

Dalmia Bharat Sugar and Industries Limited

[Formerly : Dalmia cement (Bharat) Limited]
SALEM - 636 012 TAMILNADU

SL:MM:26150
Date: 21/DEC/2022

To,
The Member Secretary,
IA-Division,
Ministry of Environment, Forest & Climate Change (Non Coal Mines),
Indira Paryavaran Bhawan, Jor Bagh Road, New Delhi-110003.

Sub: Grant of Environment Clearance for Mining Magnesite and Dunite Minerals over an extent of 449.364 Ha in Chettichavadi village, Salem District, Tamil Nadu.

- Ref:** 1) Our proposal No-IA/TN/MIN/241375/2018.
2) TOR Letter dated 05.02.2021.
3) 46th EAC Minutes of meeting (Non-Coal Mining) held from 15th to 17th Feb 2022 vide item no: 46.1.2.
4) Our Revised Remediation Plan & EMP budget vide our letter dated 11.03.2022 in light of observation in 43rd EAC MoM held from 14th to 15th Dec 2021.
5) your ADS query dated 22.11.2022 in Parivesh portal on our proposal No-**IA/TN/MIN/241375/2018**.

This has reference to your ADS query dated 22.11.2022 in Parivesh portal on our proposal No-**IA/TN/MIN/241375/2018** and the 46th EAC Minutes of Meeting (Non Coal Mining) on 15.02.2022 to 17.02.2022 vide item no-46.1.2, wherein you have requested us to produce valid lease document from the State Department of Geology and Mining. (Copy enclosed).

In response of the above we are enclosing herewith valid mining lease document RC.No.1355/MME9/2006 dated 09.12.2022 issued by the Commissioner, Department of Geology and Mining, Guindy, Chennai. (Copy enclosed).

Further, please also find enclosed herewith the National Green Tribunal order dated 23.11.2022 directing MOEF to dispose off our EC application in light of our representation dated 18th April 2022.(Copies enclosed).

In view of the forgoing we humbly request your good self that Environmental Clearance may kindly be granted to our Chettichavadi Jaghir Magnesite and Dunite Mines based on all our submissions on record.

Thanking You.

Yours Faithfully,
For Dalmia Bharat Sugar and Industries Ltd,



P.G.Kalidass, 21/12/2022

Agent and Supdt of Mines.

P. G. KALIDASS,
AGENT & MINES MANAGER,
CHETTICHAVADI JAGHIR MINES,
DALMIA BHARAT SUGAR AND INDUSTRIES LTD.,
A. M. M. MAGNESITE CORPORATION

Encl:

- Valid Mining lease document RC.No.1355/MME9/2006 dated 09.12.2022 issued by The Commissioner, Department of Geology and Mining, Guindy, Chennai.
- Minutes of 4th EAC Meeting held on 15-17th Feb 2022.
- Our Representation dated 18th April 2022.
- NGT order dated 23.11.2022.

COMMISSIONERATE OF GEOLOGY AND MINING

From

Thiru.J.Jayakanthan, I.A.S.,
Commissioner of Geology and Mining,
Guindy, Chennai – 600 032.

To

The Secretary,
O/o, The Secretary of MoEF&CC,
Indira Paryvaran Bhavan,
Jor Bagh, New Delhi – 110 003.

Rc.No.1355/MM9/2006 dated 09.12.2022

Sir,

Sub: Mines and Minerals – Major Mineral – Magnesite & Dunite – Salem District – Chettichavadi Village – Government lands - over an extent of 574.46.0 Ha. - S.F.Nos. 6 – Tvl.Dalmia Bharath and Sugar Industries Ltd., – For want of EC for Mining Magnesite and Dunite – remarks furnished regarding lease and dues – Reg.

- Ref 1. Representation of Tvl.Dalmia Bharath and Sugar Industries Ltd., dated: 16.08.2022.
2. Government Letter No. 277/MMA.1/2022-1, dated: 27.09.2022.

Kind attention is invited to the references cited above.

2) Tvl.Dalmia Bharath and Sugar Industries Ltd., have requested to consider mining lease granted to them in S.F.No.6 in Government Poramboke lands of Chettichavadi Village, Salem West Taluk Salem District for mining Magnesite and Dunite is in subsistence, subject to the outcome of all pending litigations, so that the mining lease can recommence mining operations.

3) In this regard, the followings are submitted:

- i. In respect of demand raised for Surface Right compensation to a sum of Rs. 79 Crores, Tvl.Dalmia Bharath and Sugar Industries Ltd., vide W.P. No.2517/2018 had obtained interim stay in the Hon'ble High Court of Madras.
- ii. In respect of demand raised for EC Violation to a sum of Rs. 18.69 Crores, Tvl.Dalmia Bharath and Sugar Industries Ltd.,

has filed W.A.No. 834 and 835 of 2020 and it is pending before the Hon'ble High Court of Madras.

- iii. As per Section 8A(5) of the amended Act 2015, the period of lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act,2015, where mineral is used for captive purpose, shall be extended and be deemed to have been extended upto a period ending on the 31st March 2030, with effect from the date of expiry of renewal last made, or till the completion of renewal period, if any, or a period of 50 years from the date of grant of such lease, whichever is later, subject to the condition that all the terms and condition of the lease have been complied with.

3) In this connection, since the above lease is valid upto 31.03.2030, Tvl.Dalmia Bharath and Sugar Industries Ltd., is directed to remit the EC violation amount of Rs.18.69 Crs and Surface Right Compensation amount of Rs. 79 Crs after the disposal of the following cases which are pending before the Hon'ble High Court of Madras:

1. W.P.No. 2517/ 2018- Surface Right compensation
2. W.A.No. 834 & 835/2020- EC Violation.


Commissioner of Geology and Mining

Copy to:
The Dalmia Bharath Sugar and Industries Limited.,
Dalmiapuram,
Tiruchirapalli - 621 651

**GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
(IMPACT ASSESSMENT DIVISION)
NON-COAL MINING SECTOR**

SUMMARY RECORD OF 46th MEETING OF THE COMMITTEE OF THE EXPERT APPRAISAL COMMITTEE FOR ENVIRONMENTAL APPRAISAL OF NON-COAL MINING PROJECTS CONSTITUTED UNDER THE EIA NOTIFICATION, 2006.

The 46th meeting of the Expert Appraisal Committee for Environmental Appraisal of Mining Projects (Non-Coal) of the Ministry of Environment, Forest and Climate Change was held during 15th to 17th February, 2022 through video conference. The list of participants is annexed herewith. After login of the Committee Members through video conference link provided by NIC, discussion on each of the Agenda Items was taken up ad-seriatim.

(1.0) Deliberation & Circulation on the Minutes of the 45th EAC Meeting (Non-Coal Mining) held on 24th, 25th and 27th January, 2022.

The minutes of 45th EAC Meeting (Non-Coal Mining) held on 24th, 25th and 27th January, 2022 were placed before the members of the Committee. The Member Secretary informed the Committee regarding the following corrigendum:

S. No	As per 45 th EAC (Non-Coal Mining) Meeting held during 24 th , 25 th and 27 th January, 2022	Typographical error	EAC recommended during 46 th EAC (Non-Coal Mining) Meeting held during 15 th to 17 th February, 2022
1	Agenda 3.4, Pg. No: 76, Para 2, Line 2	M/s Nemani Ramakrishna has made an online application vide proposal no. IA/HR/MIN/197727/2021 dated 01.01.2022 along with Form 2 and EIA Report under the provisions of EIA Notification, 2006.	M/s Nemani Ramakrishna has made an online application vide proposal no. IA/OR/MIN/191282/2021 dated 01.01.2022 along with Form 2 and EIA Report under the provisions of EIA Notification, 2006.

Day 1: 15th February, 2022 (Tuesday)

1.1 Proposal for Environmental Clearance for Boricha Limestone Mine with the production capacity of 7,00,000 TPA (ROM) in the mine lease area of 101.17ha located at Survey No.22/P near village Boricha, Taluka and District Porbandar, State Gujarat by M/s Saurashtra Chemicals Division of Nirma Limited [File. No: J-11015/67/2015-IA-II(M); Proposal No: IA/GJ/MIN/251176/2019] – Environmental Clearance

EAC Meeting Details:

EAC meeting	46 th
-------------	------------------

Date of Meeting	15 th to 17 th February, 2022
-----------------	---

2. Project details:

Name of the Proposal	Boricha Limestone Mine with the production capacity of 7,00,000 TPA (ROM) in the mine lease area of 101.17 ha	
Location	Village	Boricha
	Tehsil/Taluka	Porbandar
	District	Porbandar
	State / UT	Gujarat
	Latitudes	21°44'32.5188"N to 21°44'33.8615"N
	Longitudes	69°40'46.8505"E to 69°40'47.7705"E
	SoI Topo sheet No.	41G/09 & 10 (Restricted)
Company's Name	M/s Saurashtra Chemicals Division of Nirma Ltd	
Authorization	M/s Saurashtra Chemicals Division of Nirma Ltd submitted the authorization letter dated 12.02.2018 in the name of Sh. Ashish Desai.	
Accredited Consultant and certificate no.	Mantec Consultants Pvt. Ltd. NABET/EIA/2023/RA0205	
KML file	Submitted	
Seismic zone	Zone- III as per IS 1893:2002	

3. Category details:

Category of the project	Category "A", Project or Activity 1(a) – 3 for Mining of Mineral
Provisions	As per EIA Notification S.O. 1533 (E), dated 14 th September 2006 and subsequent amendments
Mining lease Area	101.17 Ha.
Barda Wildlife Sanctuary	Barda Wildlife Sanctuary (BWLS) is adjacent to said mine. It is established that around 36.2102 Ha of the eastern part of the lease area falls into the one km radius from the BWLS and 50m offset from 1-Km line as per TOR clause (i) This zone is considered as non-mining zone.

