules 2016(now amended vide notification G.S.R 775(E) dated 2.11.2021) which states that upon issuance of an order under clause (a) of sub rule (6) or sub rule (9) for grant of a mining lease the applicant for such mining lease shall satisfy the conditions with respect to a mining plan specified in clause (b) of subsection (2) of section 5. It is imperative that the all the conditions as stipulated in the Rule 7(10)of The Minerals (other than Atomic and Hydro Carbons Energy Minerals) Concession Rules 2016 are to be complied before the execution of the lease deed. In the instant case the Mining plan was not approved before the execution of the lease deed.

It is a matter well settled in law that any action taken by any authority in contravention to the provisions of the act and rules made there under is ab-initio void.

This Office vide letter no. M-11013/3/MP/90-CCOM-Vol-I dated 13.4.2021 advised that Mining Plan approved for fresh grant of leases falling under section 10(A)(2)(b) of MMDR act 1957 shall be revoked where the lease deed has not been executed before the 28.3.2021 in light of amendment done in the section 10(A)(2)(b) of the MMDR Act vide notification dated 28.03.2021 proclaiming all cases covered under section 10(A)(2)(b) including pending cases the right to obtain prospecting license followed by mining lease or mining lease, as the case may be, shall lapse on commencement of MMDR amendment act 2021. Despite that you ended up approving these documents not relevant to the instructions issued vide letter dated 13.04.2021.

In the light of above you are advised to take immediate remedial action in accordance with MMDR Act 1957 as amended up to 28.3.2021 and rules made there under and intimate this office forthwith, enclosing copy of documents.



Chief Controller of Mines (I/C)

Copy:

- Controller of Mines , East Zone, Indian Bureau of Mines, Kolkata.


(P.N Sharma)
Chief Controller of Mines (I/C)


स्मरजीत कुमार बिस्वास / Smarajit Kumar Biswas
निदेशक / Director
खान मंत्रालय / Ministry of Mines
भारत सरकार / Government of India
नई दिल्ली / New Delhi



भारत सरकार / Government of India

खान मंत्रालय / Ministry of Mines

भारतीय खान व्यूरो / Indian Bureau of Mines

मुख्य खान नियंत्रक का कार्यालय / Office of the Chief Controller of Mines

By Email

आजादी का
अमृत महोत्सव

No. N-11013/1/MISC/MP-SOM(EZ)/2006-CCOM-Vol-II
To,

Nagpur, dated: 15.12.2021

Sh. Mustaq Ahmad,
Director,
Government of India,
Ministry of Mines,
Shastri Bhawan,
Dr. Rajendra Prasad Road,
New Delhi.

Sub: - Brief Note on approval of five numbers of Mining Plans by Regional Office, IBM, Guwahati in respect of Graphite Mineral in the State of Arunachal Pradesh.

Sir,

Please find enclosed herewith a brief Note on approval of five numbers of Mining Plans by Regional Office, IBM, Guwahati in respect of Graphite Mineral in the State of Arunachal Pradesh.

This is issued with the approval of Controller General I/C, IBM.

Encl.: As above

Yours faithfully,

(Mithelesh Purohit)

Senior Assistant Controller of Mines

Copy for kind information to:

1. Dr. Veena Kumari Dermal, Joint Secretary to the Government of India, Ministry of Mines, Shastri Bhawan, New Delhi.
2. Shri Abhishek Kumar Upadhyay, Under Secretary to the Government of India, Ministry of Mines, Shastri Bhawan, New Delhi

(Mithelesh Purohit)

Senior Assistant Controller of Mines

स्मरजीत कुमार बिस्वास / Smarajit Kumar Biswas
निदेशक / Director
खान मंत्रालय / Ministry of Mines
भारत सरकार / Government of India
नई दिल्ली / New Delhi

Brief Note on approval of five numbers of Mining Plans by Regional Office, IBM, Guwahati in respect of Graphite Mineral in the State of Arunachal Pradesh

The Regional Controller of Mines, IBM, Guwahati approved five number of Mining Plans for Graphite mineral in the State of Arunachal Pradesh. In this connection, the Chief Controller of Mines I/C, IBM, Nagpur had telephonic discussion with the Regional Controller of Mines, IBM, Guwahati to confirm the status of mining lease for which the mining plans were approved and also to confirm the date and its relevance as authenticity in light of MMDR (Amendment) Act, 2021 notified on 28.03.2021. Accordingly, RCOM, IBM, Guwahati has submitted a clarification regarding approval of five number of Mining Plans in respect of Graphite Mineral in the State Arunachal Pradesh vide email dated 29.11.2021 (Copy enclosed) along with copies of executed lease deeds and copies of approvals accorded for mining plans.