4. ToR Details:

ToR Proposal No.	IA/GJ/MIN/115531/2019
Application date for	26 th August, 2019
Documents Submitted	Form-1, PFR, KML File
EAC meetings	21 st October, 2019 & reconsidered on 23 rd June, 2020
ToR Letter No.	J-11015/67/2015-IA-II (M)
ToR grant Date	14 th July 2020
Production capacity	Sized Limestone (tonnes)-80%: 5,60,000 Metric Tonnes Undersized Limestone (tonnes) - 20%: 1,40,000 Metric Tonnes
Soil	As per approved mining plan, no top soil will be

	generated.
Waste	As per approved mining plan, there will be no OB/IB.
Total excavation	7,00,000 TPA (ROM)
EIA/EMP uploaded on	14 th January 2022

5. Lease Details:

Granted Mine Lease	Area	101.17 Ha (250 acres)
	Mineral	Limestone
	Location	S. No. 22/2P of Village: Boricha, Taluka: Porbandar, District: Porbandar (earlier Junagadh)
	Order no.	MCR-1563-22089-CHH dated 27.08.1965 and MCR-1563-33800-CHH dated 10.12.1965 for captive use in Soda ash plant
	Execution date	10.07.1966 for period of 20 years
Validity of mine lease	The State Government has extended tenure of the mining lease up to 31.03.2030 vide order No. MCR/1563/22809/CHH dated 02.02.2018 and the District Collector, Porbandar has executed the lease deed on 28.01.2019 for the period up to 31.03.2030 in name of M/s Saurashtra Chemicals, Division of Nirma Limited which was registered with Registrar Porbandar on 22.02.2019.	

6. Mining plan details:

Mining Plan approved by Indian Bureau of Mines, Ajmer	Letter No.	684(4)(1)/MP-317/2020-21-GNR
	Date	2 nd March, 2021
	Validity	31 st March, 2026
	In favor of	Boricha Limestone Mine (MLA: 101.17 Ha) of M/s Saurashtra Chemicals
	Non-mining zone	Out of 101.17 Ha, 36.2102 Ha has been undertaken to be non-mining zone.
Mining Parameters	Quantitative Description	
Bench Height	3 m	
Bench Width	3 m	
Method of Mining	Open cast Semi- mechanized with drilling & blasting (Sizing within the pit will be manual)	
Individual bench slope	85°	
Overall pit slope	85°	
Drilling/Blasting	Average 188 m drilling per day & 52 holes blast per day	
RoM output size	7,00,000 TPA	
Total working days	300 days	
Life of mine	6.4 years* *The Life of mine may be increased based on reserves estimation after the completion of exploration proposal.	
Transportation details	Loading/unloading will be done by manually. Transportation of mineral to soda ash plant (viz. @ 19	

	kms from mine site) will be done through covered truck/dumper only.
Dumper's capacity	30 ton

7. Land Area Breakup:

Private land	Nil
Government land	101.17 Ha.
Total Mining lease area (MLA)	101.17 Ha.
Barda Wildlife Sanctuary	<p>Barda Wildlife sanctuary (BWLS) is adjacent to said mine. One km line from the periphery of BWLS as well as the buffer of 50m offset from the 1-Km line (w.r.t. boundary of BWLS) is projected and also marked on the Surface Plan. It is established that around 36.2102Ha of the eastern part of the lease area falls into the one km radius from the BWLS and 50m offset from 1-Km line. This zone is considered as non-mining zone.</p> <p>According to the ToR letter dated 14.07.2020, the mine lease area is located in survey no. 22/2 of village, Boricha, Taluka & Dist: Porbandar which is Govt, waste land and as per said notification, entire survey no. 22/2 (Govt, waste land) is outside the notified ESZ of BWS. So, provision of requirement of NBWL clearance is not applicable to its mining lease.</p> <p>The District Conservator of Forest (DCF), Wildlife Department, Govt, of Gujarat, Porbandar has prepared the map through BISAG, Gandhinagar showing Boricha mining lease area (101.17 ha) with respect to Barda Wildlife Sanctuary and it's notified Eco Sensitive Zone as well as 1 km periphery area from the nearest boundary of Barda Wildlife Sanctuary with real-time coordinates of 1 km line for mining & non-mining zone vide letter dated 05.11.2019. The DCF, Porbandar has provided authenticated map with real-time coordinates of 1 km area vide letter dated: 04.01.2020.</p> <p>PP has submitted an undertaking for demarcated area of 30.36 ha under 1 km from the sanctuary will be considered as non-mining zone.</p>

8. Nearest village / town/ highway/railway station / water bodies

Particulars	Particular's Name	Distance & Directions
Nearest Village	Boricha	1 km, SE
Nearest Highway	SH-95	3.9 km, W
Nearest Railway Station	Ranavav Railway station	7.6 km, SE
Nearest Water Bodies	Khambhala Dam	8 km, E

9. Water requirement

Total water requirement	55 KLD	Domestic water	18 KLD
		Dust Suppression	21 KLD

	Greenbelt	16 KLD
Source	Nearby villages/company's other mine	

10. Presence of Environmentally Sensitive areas in the study area

Forest Land/Protected Area/Environmental Sensitivity Zone	Yes/No	Details of Certificate/letter/Remarks
Forest Land	No	Barda Wildlife Sanctuary & its eco sensitive zone is adjacent to mine lease area. Certificate from DCCF & CWLW has been received regarding mine lease area does not fall in ESZ of Barda Wildlife Sanctuary on 17/06/2020.
National Park	No	
Wildlife Sanctuary	Yes	
Eco-Sensitive Zone (ESZ)	Yes	

Schedule-1 species	Yes/No	Details of Certificate/letter/Remarks
Schedule-I species	Yes	Eurasian Spoonbill, Eurasian Sparrow hawk, Indian Peafowl, MacQueen's Bustard, Osprey, Leopard, Pangolin, Ratel, Wolf
Wildlife Conservation Plan	Yes	It has been prepared & submitted to DCF, Porbandar on 1 st October,2021. Thereafter, as per recommendation received from DCF, Porbandar vide letter dated 13 th December 2021, Wildlife Conservation Plan has been revised and submitted to DCF, Porbandar on 23 rd December 2021. At present, it is under approval.

11. Forest Clearance/Wildlife Clearance/CRZ/CGWA, if applicable - Not Applicable.

12. Status of CTE/CTO – Obtaining CTE is under process parallel to the application for EC and CTO will be obtained after grant of EC.

13. Green belt/plantation details:

Proposed area for green belt/plantation	21.50 Ha.
Budget for green plant & plantation till the end of life of mine.	Capital Cost:19.35 Lakh Recurring Cost:1.93 Lakh

Particulars for Green belt/plantation	Area covered (in Ha)
7.5 m barrier & non-mineralized zone	3.92 Ha.
50 m safety zone of nallah, roads, electric lines	1.68 Ha
500 m safety zones of nearest habitation villages	-
Non-mining zone area	15.90 Ha

14. Baseline details:

Baseline Data (Air / Water / Noise / Soil / Ground water table/ others)		
Period of baseline data collection	March'21 to May'21	
Season	Pre-Monsoon	
Air Quality Monitoring	PM ₁₀	50-78 µg/m ³
	PM _{2.5}	29-56 µg/m ³

	SO2	4-18 µg/m ³
	NO2	12-32 µg/m ³
Ground Water Monitoring	pH	7.14- 7.89
	TDS	316-497 mg/L
	Total Hardness	199-336 mg/L
	Chloride	39-104 mg/L
	Fluoride	0.27-1.41 mg/L
	Mercury	<0.001
	Lead	<0.002
	Surface Water Monitoring	pH
DO		5.4-5.6 mg/L
BOD		18-22 mg/L
COD		52-68 mg/L
Noise Monitoring	Day time	48.6- 60.4 dB
	Night time	36.8- 56.2 dB
Soil Monitoring	pH	7.26-7.66
	Nitrogen	12.6-13.9 mg/100gm
	Phosphorous	0.80-0.93 mg/100gm
	Potassium	8.83-9.45 mg/100gm
	Conductivity	146-478 micro mhos/cm
Ground Water Table	Pre-Monsoon	28 m bgl
	Post-Monsoon	23 m bgl
Mitigation measures to prevent Environmental Pollution	<ul style="list-style-type: none"> • Water sprinkling will be done on unpaved roads to avoid dust generation during transportation. • Dust mask will be provided to the workers engaged at dust generation points like excavation and loading points. • Personal protective equipment will be provided to prevent the noise exposure. • Green belt will be developed with dense hedges around the lease boundary to avoid the noise in the vicinity. • Controlled blasting will be carried out with proper spacing and stemming so that noise can be avoided. • Ground water level will not be intersected due to proposed mining activity. • The air and water pollution control measures during construction and operation phases would ensure minimum degradation of surrounding vegetation, forest area and water bodies. • For the Schedule-I species, the recommendations of the conservation plan should be implemented by the project. 	

15. Public Hearing Details:

Advertisement for PH with date	Indian Express (English):18.11.2021 Sandesh (Gujarati):18.11.2021
Date of PH	24/12/2021
Venue	Mine Site
Chaired by	Resident Additional Collector & Additional District Magistrate, Porbandar and Regional Officer, Gujarat

	Pollution Control Board, Porbandar
Main issues raised during PH	Regarding employment generation
Budget proposed for addressing issues raised during PH	5 lacs/annum

16. Court case details:

Court Case	Regular Civil Appeal No. 1/97 in the Court of Joint District Judge (S.D.) JunagadhatPorbandar.The lease area was not under Possession of the lessee since 1986 when the renewal application for lease was rejected by the State Govt. After that this rejection order waschallenged by filling RCS no. 309/93 in Hon'ble Court of learned Civil judge (S.D.)Porbandar, who was pleased to allow the suit vide judgement & decree dated 09.09.1996for renewal of the mining lease for 20 years. The State Government preferred the appealby filling Regular Civil Appeal No. 1/97 in the Court of Joint District Judge (S.D.) JunagadhatPorbandar. In the Judgment dated 03.05.2004, the learned Joint Civil Judge confirmedthe Judgment & Decree passed by Learned Civil Judge (S.D.) in RCS No. 309/93 on09.09.1996.
------------	---

17. Rehabilitation & Resettlement:

R & R details	The project proponent submitted that R & R is not involved.
---------------	---

18. Affidavit/Undertaking details:

Affidavit	<ul style="list-style-type: none"> Affidavit in compliance of Ministry's OM No.3-50/2017-IA-III dated 30th May 2018 has been submitted.
Undertaking	<ul style="list-style-type: none"> Undertaking dated 16/09/2021 is submitted that conditions laid down in Terms of Reference prescribed by MoEF&CC, New Delhi vide letter no. J-11015/67/2015-IA-II (M) dated 14th July, 2020 have been complied with and the data submitted and information provided in the report are factually correct. Consultant submitted an undertaking that he shall be fully responsible for any mis-leading information mentioned in report of Boricha Limestone Mine.

19. Details of the EMP:

Activities	Capital cost (Lakhs)	Recurring cost (Lakhs/annum)
Environmental Training /awareness campaign	0.5	0.5
Pollution abatement-Water sprinkling	-	0.5
Green belt development	19.35	1.94
Environmental Monitoring cost	-	1.65
Corporate Environmental Responsibility		5.0
Occupational Health & Safety	0.5	1.70

20. Details of project cost and employment:

Particulars	Budget (Rs. In Crore)
Capital Cost for Environment Protection	0.19
Budget for addressing the Public Hearing issues	0.05/Annum
Total Cost for EMP	0.20
Recurring Cost for EMP	0.01/Annum
Project Cost	3.91
Employment	605persons

21. Observation and Recommendation of the Committee:

The proposal for Environmental Clearance was considered in the 46th EAC meeting held during 15th to 17th February 2022. The Committee observed that the instant mine site is in close proximity to Barda Wildlife Sanctuary which harbours many wildlife species belonging to different schedules. The Wildlife Conservation Plan is yet to approved by PCCF. The budget for wildlife conservation needs to be revised. Wildlife conservation plan should specifically address the issues that mine lease area is abating the sanctuary. After detailed discussions, the Committee **deferred** the proposal due to following shortcomings:

- 1) Since this is in close proximity to Barda Wildlife Sanctuary which harbors many species belonging to different schedules. The Wildlife Conservation Plan is yet to approved by PCCF and must include the suggestions of EAC members during the presentation. The budget of conservation plan also needs to be upwardly revised.
- 2) Point no. 3 i.e. 'The mining area shall be strictly done only in the areas where mine activities are permitted activities. The boundary of the leased area will be marked prior to start of work at the site' and point no. 4 i.e. 'Scientific mining operations accompanied by ecological restoration and regeneration of mined wastelands with eco-friendly substitutes and alternatives should be adopted.' as shown in the Wildlife Conservation Plan are not actual interventions for wildlife. They are regular safety measures which needs to be removed from the conservation plan since they have no relevance but at the same time they need to be undertaken for the different objectives and the budget can be adjusted accordingly against the other parameters.
- 3) It was observed during the presentation that the entire mining initially planned is only in the farthest of the westward side, in case the project proponent carries out mining towards east, it should be done only after the plantation of 50 m barrier is raised to the 15 feet. Undertaking regarding the same needs to be submitted by the project proponent.
- 4) The transport route is passing through the villages, the impact of transportation from the village, the risk factor and the road condition including the road width is to be properly assessed during a sizable amount of the baseline information in the village

on the air quality, noise quality be submitted with a snapshot of one week monitoring in the villages on the road. The project proponent should also explore the possibility of bypass road for transportation.

- 5) The budget does not include the amount of plantation for 21 Ha area as suggested in the conceptual plan progressively as well as suggested by EAC in the 30.36 Ha area of no-mining zone should also be included in the EMP budget.
- 6) The suggestion made by the EAC regarding the manual sizing of the mineral is also be re-looked into and mechanical sizing practice can be adopted for safety of labor.

1.2 Proposal for Amendment in Terms of Reference dated 05.02.2021 for Chettichavadi Jaghir Magnesite and Dunite Mine with the production capacity of 1.4 MTPA in the mining lease area of 449.364 ha located at Village Chettichavadi, Taluk & District Salem, State TamilNadu by M/s. Dalmia Bharat Sugar and Industries Limited – [File No: 23-227/2018-IA.III (V); Proposal No: IA/TN/MIN/254214/2022] – Amendment in ToR

EAC Meeting Details:

EAC meeting	46 th
Date of Meeting	15 th to 17 th February, 2022

2. Project details:

Name of the Proposal	Amendment in Terms of Reference dated 05.02.2021 for Chettichavadi Jaghir Magnesite and Dunite Mine with the production capacity of 1.4 MTPA in the mining lease area of 449.364 ha	
Location	Village	Chettichavadi Village
	Tehsil/Taluka	Salem West
	District	Salem
	State / UT	Tamil Nadu
	Latitudes	N 11°43'09.71" to N 11°44'36.233"
	Longitudes	E 78°07'23.268" and E 78°09'13.068"
	SoI Topo sheet No.	58 I/2
Company's Name	M/s. Dalmia Bharat Sugar and Industries Ltd.	
Accredited Consultant and certificate no.	M/s. Aadhi Boomi Mining & Enviro Tech (P) Ltd, Salem NABET/EIA/1821/RA 0103	
KML file	Submitted	
Seismic zone	Zone-III	

3. Category details:

Category of the project	Category "A", Project or Activity 1(a) – 3 for Mining of Mineral
Provisions	As per EIA Notification S.O. 1533 (E), dated 14 th September 2006 and subsequent amendments

Mining lease Area	449.364 ha
-------------------	------------

4. Details of Terms of Reference:

Date of application	Proposal No	Details	Date of accord
19.03.2018	IA/TN/MIN/73566/2018	Chettichavadi Jaghir Magnesite & Dunite Mines for total excavation of 1.4 MTPA over an area of 449.364 ha located at Village Chettichavadi, Taluk & District Salem, Tamil Nadu of M/s. Dalmia Bharat Sugar and Industries Limited	05.02.2021
Production Capacity	Magnesite: 61,000 Ts / year, Dunite: 1,40,000Ts/ year.		
Soil	NIL		
Waste	11,99,000 TS		
Total Excavation	14,00,000 TS		
Reason for amendment	The project proponent could not comply with the specific condition (xviii) of ToR dated 05.02.2021 i.e. Valid mine lease documents from the State Department of mines be submitted with EC application, EAC in its 43 rd meeting held on 15.12.2021 suggested the project proponent to seek for amendment of ToR.		

5. Lease Details:

Grant of initial mine lease for Magnesite mineral	The mining lease for Magnesite over an extent of 574.46 ha. In S.F.No.6 (un assessed dry waste land belonging to Govt. of Tamil Nadu) of Chettichavadi village, Salem Taluk & Dist. was sanctioned over a period of 20 years by G.O.Ms. No.903 Industries, Labour and Co-operation Department dated 25-2-1966.
Grant of mine lease for Dunite mineral	By G.O.MS.No.801, 26th June 1976 another Mining Lease was granted over the same area of 574.46 ha land for mining of Dunite for a period of 10 years.
1 st Renewal of mine lease	By G.O.Ms.No.74 Industries Department dated 11th March, 1997 the Govt. of Tamil Nadu sanctioned the grant of first renewal of mining lease for Magnesite and Dunite over an extent of 531.98 hectares (to make them co-terminus) in S.F.No.6 of Chettichavadi village, Salem Taluk and District for a period of 20 years w.e.f. 20.8.1986 to 19.8.2006.
2 nd Renewal of mine lease	Application for second mining lease renewal was made on July 11, 2005 vide letter No. SL: GO: 55200(1). During the period 19.08.2006 to 11th January 2015 the mines were under deemed extension in view of Rule 24 (A) (6) of MCR 1960 read with order of injunction passed in MP No.1 of 2006 in W.P.Nos. 25518 and 25519 of 2006 of the Hon'ble High Court of Madras. Presently, according to project proponent lease has been extended up to

	the period ending on 31 st March 2030 in terms of Mines and Minerals (Development & regulation) Amendment Act 2015. Project Proponent from time to time vide its various letters including letter dated 17th Feb 2021 and letter dated letter dated 25th Sept 2021 had requested State Mining Dept. to issue valid mining lease documents. State Mining Dept. has not responded to the same. In this connection W. A. No. 834 & 835 are pending before Madras High Court.
Application for the Mining lease area and Date	Area: 449.364 Ha Date: 11-07-2005.
Validity of mine lease	31.03.2030 as per Sec 8(A)(5) of MMDR(Amendment) Act-2015.