The said matter has been examined in the office of Chief Controller of Mines, IBM and it is observed that all the five lease deeds have been executed before the provisional approval of Mining Plan. The Mining Plans for the five areas were approved first provisionally and subsequently final approval was accorded. The details of the date of execution and dates of approval of provisional & final mining plan as per details furnished by Regional Office, Guwahati are as follows:

S.No	Area (in hect) & date of execution of lease deed	Date of provisional approval of mining plan	Date of final approval of mining plan
1	Dodeserum Graphite deposit (183 ha) executed on 29.1.2021.	19.5.2021	13.8.2021
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5	Taliha Graphite Deposit (496 hect) executed on 29.1.2021	20.5.2021	12.8.2021

As per section 5(2)(b) of MMDR Act 1957, no mining lease shall be granted by the State Government unless it is satisfied that there is mining plan duly approved by the Central Government or by the State Government in respect of such category of mines as specified by the Central Government for the development of mineral deposits in the area concerned. It is clear that the lease deeds for all the above five areas have been executed in contravention of the section 5(2) (b) of the MMDR act 1957.

Also, as per erstwhile Rule 7(10) (c) of The Minerals (other than Atomic and Hydro Carbons Energy Minerals) Concession Rules 2016 (now amended vide notification G.S.R 775(E) dated 02.11.2021) which state that, upon issuance of an order under clause (a) of sub rule (6) or sub rule (9) for grant of a mining lease the applicant for such mining lease shall satisfy the conditions with respect to a mining plan specified in clause (b) of subsection (2) of section 5. It is imperative that all the conditions as stipulated

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स्मरजीत कुमार बिस्वास / Smarajit Kumar Biswas

निदेशक / Director

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in the Rule 7(10) of The Minerals (other than Atomic and Hydro Carbons Energy Minerals) Concession Rules 2016 are to be complied before the execution of the lease deed. In the instant case, the Mining plan was not approved before the execution of the lease deed. It is a matter well settled in law that any action taken by any authority in contravention to the provisions of the act and rules made there under is ab-initio void.

Further, instruction in this regard was issued to all the regional offices vide letter no. M-11013/3/MP/90-CCOM-Vol-I dated 13.4.2021 advising therein that Mining Plan approved for fresh grant of leases falling under section 10(A)(2)(b) of MMDR act 1957 shall be revoked where the lease deed has not been executed before the 28.3.2021 in light of amendment done in the section 10(A)(2)(b) of the MMDR Act vide notification dated 28.03.2021 proclaiming all cases covered under section 10(A)(2)(b) including pending cases the right to obtain prospecting license followed by mining lease or mining lease, as the case may be, shall lapse on commencement of MMDR amendment act 2021.

In the light of above, a letter dated 30.11.2021 (Copy enclosed) was issued to the RCOM, IBM, Guwahati advising therein to take immediate remedial action in accordance with MMDR Act 1957 as amended up to 28.3.2021 and rules made there under. RCOM, IBM, Guwahati has not taken any action consequent to this office letter dated 30.11.2021.

स्मरजीत कुमार बिस्वास / Smarajit Kumar Biswas
 निदेशक / Director
 खान मंत्रालय / Ministry of Mines
 भारत सरकार / Government of India
 नई दिल्ली / New Delhi

CONFIDENTIAL

GOVERNMENT OF ARUNACHAL PRADESH
DEPARTMENT OF GEOLOGY AND MINING
ITANAGAR



File No: DGM-11021/6/2021- 22266 | 2070 - 719

Dated 14th October, 2021

The Secretary
Ministry of Mines
Govt. of India
Room No: 320 - 'A' Wing
SHASTRI BHAWAN,
DR. RAJENDRA PRASAD ROAD,
NEW DELHI -110 001

AS(SL)

Dm
SI

Sub: Request to provide suggestions and necessary guidance on amendment of MM(D&R),Act, 2021:Reg
Ref: 1) MoM, D.O. No. 16/44/2021-M.VI,dated 11th June,2021.
2) No.16/44/2021-M.VI,dated 12th April,2021

Respected Sir,

As you are aware that the Ministry of Mines, Govt of India has made an amendment to the Mines & Mineral (Development & Regulation), Act, 2015 on 28th March 2021. One of the important provisions in the amended Act is amended section 8-B., which provides that the statutory clearances of the existing mining leases shall be valid even after expiry or termination of the Mining Lease and shall be transferred to the successful bidders of the auction.

2. It is brought to your notice that presently there is no such mine that is under operational in the state of Arunachal Pradesh. However, Provisional Mining Lease in respect of the following mineral blocks has been granted by the Deptt subject to compliance of the statutory clearances /permission, etc.: -

S. No.	Name of the Company	Mineral	Village/ District	Status
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In view of the above, it is to mention here that the modifications of rules, acts, and guidelines in respect of MM (D&R) are fall under the preview of the Central Govt. Therefore, it is requested kindly provide the necessary guidance and clarification on the above issue Thanking you,

Yours faithfully,

(T.Rumi)

Deputy Secretary (Geology & Mining)
Govt. off Arunachal Pradesh
Itanagar

Dated 14th October, 2021

Memo No. DGM-11021/6/2021- 22266

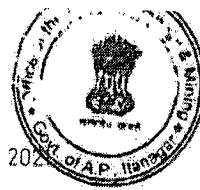
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4. SPA to Secretary (G&M),Govt. Of Arunachal Pradesh for information please.
5. Office copy

(T.Rumi)
Deputy Secretary (Geology & Mining)
Govt. off Arunachal Pradesh
Itanagar

Smarajit Kumar Biswas
स्मरजीत कुमार बिस्वास / Smarajit Kumar Biswas
निदेशक / Director
खान मंत्रालय / Ministry of Mines
भारत सरकार / Government of India
नई दिल्ली / New Delhi

M.VI-16/138/2021-Mines VI
GOVERNMENT OF ARUNACHAL PRADESH
DEPARTMENT OF GEOLOGY AND MINING
ITANAGAR.



DGM/MC/659/2021 / 2041 - 45

Dated 25th October, 2021

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To,

The Additional Secretary
Ministry of Mines
Govt. of India
Room No: 327 - 'A' Wing.
SHASTRI BHAWAN,
DR. RAJENDRA PRASAD ROAD.
NEW DELHI -110 001

Sub: Status of Mineral Concessions falls under Section 10 A(2) (b) of MM(D&R), Act,2021 Reg

- 1) Please refer to Amendment made to MM(D&R),Act,2015, Dated 28th March,2021.
- 2) Please refer to the letter from the Ministry of Mines, dated 9th April,2021.

Respected Sir,

As you are aware that, the Ministry of Mines, Govt of India has made certain amendments to the Mines & Mineral (Development & Regulation), Act, 2015 on 28th March 2021, and the Mineral (Auction) Second Amendment Rules, 2021 on 18th June 2021 respectively.

2. The Deptt. of Geology and Mining, Govt of Arunachal Pradesh granted 16 nos of Prospecting Licenses for the development of Graphite, Limestone, etc to the various companies before the amendment of the Mines & Minerals (Development & Regulation) Act, 2015.

3. Further, Provisional Mining Lease has been granted in respect 5 nos of Graphite Blocks and subsequently of Provisional Mining Lease deed has been executed in on 29th Jan 2021. It is to mention here that the Final approval letter of the Mining Plan in respect of the above 5 nos of Graphite blocks has been received recently from the Indian Bureau of Mines, Gol.

4. Further, a Letter of Intent (LOI) has also been issued in respect of 3 nos of mineral concession holders for Limestone mineral but the Final /Provisional ML deed was not executed till the time of notification of MM (D&R), 2021.

5. The current status of mineral concession holders under Section 10 A (2) (b) of MM(D&R), Act,2021 in respect of Arunachal Pradesh is enclosed herewith at Annexure-A for your information and necessary guidance.

6. We request to kindly clarify as to whether the Mining Plans Submitted after 28th March,2021 are acceptable and whether the Final Mining Lease may be granted to such Provisional Mining Lease Holders/LOI holders.