6. Mining plan details:

Mining Plan(approved by Indian Bureau of Mines/DMG)	Letter No.	TN/SLM/ MG& DU/ ROMP-1646-MDS.
	Date	30.03.2021
	Validity	2021-22 to 2025-26 (till 31.03.2026)
Mining Parameters	Quantitative Description	
Bench Height	7.5 m Permitted	
Bench Width	15 TO 25 M	
Method of Mining	Open Cast Semi Mechanized Mining (Other than Fully Mechanized Mines).	
Individual bench slope	60° from Horizontal.	
Overall pit slope	45°	
Drilling/Blasting	Deep Hole Drilling 100-104 mm Dia& Small Dia 25 mm Dia Holes.	
RoM output size	14,00,000Tonnes.	
Life of mine	100 Years	
Transportation details	ROM by Dumpers & Mineral by 10 Tonners.	
Dumpers capacity	Dumpers 40 ts Capacity.	

7. Land Area Breakup:

Private land	-
Government land	Unassisted dry waste land belonging to Government
Total Mining lease area (MLA)	449.364 H.a

8. Presence of Environmentally Sensitive areas in the study area :

Forest Land/Protected Area/Environmental Sensitivity Zone	Yes/No	Details of Certificate/letter/Remarks
Forest Land	No	Tamil Nadu Forest Dept C.NO.2378/2021.D1 dt.04.10.2021
National park	No	
Wildlife Sanctuary	No	

Schedule-1 species	Yes/No	Details of Certificate/letter/Remarks
Schedule-I species	No	Tamil Nadu Forest Department C.NO.598/2021 dated 24.09.2021.

9. Green belt/plantation details:

Proposed area for green belt/plantation	6 Ha
Budget for green plant& plantation till the end of life of mine.	Rs.13,50,000/-
Budget for nursery	Rs.4,00,000 per Annum

Particulars for Green belt/plantation	Area covered (in Ha)
7.5 m barrier & non-mineralized zone	60 Ha
50 m safety zone of nallah, roads, electric lines	9 Ha
500 m safety zones of nearest habitation villages	10 Ha

10. Court case details:

Court Case	Yes, 9 court cases are pending.
Details	<ol style="list-style-type: none"> 1. W.P.25518/2006 Madras HC 2. Writ Petition No.29275 of 2016 Madras HC. 3. Writ Petition (Civil) No. 114 of 2014 of Supreme Court 4. District Collector, Salem has also raised another demand vide order dated 8th July, 2020 directing project proponent to pay sum of INR 7.24 Crore on the quantity of Magnesite mined without EC for the period 1st April, 2000 to 31st August, 2018. 5. District Collector's demand of surface compensation of Rs.79,88,39,062 from 20.08.19 66 till 31.10.2017. 6. Show cause vide Proceeding Letter No.SLM0006/DEE/TNPBC/S LM/RL/2014, dated 03.06.2014 by Tamil Nadu State Pollution Control Board U/s 19 of Environment Protection Act. 7. Show Cause vide Proceeding Letter No.FEF/TNPBC/SLM/F/006 /20 by Tamil Nadu State Pollution Control Board U/s 19 of Environment Protection Act dated 4th May, 2020. 8. Show cause Notice dated 5thFebruary, 2013 under Water Act. Show cause Notice dated 5thFebruary, 2013 under Air Act. 9. Environmental Activist Mr.S.Sakthivel filed a petition before the Hon'ble NGT (SZ) raising certain Environmental issues against 6 respondents.

11. Affidavit/Undertaking details:

Affidavit	The project proponent submitted the Affidavit dated 21.10.2019 in accordance with the statutory requirement & judgment of Hon'ble Supreme Court dated 2nd August 2017 in writ Petition (civil) No. 114 of 2014 in the matter of common cause versus Union of India & Ores is submitted to MoEF&CC.
-----------	--

12. Details of the EMP:

S.	Description	Budget
----	-------------	--------

No		
1	Safety kits for 320 persons @ Rs 1000 per head	Rs. 3,20,000
2	Water Sprinkling & Spraying	Rs.15,00,000
3	Afforestation for @ 75 per tree	Rs. 2,00,000
4	Noise & Vibration	Rs. 1,00,000
5	Drainage- Parapet -Retention Wall	Rs. 5,00,000
Total		Rs 26.2 Lakhs

13. Details of project cost and employment:

Particulars	Details (Rs. In Crore)
Capital Cost for Environment Protection	Rs.2.49
Budget for addressing the Public Hearing issues	Rs.0.39
Total Cost for EMP	Rs. 26 Lakhs/annum
Recurring Cost for EMP	Rs.0.2 Lakhs/annum.
Project Cost	Rs.19.57
Employment	300 Nos

14. Observation and Recommendation of the Committee:

The proposal for Amendment in Terms of Reference was considered in the 46th EAC meeting held during 15th to 17th February 2022. For this particular case an official of Department of Geology and Mining, Tamil Nadu was invited. It was mentioned that the mine lease was in operation since 1967 till 2019 without obtaining the Environmental Clearance. Therefore, it is a case of violation. The official of DMG, Tamil Nadu also submitted that currently as per the documents, this mine lease is not valid and does not come under deemed extension of mine lease validity as the project proponent is not fulfilling the required conditions. It is also noted that there are many court cases currently in progress between the project proponent and the State of Tamil Nadu. The Committee was of the opinion to wait for the clear-cut decision of the Hon'ble court in the matter before considering the request of amendment of removal of specific condition (xviii) of ToR letter dated 05.02.2021 i.e. Valid mine lease documents from the State Department of mines needs to be submitted with EC application. After detailed discussions, the committee **return** the proposal.

1.3 Proposal for Amendment in Terms of Reference dated 16.12.2021 of Kannur (Wadi area) Limestone Block (auction block) with production capacity of Limestone 12MTPA & 0.581 MTPA of waste including top soil with two nos. of crushers of 2000 TPH having mining lease area of 550 Ha located at Villages Ingalgi, Basaveshwaranagara, Halkatta, and Kundanoor, Taluka Chittapur, District Kalaburagi, Karnataka by M/s ACC Limited [File. No: IA-J-11015/76/2021-IA-II (NCM); Proposal No: IA/KA/MIN/252066/2022] - Amendment in ToR

EAC Meeting Details:

EAC meeting	46 th
-------------	------------------

Date of Meeting	15 th to 17 th February, 2022
-----------------	---

2. Project details:

Name of the Proposal	“Kannur (Wadi area) Limestone Block (auction block) having lease area of 550 Ha by ACC Ltd.	
Location	Village	Ingalgi, Basaveshwaranagara, Halkatta, and Kundanoor
	Tehsil/Taluka	Chitapur
	District	Kalaburagi
	State / UT	Karnataka
	Latitudes	17°01'32.70 N to 17°02'49.00 N
	Longitudes	76°56'40.00 E to 76°57'59.50 E
	SoI Topo sheet No.	56 C/16
Company's Name	M/s. ACC Limited	
Authorization	M/s ACC Limited submitted the authorization letter in the name of Sh. Shanti Ranjan Turkey	
Accredited Consultant and certificate no.	Perfact Enviro Solutions Pvt Ltd. (NABET/EIA/1922/RA 0184)	
KML file	Submitted	
Seismic zone	II	

3. Category details:

Category of the project	Category “A”, Project or Activity 1(a) – 3 for Mining of Mineral
Provisions	As per EIA Notification S.O. 1533 (E), dated 14 th September 2006 and subsequent amendments
Mining lease Area	550 Ha

4. Details of Terms of Reference:

Date of application	Proposal No	Details	Date of accord
29.10.2021	IA/KA/MIN/236358/2021	Kannur (Wadi area) Limestone Block (auction block) with production capacity of Limestone 12 MTPA & 0.581 MTPA of waste including top soil with two nos. of crushers of 2000 TPH having mining lease area of 550 Ha located at Villages Ingalgi, Basaveshwaranagara, Halkatta, and Kundanoor, Taluka Chittapur, District Kalaburagi, Karnataka of M/s ACC Limited	16.12.2021
Production Capacity	12.0 MTPA Limestone		
Soil	0.058 MTPA Soil		
Waste	0.523 MTPA Waste		
Total Excavation	12.581 MTPA		
Crusher	It is proposed to install two crushers of capacity 2000 TPH each within the mining lease area. The distance between both the crushers is approx. 1 km.		

18th April 2022

To,

The Secretary,
Ministry of Environment, Forest & Climate Change
Indira Paryavaran Bhawan,
Jor Bagh,
New Delhi-110003

Sub: Grant of Environment Clearance for Mining Magnesite and Dunite Minerals in Chettichavadi, District Salem, Tamil Nadu

Ref: (i) Our proposal No-IA/TN/MIN/241375/2018.

(ii) Minutes of Meeting of 46th Expert Appraisal Committee meeting (Non-Coal Mining) held on 15th Feb 2022

Dear Sir,

We solicit your intervention on the above referred proposal for expediting the issuance of Environment Clearance (EC) for our mining operations. The proposal was considered by the Expert Appraisal Committee (non-Coal Mining) (EAC) and after issuance of Terms of Reference dated 5th Feb 2022 (ToR), the committee desired to have a valid mining lease document or a court order for further consideration of the proposal and returned the proposal.

We present herein below chronology of events for your kind consideration and request your kind intervention for expediting grant of EC: -

1. The Mining Lease deed for the mines in reference was granted and executed in the year 1966 for 20 yrs. It was further renewed in 1986 for another 20 years, till 2006. Needless to mention here that, when the mines commenced operations in the year 1966, there was no requirement of EC, it was introduced in 1994 for new projects. Later on in 2004, as per amendment brought in EIA notification 1994 EC was mandated at the time of renewal of Mining Lease.
2. We timely applied for renewal of mining lease vide application dated 14th July 2005 for the renewal due on 20th August 2006. The mining operations continued beyond 20th Aug 2006, under the provisions of deemed extension under Mineral Concession Rules 1960, read with interim orders (dated 17th August 2006) of Hon'ble High Court of Madras in WP 25518/2006, filed by us with regard to renewal of mining lease. The mining operations continued with payment of due royalties and other statutory dues, the concerned department/s also issued necessary permit/consent to operate, including the Transport Permit.