7. The guidance of your esteemed office is sought in the shorter.

Enclosed: As above

Yours Sincerely,

(Anirudh Singh), IAS
Secretary (Geology & Mining)
Govt. off Arunachal Pradesh
Itanagar

Dated 25th October, 2021

Memo No: DGM-11021/5/2021- 22258 / 2041 - 45
Copy to:-

1. PPS to HM(G&M),Arunachal Pradesh for information please.
2. PPS to Hon'ble Advisor (G&M), Arunachal Pradesh for information please.
3. All Mineral Concession holders for information please.
4. The Director (G&M),Govt. Of Arunachal Pradesh for information please.
5. Office copy

— 5 —

Secretary (Geology & Mining)
Govt. off Arunachal Pradesh
Itanagar

S. Biswas
स्मरजीत कुमार बिस्वास / Smarajit Kumar Biswas
निदेशक / Director
खान मंत्रालय / Ministry of Mines
भारत सरकार / Government of India
नई दिल्ली / New Delhi

Annexure-A



**DEPARTMENT OF GEOLOGY AND MINING
GOVERNMENT OF ARUNACHAL PRADESH
ITANAGAR**

Sub: Status of Mineral Concession holder falls under Section 10 A (2) (b) in respect of
Arunachal Pradesh

1. Provisional Mining Lease Deed Executed:

S. No.	Mineral	Village/District	Status
1	Graphite	Böpi/Kamle	Provisional Mining Lease Deed Executed on 29 th Jan, 2021
2	Graphite	Dodeserum/Lower Subansiri	-do-
3	Graphite	Tai/ Leparada and U/Subansiri	-do-
4	Graphite	LaaLamdark/ Kamle	-do-
5	Graphite	Taliha/ Upper Subansiri	-do-

2. Letter of Intent (LOI) Issued:

S. No.	Mineral	Village/ District	Status
1	Limestone	Tidding/Anjaw	<ul style="list-style-type: none"> * Letter of Intent (LOI) Issued. Mining Plan not submitted. * ML deed not executed.
2	Limestone	Lokpeng/East Siang	-do-
3	Limestone	Tidding/Anjaw	-do-

3. Prospecting completed and Mining Lease application under process:

S. No.	Mineral	Village/ District	Status
1	Limestone	Dali/Lower Siang	<ul style="list-style-type: none"> > Prospecting completed. > Applied for Mining Lease. > Mining Lease application is under process.
2.	Graphite	Laa/Upper Subansiri	-do-


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निदेशक / Director
खान मंत्रालय / Ministry of Mines
भारत सरकार / Government of India
नई दिल्ली / New Delhi

16/08/2022/Mines III

1/3008095/2021

MOST URGENTPSS

No-16/138/2021-M.VI
 Government of India
 Ministry of Mines

Shastri Bhawan, New Delhi
 Dated: 27th December, 2021

To
 Controller General,
 Indian Bureau of Mines,
 Indira Bhavan, Civil Lines,
 Nagpur - 440001

Sub: Request to provide suggestions and necessary guidance on amendment of MMDR Amendment Act, 2021-reg.

Ref: (i) Government of Arunachal Pradesh letter No-DGM-11021/6/2021-22266/2070-74 dated 14.10.2021.

(ii) Government of Arunachal Pradesh letter No- DGM/MC/659/2021/2041-45 dated 25.10.2021.

Sir,

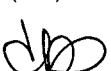
Reference is drawn to letters of State Government of Arunachal Pradesh (copy of the letters is enclosed) mentioned above. State Government vide letter dated 25.10.2021 has informed that it has granted 16 prospecting licences to various companies before the 2015 amendment of the Mines and Minerals (Development and Regulation) (MMDR) Act. Further, provisional mining lease deed has been executed in respect of 5 nos. of graphite blocks on 29.01.2021 and also that the final approval letter of the mining plan has been received from Indian Bureau of Mines recently (in August, 2021).

2. The State Government has sought the clarification as to whether the mining plans submitted after 28.03.2021 are acceptable and whether the final mining lease may be granted to such provisional mining lease holders / LoI holders.

3. The MMDR Act, 1957 has been amended through MMDR Amendment Act, 2021, notified in the official gazette on 28.03.2021. The first proviso to the Section 10A(2)(b) of the amended Act provides that, for the cases covered under Section 10A(2)(b) including the pending cases, the right to obtain a prospecting licence followed by a mining lease or a mining lease, as the case may be, shall lapse on the date of commencement of the MMDR Amendment Act, 2021 i.e. 28.03.2021.

4. In view of above, the rights of existing concession holders under Section 10A(2)(b) have lapsed with effect from the date of commencement of the MMDR Amendment Act, 2021, i.e. 28.03.2021. Further there is no provision in the MMDR Act or the rules made thereunder to grant or execute a provisional mining lease. Therefore, no mining lease can be granted to such provisional mining lease holders / LoI holders as the rights of existing concession holders under Section 10A(2)(b) have lapsed with effect from 28.03.2021.