As a conscious corporate we also filed application dated 9th Feb 2006 for grant of EC under EIA notification 1994 (EC), to have EC in place on or around renewal of mining lease due in Aug 2006.

4. It is to be stated that neither the application for renewal of mining lease nor the EC application was disposed by the concerned Departments and it remained pending. The operations continued under the provisions of deemed extension / interim relief granted by Madras High Court while said applications remained pending for disposal.
5. It was only in 2010, the State Govt. intimated us to apply for EC afresh to MoEFCC under the provision of EIA notification 2006. We accordingly applied directly to MOEFCC on 17th August 2010 followed by refiling on 12th October 2011 in FORM-I under EIA and on 10.01.2012.
6. The said EC application was somehow kept pending for want of credible action on the alleged ground of mining without EC during the period of deemed extension of Mining Lease. It is pertinent to mention here that Hon'ble High Court of Jharkhand High Court in the matter of Hindustan Copper Vs Union of India W.P. No, 2364/2014 (orders dated 28.11.2014), held that processing of EC application and credible action for alleged violation are independent of each other and processing of EC application cannot be withheld for want of credible action.
7. Thereafter, said mining lease got extended up to 31st March 2030 by virtue of introduction of Sec 8 (A) (5) of the MMDR Act and various Judgement of Hon'ble Supreme Court.
8. The proposal of EC is now being considered under violation category as per MOEFCC Notification S.O.804 (E) dated 14.03.2017
9. In the intervening period, Tamil Nadu State Pollution Control Board initiated proceedings on the alleged ground of mining without EC during the period of deemed extension of mining lease. State Mining Dept. has raised issues regarding mining lease in absence of EC. Further State Mining Dept. U/s 21 (5) of MMDR Act has also issued total demands of INR 18.68 Crores for mining of Dunite without EC and for mining of Magnesite without EC for the period 2001-02 to 2018-19. All these matters are pending for adjudication and the same has been duly disclosed to EAC.
10. ToR had already been issued, with one of the conditions to produce valid mining lease documents. A Copy of TOR is annexed herewith and marked as **Annexure A**
11. In pursuance of ToR we already submitted our Final Environment Impact Assessment & Environment Management Plan on 29th November 2021. The proposal had already been considered twice in EAC meetings held on 15th Dec 2021

and 15th Feb 2022. A Copy of Minutes of Meeting of EAC held on 15th Dec 2021 and 15th Feb 2022 is annexed herewith and marked as **Annexure B**.

12. EAC in its meeting held on 15.12.2021 noted that since we had not been able to furnish *Valid Mining Lease Documents*, therefore directed us to move an application to dispense with the requirement of *Valid Mining Lease Documents*.
13. We, accordingly submitted our said application dated 31.01.2022 also enclosing therewith copy of an order dated 11th Jan 2022 passed by Maras High Court in W.P No 29275 /2016 in the matter of Dalmia Bharat Sugar And Industries Ltd Vs State of Tamil Nadu) wherein High Court directed us to approach State Mining Dept. with EC for regularization of mining lease, relevant portion of the order reads as under

It is left open to the Petitioner-Company to submit all the required documents, including the Environmental Clearance Certificate issued by the Competent Authorities of the State, enabling the State Authorities to consider the case and take a decision and pass appropriate orders on merits and in accordance with law

A Copy of application dard 31st Jan 2022 is annexed herewith and marked as **Annexure C**.

14. In the 15th Dec 2022 EAC meeting there were some observations on the revision were suggested on the budgeted cost in EMP, which had also been complied with.
15. In the last meeting of EAC held on 15th Feb 2022, the proposal was returned for the want of clear cut orders from Court because the representative of State Mining Dept. present in EAC meeting took a view that mines is in operations, since 1966 without EC, it is violation case hence it is not entitled to deemed extension of its mining lease while, EAC has taken view that EC cannot be granted in absence of valid mining lease documents from State Mining Dept. and/or without clear cut Court Orders in this regard.
16. It may be noted from the above that in this matter, we have been put to befuddlement for the technical reasons alone, despite operating mines during period of *deemed extension*, in compliance of applicable laws, while pursuing our applications for grant of EC, grant of renewal of mining lease, which were filed well in time. It is also pertinent to mention here that grant of EC is pre-requite, it enables project proponent to seek grant of mining lease /permission to commence mining operation which in turn can be granted by State Mining Dept. subject to host of other conditions under mining enactments.
17. In this regard, we would like to draw your attention to most recent pronouncement of Supreme Court in the matter of Dastak NGO, Civil Appeal No 4795/2021, judgement dated 25.03.2022. In the said matter grant of EC was being considered under *violation category*, grant of EC was opposed on the ground that

Dalmia Bharat Sugar and Industries Limited

11th and 12th Floor, Hansalaya Building, 15 Barakhamba Road, New Delhi - 110 001, Delhi, India

T +91 11 2346 5100 W www.dalmiasugar.com CIN: L15100TN1951PLC00640

Registered Office: Dalmiapuram, District Tiruchirappalli – 621 651, Tamil Nadu, India

A Dalmia Bharat Group company, www.dalmiabharat.com

EC cannot be granted post facto, and operations were ordered to be closed. In the said matter Apex Court set aside the orders of closure and gave directions for final orders on grant of EC.

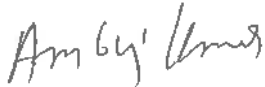
A copy of the order is enclosed herewith and marked as **Annexure – D**

We therefore seek your kind intervention with a request to advise the concern to consider the proposal for grant of EC to enable us to commence mining operations.

An opportunity of hearing may also be granted before such abrupt disposal of the proposal.

Thanking You.

Yours Faithfully,
For Dalmia Bharat Sugar & Industries Ltd,



Ambuj Kumar Srivastava
Authorized Signatory

Encl:

1. Terms of reference dated 05.02.2021
2. Minutes of EAC Meeting held on 15.12.2021 and 15.02.2022
3. Letter dated 31.01.2022 with annexures.
4. Judgment dated 25.03.2022 passed by the Hon'ble Supreme Court in Civil Appeal No. 4795/2021.



सत्यमेव जयते

F.No.23-227/2018-IA.III(V)
Government of India
Ministry of Environment, Forest and Climate Change
Impact Assessment Division

2nd Floor, Prithvi Wing
 Indira Paryavaran Bhavan
 Jor Bagh Road, Aliganj,
 New Delhi-110 003

Date: 5th February, 2021

To,
 M/s Dalmia Bharat Sugar and Industries Limited
 Village Panchayat Chettichavadi
 Zilla Salem, Municipal Salem
 Tamil Nadu 636 012

Subject: Chettichavadi Jagbir Magnesite and Durite mines over an extent of 449.364 Ha located at Village Chettichavadi, Taluk Salem, District Salem, Tamil Nadu by M/s Dalmia Bharat Sugar and Industries Limited - Terms of References.

Sir,

This has reference to the online proposal No.IA/TN/MIN/73566/2018 for mining of Magnesite & Dunite of total excavation 1.4 million Tonne per annum (MTPA) [including 0.06 million tons of Magnesite, 0.12 million tons of Dunite, Waste, O.B, Inter Burden, Top Soil, etc.] from mining lease area 449.364 ha located at Village Chettichavadi Tehsil Salem, District Salem, State Tamilnadu by M/s. Dalmia Bharat Sugar And Industries Ltd.

2. The mining lease is located on Survey of India Toposheet no. 58 I/2. The area is bounded between the coordinates Latitude 11°43'09.8"N to 11°43'36.3"N and Longitude 78°07'23.2" E to 78°09'11.5" E. The said project/activity is covered under category A of item 1(a) of the Schedule to the EIA Notification, 2006 as amended, and requires prior EC from the MoEF&CC based on the appraisal by Expert Appraisal Committee.

3. Fresh Application was made online vide proposal no.IA/TN/MIN/73566/2018 dated 19- Mar-2018 under Violation category for Terms of References (TOR) in Terms of Provision of the Ministry's Notification S.O.804(E) and submitted FORM I and PFR.

4. Details of Minerals: Magnesite Major Mineral. Dunite Minor Mineral (Dunite was declared minor mineral vide Ministry of Mines Notification dated 10th February 2015, prior to that it was major mineral). Letter of Intent (LoI)/Mining Lease Details: G.O.MS.No.74 Industries MMDI Dept. dated 11.03.1997 vide and the lease deed was executed on 30th Mar 1998 for 20 years i.e. 20.08.1986 date and is valid till 19. 08. 2006.