5. Under rule 7(10) & (11) of the Minerals (other than Atomic and Hydro


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निदेशक / Director

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16/12/2022/Mines III



भारत सरकार /GOVERNMENT OF INDIA

खान मंत्रालय /MINISTRY OF MINES

भारतीय खान ब्यूरो /INDIAN BUREAU OF MINES

गुवाहाटी क्षेत्रीय कार्यालय/GUWAHATI REGIONAL OFFICE

क्षेत्रीय खान नियंत्रक का कार्यालय/OFFICE OF THE REGIONAL CONTROLLER OF MINES

दूरभाष सं.: /फॅक्स सं.: 0361 2656184,
Tel/Fax - 0361-2656184
E-mail - ro.guwhati@ibm.gov.in

House No. 216, 3rd Floor, Above IDBI Bank
Chandimari, Post - Bamunimaidan, Dist -
Kamrup (M), Guwahati, Assam-781021

No. IBM/GHY/41/Tech/2010-11/-Vol-II

Date: 31.12.2021

To,
The Chief Controller of Mines,
IBM Nagpur.

Subject: Clarification on approval of five numbers of Mining Plans in respect of Graphite Mineral in the State of Arunachal Pradesh- reg.

Reference:

1. CCOM office letter No. M-11013/3/MP/90-CCOM-Vol-I dated 09.04.2021
2. CCOM office letter No. M-11013/3/MP/90-CCOM-Vol-I dated 13.04.2021.
3. This office letter No. IBM/GHY/04/200-11/Tech. Vol. III dated 10.5.2021.
4. CCOM office letter No. N-11013/3/MP/90-CCOM-Vol-IX (PF) dated 13.05.2021.
5. This office letter No. IBM/GHY/04/200-11/Tech. Vol.III dated 19.05.2021.
6. This office email dated 29.11.2021 on clarification on approval of mining plan i.r.o Graphite Mineral.
7. CCOM office letter No. R.11013/1/MISC/MP-SOM (EZ)/2006-CCOM-VolII dated 30.11.2021 received in this office on 22.12.2021.

Sir,

This is having reference to aforesaid letter under reference No.7 wherein undersigned was advised to take remedial action in accordance with MMDR Act, 1957 amended upto 28.03.2021 and rules made there under based on your observations. The summary of your letter as understood is reproduced as under:

1. Lease deed for all the five graphite leases situated in different district of Arunachal Pradesh has been executed in contravention of section 5(2)(b) of MMDR Act,1957.
2. Conditions stipulated in Rule 7(10) (c) of The Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016(amended vide notification G.S.R 775(E) dated 2.11.2021 has not been complied.
3. Your proclamation on matter of not following instructions/directives issued vide letter no. M-11013/3/MP/90-CCOM-Vol-I dated 13.04.2021.

Sir, most respectfully it is urged before you that following points may please be given a fair understanding in order to avoid complicity on the referred matter.

- A) Graphite is a mineral which is not listed either in Part-A, Part-B or Part-C of First schedule(Annexure-1) and neither in fourth schedule as a notified mineral of MMDR Act, 1957. It can be clearly interrelated from Rule-7 (6) (a) and Rule 7. (6) (b) of Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016, that State Govt. may communicate through an order its decision to grant the mining lease for any mineral other than those specified in the First Schedule

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निदेशक / Director

खान मंत्रालय / Ministry of Mines

मरत सरकार / Government of India

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to the Act, provided that State Govt. is satisfied with the conditions specified in sub-clause (i) to sub-clause (iv) of section 10(A) (2) (b). It may now please be given a close look that State Govt. has exercised Rule-7(6)(A) and had not exercised Rule7(6)(b) only because Graphite is not in Part-C of the first schedule to the Act upon duly satisfying the aforesaid conditions of section 10(A)(2)(b).

- B) Now, pursuant to an order passed under Rule-7(6) (a) the applicant obligation is to satisfy the conditions with respect to a mining plan specified in clause (b) of subsection (2) of section 5 before the State Govt., inter-alia, Rule-7(10)(c). The relevant part of section 5(2)(b) of MMDR Act ,1957 is reproduced as under:
5. Restrictions on the grant of prospecting licenses or mining leases. (MMDR Ammendment ACT, 2015)

(2) No mining lease shall be granted by the State Government unless it is satisfied that-

(b) There is a mining plan duly approved by the Central Government, or by the State Government, in respect of such category of mines as may be specified by the Central Government, for the development of mineral deposits in the area concerned.

(Provided that a mining lease may be granted upon the filing of a mining plan in accordance with a system established by the State Government for preparation, certification, and monitoring of such plan, with the approval of the Central Government.)

Sir, it's inevitable that aforesaid section 5(2) (b) clearly defines the role of State Govt. to grant a Mining lease with respect of category of mines and not with category of minerals upon filing of mining plan only provided that State govt. has system established for the same with approval from Central Govt. as specifically detailed in Rule-14 of Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016.

In this connection it may please be noted that category of mines is neither defined in MMDR Act, 2015, nor in MCR-2016, however, as defined in MCDR-2017, Rule 55, category of mines is defined in relation with mechanization of mines and based on employment potential, and therefore it's having no significance with either minor or major mineral. Furthermore, Rule-14 of the MCR-2016 nowhere says that a separate system is to be established categorically to deal with major/minor minerals.

- C) As per section-14 of MMDR Act, “The provisions of sections 5 to 13 (inclusive) shall not apply to quarry leases, mining leases or other mineral concessions in respect of minor minerals”, and powers has been conferred to State Govt. to make rules in respect of minor mineral as per section 15 of the MMDR act. It's very vital to note that State Govt. of Arunachal Pradesh had framed system/Rules for regulating Minerals/Mines as detailed overleaf to pursue the cases coming under purview of section 5(2)(b) and for Minor minerals.
- D) For the instant cases, the mining leases were duly executed by the Governor of Arunachal Pradesh acting through the Secretary, Department of Geology and Mining, Govt. of Arunachal Pradesh followed with lease deed registration by concerned deputy Commissioner's having administrative jurisdiction over the lease area before the commencement of MMDR(Amendment) Act,2021 i.e., 28.03.2021. The officials of State of Arunachal Pradesh, claims to have been satisfied over the conditions of section 10(A)(2)(b) and had duly followed processes laid down in the MCR-2016 along-with State legislature & accordingly had exercised their powers. Therefore, *prima facie* liability on execution of powers of aforementioned Section-5(2) (b), section 10(A) (2) (b) and Rule-7(10) (c) lies with State Govt. As on date of submission of document to this office, the lease deeds were duly executed, registered and were backed up with Stamp duty, Registration fee as per Indian Stamp Act, 1899 & Royalty, DMF, NMET as per MCR-2016.
- E) The credibility of aforesaid execution of such powers were duly communicated to your good office vide email dated 10.05.2021 (Annexure-2) and email dated 19.05.2021(Annexure-3) after your email dated 13.04.2021 followed with email dated 13.05.2021 as mentioned under reference. The provisional approval was granted to the applicant followed with final approval based on the fact that:
- As on date of processing of documents having regard to so far data available with this office, the lease deeds were duly executed and registered, therefore in no ways it can be assumed to be a pending case under erstwhile section 10(A)(2)(b).

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स्मरजीत कुमार बिस्वास / Smarajit Kumar Biswas
निदेशक / Director

खाने पत्रात्मक / Ministry of Mines
भारत सरकार / Government of India
नई दिल्ली / New Delhi

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2. Your letter clearly advises on revoking approved mining plans of pending cases; however, your letter does not advise what needs to be done on cases in which plans have not been approved, and have been submitted for its approval, with conditions that the cases are not pending with erstwhile section 10(A)(2)(b) and are in processing stage.
3. Your presumed silence was taken as implied acceptance and this truism is a topic well settled in general law. Therefore, approvals were granted in the last weeks of the ninety days followed with final approval duly following the process of technical scrutiny, in the last weeks of ninety days.

With all above submissions along-with relevant facts and keeping regard of section 27 of MMDR Act, 1957, the case may please be kindly re-looked before any remedial measures is taken.

Encl: As stated above

Thanking you.

With regards,

Yours Faithfully,

 31/12/2021

(K.K. Tardia)
Regional Controller of Mines,
Indian Bureau of Mines, Guwahati

Copy for kind information to:

1. The Controller of Mines,(EZ), IBM Kolkata.

 31/12/2021

(K.K. Tardia)
Regional Controller of Mines,
Indian Bureau of Mines, Guwahati

स्मरजीत कुमार बिस्वास / Smarajit Kumar Biswas
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