5. Method of Mining & Mining Plan Details: The Mining Plan was approved by IBM vide LR No.TN/SLM/MMP/MG & DU-2055.MDS dated 01.05.2019. As per which the method of mining shall be Opencast Other than mechanized mine. Method of workings: After Deep-hole drilling and blasting are carried out, 2071 FEL and BH40 dumpers combination is deployed on blasted face for directly loading the blasted muck pile. The material is carried to the spoil bank where it is dumped on the spoil bank edge in a thin layer over a long stretch. Like this certain number of dumper loads are brought and spread on the spoil bank edges side by side. The workers are allowed to pick and collect the ore superficially visible. The collected ore is broken chipped, dressed and stacked. Once the visible ore is collected, dozer is given to spread the material across. Again the ore is collected and stacked. Thus the entire ore is collected without losing even the small jelly. Finally the left over waste spoil is dozed down the slope of the spoil bank and space is created for fresh

M/s Dalmia Bharat Sugar and Industries Limited, Tamil Nadu

Page 1 of 9

1/10/2021

dumping. Then the cycle is repeated. The small jelly visible on the spoil bank slopes is also collected and stacked at the toe of the spoil banks. The stacked ore is serially numbered and properly accounted. These stacks are sampled and analyzed. If the stacks analyze less than 6.2% SiO₂, they are directly transported to the plant. If the stacks analyze more than 6.2% SiO₂, they are subjected to re-cleaning by deploying manpower to bring down the silica content to less than 6.2% SiO₂ by further chipping of the impurities and sizing. The ore analyzing above 11% silica is termed as Mineral Reject. The loading and transporting of raw Magnesite stack is done by 1420 model BEML wheel loader and 10 tonner tippers combination.

6. Please provide the details of drilling & blasting, bench height and width, ultimate pit limited, ultimate pit slope, intersection of ground water table if any: Deep Hole Drilling is carried out with 100 mm dia Pneumatic drills. Wet drilling is carried out while doing pneumatic drilling. Sparingly Jack Hammer drilling is carried out on boulders. Deep hole Blasting is carried out using slurry explosives. Since the Magnesite are thin and fragile there is a need to avoid fragmentation and powdering to enhance recovery of Magnesite. Only slight heaving effect is given with minimum charge of explosives. Generally small blast are carried out with holes drilled in 2 rows only with 9-10 holes in each row. At a time we are blasting 18 to 20 holes on an average with hole depths raising from 6-8 mtrs. The Bench height in top development benches is maintained as 7-7.5 mtr. The bench width is maintained at 25 to 30 mtr for easy maneuverability of machines and for stacking Magnesite Minerals.

7. Ultimate Pit Limit: The Magnesite ore of all the three categories extend upto the depth of 320 mRL above MSL. For mining Magnesite ore of all the three categories mining operations shall be extended upto the depth of 320 mRL above MSL. Laterally, it is proposed to extend the ultimate pit limit beyond the ore, non-ore contact zone in the eastern part of the leasehold and the ultimate pit slopes will be on the barren pyroxenite. This is proposed with the intension of mining the entire mineralized area. The ultimate pit slope angle is taken as 45° from horizontal. The ultimate pit limits have been worked out.

8. The Ground Water Table in the western most part of the lease area (for the cross sections from E 2350 to E3500) is at 325 mRL above MSL. In the rest of the area, the Ground Water Table is at 335 mRL above MSL. So far our Mining operation has not intersected the ground water table.

9. No Crusher, Screen, beneficiation plant within the lease hold area. Plantation details: we are planting at least 2000 tree samplings per year and total number of plantation done so far is 60674. The total green belt area at present is 19.23 ha.

10. **Project Cost & Employment:**

Project	Cost of Project
Total capital cost	Rs.1964.81 Lakhs
Cost of production	Rs 3988.95 per tonne
Cost for implementing EMP	Rs.20 Lakhs

11. The EAC, after detailed deliberations in the present meeting (40th) on the proposal and additional information submitted and affidavit submitted, confirmed the instant case to be of violation of the EIA Notification, 2006 and in terms of the provision of Ministry Notification dated 14.03.2017 recommended for issuing Standard Term of Reference along with the specific Term of Reference to M/s.Dalmia Bharat Sugar & Industries Ltd for Mining of Magnesite & Dunite from Chettichavadi Jaghir Magnesite & Dunite Mines for total excavation 1.4 MTPA from mining lease area 449.364 ha for undertaking EIA study and preparation of Environmental Management Plan (EMP).

12. The matter was examined in the Ministry and the undersigned is directed to say that the Ministry of Environment Forest & Climate Change after accepting the recommendation of EAC, hereby decided to accord Specific & Standard Terms of References (ToR) as recommended by EAC (Violation) and in pursuant Ministry's O.M. No.3-50/2017-IA.III (Pt.) dated 30.05.2018, Z-11013/49/2018-IA.II(M) dated 18.06.2018 and 21-103/2015-IA.III dated 02.11.2018 for the above mentioned project. Accordingly, the Project Proponent is requested to prepare and submit Final EIA/EMP report based on the prescribed ToR which is as under:

M/s Dalmia Bharat Sugar and Industries Limited, Tamil Nadu

Q. scg

A. Specific Terms of References

- (i) Ministry has issued 25.11.2020 issued a letter to the State Govt to take action against the proponent under section 19 of the E(P) Act 1986. Status of action taken by the State gov't/SPCB u/s 19 of the E(P) Act shall be submitted.
- (ii) Assessment of ecological damage with respect to air, water, land and other environmental attributes. The collection and analysis of data shall be done by an environmental laboratory duly notified under the Environment (Protection) Act, 1986, or an environmental laboratory accredited by NABL, or a laboratory of a Council of Scientific and industrial Research (CSIR) institution working in the field of environment.
- (iii) Preparation of remediation plan and natural and community resource augmentation plan corresponding to the ecological damage assessed and economic benefits derived due to violation.
- (iv) The remediation plan and the natural and community resource augmentation plan to be prepared as an independent chapter 13 in the EIA report by the accredited consultants.
- (v) Budget of remediation plan and natural and community resource augmentation plan corresponding to the ecological damage shall be completed within three years and to be prepared accordingly.
- (vi) EIA/EMP report shall be prepared taking cognizance and impacts (Cumulative) of the adjacent mines leases, if any.
- (vii) In case of violation of undertaking by way of affidavit to comply with all the statutory requirements and judgment of Hon'ble Supreme Court dated, the ToR Clearance shall be liable to be terminated forthwith.
- (viii) One season fresh base line data shall be collected for preparation of EIA/EMP reports.
- (ix) The PP is required to conduct public hearing as per EIA notification, 2006 and as amended thereof.
- (x) The PP should also address the all the issues raised during the already held public hearing along with commitments made and with fund provision to address above issues in tabular form to be submitted along with EIA/EMP report.
- (xi) Detailed hydrological study to be carried out in core and buffer zone of the project as per GEC 2015 guidelines.
- (xii) The Action Plan on the compliance of the recommendations of the CAG as per Ministry's Circular No.J-11013/71/2016-IA.1 (M), dated 25.10.2017 needs to be submitted at the time of appraisal of the project and included in the EIA/EMP Report.
- (xiii) Details of benefit accrued during the violation period along with capital cost of the project are to be submitted.
- (xiv) Mine plan as approved by Indian Bureau of Mines to be submitted.
- (xv) DGMS permission is to be submitted for blasting at project site, if any.
- (xvi) As per Ministry's Notification dated 25th July, 2018 DSR shall be submitted with EIA/EMP report for minor mineral.
- (xvii) Details as per Annexure XI as mentioned in the agenda shall be submitted.
- (xviii) Valid Mine lease documents from the State department of mines be submitted with EC application.
- (xix) Impact assessment of mining activity on the National park, WLS etc within 10 km of the study area shall be studied.

B. Standard Terms of References

- (1) Year-wise production details since 1994 should be given, clearly stating the highest production achieved in any one year prior to 1994. It may also be categorically informed whether there had been any increase in production after the EIA Notification 1994 came into force, w.r.t. the highest production achieved prior to 1994. The production details need to submit since inception of mine duly authenticated by Department of Mines & Geology, State Government.
- (2) A copy of the document in support of the fact that the Proponent is the rightful lessee of the mine should be given.

Dalmia

- (3) All documents including approved mine plan, EIA and Public Hearing should be compatible with one another in terms of the mine lease area, production levels, waste generation and its management, mining technology etc. and should be in the name of the lessee.
- (4) All corner coordinates of the mine lease area, superimposed on a High-Resolution Imagery/toposheet, topographic sheet, geomorphology and geology of the area should be provided. Such an Imagery of the proposed area should clearly show the land use and other ecological features of the study area (core and buffer zone).
- (5) Information should be provided in Survey of India Toposheet in 1:50,000 scale indicating geological map of the area, geomorphology of land forms of the area, existing minerals and mining history of the area, important water bodies, streams and rivers and soil characteristics.
- (6) Details about the land proposed for mining activities should be given with information as to whether mining conforms to the land use policy of the State; land diversion for mining should have approval from State land use board or the concerned authority.
- (7) It should be clearly stated whether the proponent Company has a well laid down Environment Policy approved by its Board of Directors? If so, it may be spelt out in the EIA Report with description of the prescribed operating process/procedures to bring into focus any infringement/ deviation/ violation of the environmental or forest norms/ conditions? The hierarchical system or administrative order of the Company to deal with the environmental issues and for ensuring compliance with the EC conditions may also be given. The system of reporting of non-compliances / violations of environmental norms to the Board of Directors of the Company and/or shareholders or stakeholders at large, may also be detailed in the proposed safeguard measures in each case should also be provided.
- (8) Issues relating to Mine Safety, including subsidence study in case of underground mining and slope study in case of open cast mining, blasting study etc. should be detailed. The proposed safeguard measures in each case should also be provided.
- (9) The study area will comprise of 10 km zone around the mine lease from lease periphery and the data contained in the EIA such as waste generation etc. should be for the life of the mine / lease period.
- (10) Land use of the study area delineating forest area, agricultural land, grazing land, wildlife sanctuary, national park, migratory routes of fauna, water bodies, human settlements and other ecological features should be indicated. Land use plan of the mine lease area should be prepared to encompass preoperational, operational and post operational phases and submitted. Impact, if any, of change of land use should be given.
- (11) Details of the land for any Over Burden Dumps outside the mine lease, such as extent of land area, distance from mine lease, its land use, R&R issues, if any, should be given.
- (12) A Certificate from the Competent Authority in the State Forest Department should be provided, confirming the involvement of forest land, if any, in the project area. In the event of any contrary claim by the Project Proponent regarding the status of forests, the site may be inspected by the State Forest Department along with the Regional Office of the Ministry to ascertain the status of forests, based on which, the Certificate in this regard as mentioned above be issued. In all such cases, it would be desirable for representative of the State Forest Department to assist the Expert Appraisal Committees.

- (13) Status of forestry clearance for the broken-up area and virgin forestland involved in the Project including deposition of net present value (NPV) and compensatory afforestation (CA) should be indicated. A copy of the forestry clearance should also be furnished.
- (14) Implementation status of recognition of forest rights under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 should be indicated.
- (15) The vegetation in the RF / PF areas in the study area, with necessary details, should be given.
- (16) A study shall be got done to ascertain the impact of the Mining Project on wildlife of the study area and details furnished. Impact of the project on the wildlife in the surrounding and any other protected area and accordingly, detailed mitigative measures required, should be worked out with cost implications and submitted.
- (17) Location of National Parks, Sanctuaries, Biosphere Reserves, Wildlife Corridors, Ramsar site Tiger/Elephant Reserves/(existing as well as proposed), if any, within 10 km of the mine lease should be clearly indicated, supported by a location map duly authenticated by Chief Wildlife Warden. Necessary clearance, as may be applicable to such projects due to proximity of the ecologically sensitive areas as mentioned above, should be obtained from the Standing Committee of National Board of Wildlife and copy furnished.
- (18) A detailed biological study of the study area [core zone and buffer zone (10 km radius of the periphery of the mine lease)] shall be carried out. Details of flora and fauna, endangered, endemic and RET Species duly authenticated, separately for core and buffer zone should be furnished based on such primary field survey, clearly indicating the Schedule of the fauna present. In case of any scheduled-I fauna found in the study area, the necessary plan along with budgetary provisions for their conservation should be prepared in consultation with State Forest and Wildlife Department and details furnished. Necessary allocation of funds for implementing the same should be made as part of the project cost.
- (19) Proximity to Areas declared as 'Critically Polluted' or the Project areas likely to come under the 'Aravali Range', (attracting court restrictions for mining operations), should also be indicated and where so required, clearance certifications from the prescribed Authorities, such as the SPCB or State Mining Dept. Should be secured and furnished to the effect that the proposed mining activities could be considered.
- (20) Similarly, for coastal Projects, A CRZ map duly authenticated by one of the authorized agencies demarcating LTL, HTL, CRZ area, location of the mine lease w.r.t CRZ, coastal features such as mangroves, if any, should be furnished. (Note: The Mining Projects falling under CRZ would also need to obtain approval of the concerned Coastal Zone Management Authority).
- (21) R&R Plan/compensation details for the Project Affected People (PAP) should be furnished. While preparing the R&R Plan, the relevant State/National Rehabilitation & Resettlement Policy should be kept in view. In respect of SCs /STs and other weaker sections of the society in the study area, a need-based sample survey, family-wise, should be undertaken to assess their requirements, and action programmes prepared and submitted accordingly, integrating the sectoral programmes of line departments of the State Government. It may be clearly brought out whether the village(s) located in the mine lease area will be shifted or not. The issues relating to shifting of village(s) including their R&R and socio-economic aspects should be discussed in the Report.
- (22) One season (non-monsoon) [i.e. March - May (Summer Season); October - December (post

P. Raju

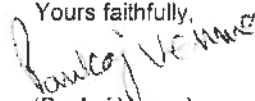
monsoon season); December - February (winter season)] primary baseline data on ambient air quality as per CPCB Notification of 2009, water quality, noise level, soil and flora and fauna shall be collected and the AAQ and other data so compiled presented date-wise in the EIA and EMP Report. Site-specific meteorological data should also be collected. The location of the monitoring stations should be such as to represent whole of the study area and justified keeping in view the pre-dominant downwind direction and location of sensitive receptors. There should be at least one monitoring station within 500 m of the mine lease in the pre-dominant downwind direction. The mineralogical composition of PM₁₀, particularly for free silica, should be given.

- (23) Air quality modelling should be carried out for prediction of impact of the project on the air quality of the area. It should also take into account the impact of movement of vehicles for transportation of mineral. The details of the model used and input parameters used for modelling should be provided. The air quality contours may be shown on a location map clearly indicating the location of the site, location of sensitive receptors, if any, and the habitation. The wind roses showing pre-dominant wind direction may also be indicated on the map.
- (24) The water requirement for the Project, its availability and source should be furnished. A detailed water balance should also be provided. Fresh water requirement for the Project should be indicated.
- (25) Necessary clearance from the Competent Authority for drawl of requisite quantity of water for the Project should be provided.
- (26) Description of water conservation measures proposed to be adopted in the Project should be given. Details of rainwater harvesting proposed in the Project, if any, should be provided.
- (27) Impact of the Project on the water quality, both surface and groundwater, should be assessed and necessary safeguard measures, if any required, should be provided.
- (28) Based on actual monitored data, it may clearly be shown whether working will intersect groundwater. Necessary data and documentation in this regard may be provided. In case the working will intersect groundwater table, a detailed Hydro Geological Study should be undertaken and Report furnished. The Report inter-alia, shall include details of the aquifers present and impact of mining activities on these aquifers. Necessary permission from Central Ground Water Authority for working below ground water and for pumping of ground water should also be obtained and copy furnished.
- (29) Details of any stream, seasonal or otherwise, passing through the lease area and modification / diversion proposed, if any, and the impact of the same on the hydrology should be.
- (30) Information on site elevation, working depth, groundwater table etc. Should be provided both in AMSL and BGL. A schematic diagram may also be provided for the same.
- (31) A time bound Progressive Greenbelt Development Plan shall be prepared in a tabular form (indicating the linear and quantitative coverage, plant species and time frame) and submitted, keeping in mind, the same will have to be executed up front on commencement of the Project. Phase-wise plan of plantation and compensatory afforestation should be charted clearly indicating the area to be covered under plantation and the species to be planted. The details of plantation already done should be given. The plant species selected for green belt should have greater ecological value and should be of good utility value to the local population with emphasis on local and native species and the species which are tolerant to pollution.

- (32) Impact on local transport infrastructure due to the Project should be indicated. Projected increase in truck traffic as a result of the Project in the present road network (including those outside the Project area) should be worked out, indicating whether it is capable of handling the incremental load. Arrangement for improving the infrastructure, if contemplated (including action to be taken by other agencies such as State Government) should be covered. Project Proponent shall conduct impact of Transportation study as per Indian Road Congress Guidelines.
- (33) Details of the onsite shelter and facilities to be provided to the mine workers should be included in the EIA Report.
- (34) Conceptual post mining land use and Reclamation and Restoration of mined out areas (with plans and with adequate number of sections) should be given in the EIA report.
- (35) Occupational Health impacts of the Project should be anticipated and the proposed preventive measures spelt out in detail. Details of pre-placement medical examination and periodical medical examination schedules should be incorporated in the EMP. The project specific occupational health mitigation measures with required facilities proposed in the mining area may be detailed.
- (36) Public health implications of the Project and related activities for the population in the impact zone should be systematically evaluated and the proposed remedial measures should be detailed along with budgetary allocations.
- (37) Measures of socio-economic significance and influence to the local community proposed to be provided by the Project Proponent should be indicated. As far as possible, quantitative dimensions may be given with time frames for implementation.
- (38) Detailed environmental management plan (EMP) to mitigate the environmental impacts which, should inter-alia include the impacts of change of land use, loss of agricultural and grazing land, if any, occupational health impacts besides other impacts specific to the proposed Project.
- (39) Public Hearing points raised and commitment of the Project Proponent on the same along with time bound Action Plan with budgetary provisions to implement the same should be provided and also incorporated in the final EIA/EMP Report of the Project.
- (40) Details of litigation pending against the project, if any, with direction /order passed by any Court of Law against the Project should be given.
- (41) The cost of the Project (capital cost and recurring cost) as well as the cost towards implementation of EMP should be clearly spelt out.
- (42) A Disaster Management Plan shall be prepared and included in the EIA/EMP Report.
- (43) Benefits of the Project if the Project is implemented should be spelt out. The benefits of the Project shall clearly indicate environmental, social, economic, employment potential, etc.
- (44) The activities and budget earmarked for Corporate Environmental Responsibility (CER) shall be as per Ministry's O.M.No 22-65/2017-IA.II(M) dated 01.05.2018 and the action plan on the activities proposed under CER shall be submitted at the time of appraisal of the project included in the EIA/EMP Report.
- (45) The Action Plan on the compliance of the recommendations of the CAG as per Ministry's Circular

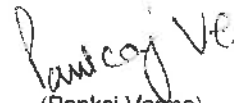
No.J-11013/71/2016-IA.I (M), dated 25.10.2017 needs to be submitted at the time of appraisal of the project and included in the EIA/EMP Report.

- (46) Compliance of the Ministry's Office Memorandum No.F.3-50/2017-IA.III(Pt.), dated 30.05.2018 on the judgment of Hon'ble Supreme Court, dated the 2nd August, 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India needs to be submitted and included in the EIA/EMP Report.
- (47) Besides the above, the below mentioned general points are also to be followed
- (a) All documents to be properly referenced with index and continuous page numbering.
 - (b) Where data are presented in the Report especially in Tables, the period in which the data were collected and the sources should be indicated.
 - (c) Project Proponent shall enclose all the analysis/testing reports of water, air, soil, noise etc. using the MoEF&CC/NABL accredited laboratories. All the original analysis/testing reports should be available during appraisal of the Project.
 - (d) Where the documents provided are in a language other than English, an English translation should be provided.
 - (e) The Questionnaire for environmental appraisal of mining projects as devised earlier by the Ministry shall also be filled and submitted.
 - (f) While preparing the EIA report, the instructions for the Proponents and instructions for the Consultants issued by MoEF vide O.M. No. J-11013/41/2006-IA.II (I) dated 4th August, 2009, which are available on the website of this Ministry, should be followed.
 - (g) Changes, if any made in the basic scope and project parameters (as submitted in Form-I and the PFR for securing the TOR) should be brought to the attention of MoEF&CC with reasons for such changes and permission should be sought, as the TOR may also have to be altered. Post Public Hearing changes in structure and content of the draft EIA/EMP (other than modifications arising out of the P.H. process) will entail conducting the PH again with the revised documentation.
 - (h) As per the circular no.J-11011/618/2010-IA.II (I) dated 30.5.2012, certified report of the status of compliance of the conditions stipulated in the environment clearance for the existing operations of the project, should be obtained from the Regional Office of Ministry of Environment, Forest and Climate Change, as may be applicable.
 - (i) The EIA report should also include (a) surface plan of the area indicating contours of main topographic features, drainage and mining area, (b) geological maps and sections and (c) sections of the mine pit and external dumps, if any, clearly showing the land features of the adjoining area.
- (48) The prescribed ToR would be valid for a period of four years for submission of the EIA/EMP report, as per the O.M.No.J-11013/41/2006-IA.II(I) dated 22.03.2010, 22.08.2014, 08.10.2014, 07.11.2014 and Ministry's Notification S.O. 751(E) dated 17th February, 2020. The instant ToR is valid up to four years from the date of issue of ToR.
- (49) After preparing the draft EIA(as per the generic structure prescribed in Appendix-III of the public hearing conducted and take further necessary action for obtaining environmental clearance in accordance with the procedure prescribed under the EIA Notification, 2006.
- (50) This issued with the approval of the Competent Authority.

Yours faithfully,

(Pankaj Verma)
Scientist E

Copy to:

- (1) The Secretary, Ministry of Mines, Government of India Shastri Bhawan, New Delhi.
- (2) The Secretary, Department of Environment, Government of Tamil Nadu, Chennai.
- (3) The Secretary, Department of Forests, Government of Government of Tamil Nadu, Chennai
- (4) The Secretary, Department of Mines and Geology, Government of Tamil Nadu, Chennai
- (5) The Chief Conservator of Forests, Regional Office (C), Ministry of Env., Forest and Climate Change, Regional Office (SEZ), 1st and IInd Floor, Handloom Export Promotion Council, 34, Cathedral Garden Road, Nungambakkam, Chennai – 34.
- (6) The Chairman, Tamil Nadu Pollution Control Board, 76, Mount Salai, Guindy, Chennai- 600 032, Tamil Nadu.
- (7) The Member Secretary, Central Pollution Control Board, Parivesh Bhavan, CBD cum- Office complex, East Arjun Nagar, New Delhi-1100032.
- (8) The Member Secretary, Central Ground Water Authority, 18/11, Jam Nagar House, Man Singh Road, New Delhi-110011.
- (9) The Controller General, Indian Bureau of Mines, Indira Bhavan, Civil Lines, Nagpur-440 001.
- (10) The District Collector, Salem, Tamil Nadu.
- (11) Guard File.
- (12) PARIVESH PORTAL.


(Pankaj Verma)
Scientist E

- xiii. Project proponent needs to submit all the relevant documents for examination of violation in the Ministry.

Day 2: 15th December, 2021 (Wednesday)

2.1 Proposal for Environmental Clearance of Chettichavadi Jaghir Magnesite and Dunite Mine with the production capacity of 1.4 MTPA in the mining lease area of 449.364 ha located at Chettichavadi Village, Salem Taluk, Salem District, Tamil Nadu by M/s. Dalmia Bharat Sugar and Industries Limited – [File No: 23-227/2018-IA.III(V), Proposal No: IA/TN/MIN/241375/2018, Consultant: M/s. Aadhi Boomi Mining & Enviro Tech (P) Ltd] – EC

EAC Meeting Details:

EAC meeting	43 rd EAC meeting
Date of Meeting	14 th to 16 th December, 2021

2. Project details:

Name of the Proposal	Chettichavadi Jaghir Magnesite and Dunite Mines.	
Location	Village	Chettichavadi
	Tehsil/Taluka	Salem West
	District	Salem
	State / UT	Tamil Nadu
	Latitudes	11°43'09.71"to 11°44'36.233" N
	Longitudes	78°07'23.268" to 78°09'13.068" E
	SoI Topo sheet No.	58 I/2
Company's Name	M/s.Dalmia Bharat Sugar and Industries Ltd	
Accredited Consultant and certificate no.	M/s.Aadhi Boomi Mining & Enviro Tech (P) Ltd NABET/EIA/1821/RA 0103	
KML file	Submitted	
Seismic zone	Zone-III	

3. Category details:

Category of the project	Category "A", Project or Activity 1(a) – 3 for Mining of Mineral
Provisions	As per EIA Notification S.O. 1533 (E), dated 14th September 2006 and subsequent amendment
Minerals	Magnesite (Major mineral) and Dunite (Minor mineral)
Mining lease Area	449.364 ha

4. ToR Details:

ToR Proposal No.	IA/TN/MIN/73566/2018
Online application date for Form-I	19.03.2018
Documents Submitted	Form-I and Pre Feasibility Report
EAC meeting dates	28-29 Aug 2018, 25-26 Nov 2019, 30 Dec 2020
ToR Letter No.	F.No.23-227/2018-IA.III (V)
ToR grant Date	05.02.2021
Production capacity	Magnesite: 61,000 Ts / year, Dunite: 1,40,000Ts/ year.
Waste	11,99,000 TS
Total Excavation	14,00,000 TS
EIA/EMP uploaded on	29.11.2021

5. Lease Details:

Grant of initial mine lease for Magnesite mineral	The mining lease for Magnesite over an extent of 574.46 ha. in S.F.No.6 (un assessed dry waste land belonging to Govt. of Tamil Nadu) of Chettichavadi village, Salem Taluk & Dist. was sanctioned over a period of 20 years by G.O.Ms. No.903 Industries, Labour and Co-operation Department dated 25-2-1966.
Grant of mine lease for Dunite mineral	By G.O.M S.No. 801, 26th June 1976 another Mining Lease was granted over the same area of 574.46 ha land for mining of Dunite for a period of 10 years.
1 st Renewal of mine lease	By G.O.Ms.No.74 Industries Department dated 11th March, 1997 the Govt. of Tamil Nadu sanctioned the grant of first renewal of mining lease for Magnesite and Dunite over an extent of 531.98 hectares (to make them co-terminus) in S.F.No.6 of Chettichavadi village, Salem Taluk and District for a period of 20 years w.e.f. 20.8.1986 to 19.8.2006.
2 nd Renewal of mine lease	Application for second mining lease renewal was made on July 11, 2005 vide letter No. SL: GO: 55200(1). During the period 19.08.2006 to 11th January 2015 the mines were under deemed extension in view of Rule 24 (A) (6) of MCR 1960 read with order of injunction passed in MP No.1 of

	2006 in W.P.Nos. 25518 and 25519 of 2006 of the Honourable High Court of Madras. Presently, according to project proponent lease has been extended up to the period ending on 31st March 2030 in terms of Mines and Minerals (Development & regulation) Amendment Act 2015. Project Proponent from time to time vide its various letters including letter dated 17th Feb 2021 and letter dated letter dated 25th Sept 2021 had requested State Mining Dept. to issue valid mining lease documents. State Mining Dept. has not responded to the same. In this connection W. A. No. 834 & 835 are pending before Madras High Court.
Application for the Mining lease area and Date	Area: 449.364 Ha Date: 11-07-2005.
Validity of mine lease	31.03.2030 as per Sec 8(A)(5) of MMDR (Amendment) Act-2015.

6. Mining plan details:

Mining Plan(approved by Indian Bureau of Mines/DMG)	Letter No.	TN/SLM/ MG& DU/ ROMP-1646-MDS.
	Date	30.03.2021
	Validity	2021-22 to 2025-26 (till 31.03.2026)
Mining Parameters	Quantitative Description	
Bench Height	7.5 m Permitted	
Bench Width	15 TO 25 M	
Method of Mining	Open Cast Semi Mechanized Mining (Other than Fully Mechanized Mines).	
Individual bench slope	60° from Horizontal.	
Overall pit slope	45°	
Drilling/Blasting	Deep Hole Drilling 100-104 mm Dia& Small Dia 25 mm Dia Holes.	
RoM output size	14,00,000Tonnes.	
Life of mine	100 Years	
Transportation details	ROM by Dumpers & Mineral by 10 Tonners.	
Dumpers capacity	Dumpers 40 ts Capacity.	

7. Land Area Breakup:

Private land	-
Government land	Unassisted dry waste land belonging to Government

Total Mining lease area (MLA)	449.364 H.a
-------------------------------	-------------

8. Nearest village / town/ highway/railway station / water bodies

Particulars	Particular's Name	Distance & Directions
Nearest Village	Chettichavadi Village	850m (E)
Nearest Town	Salem	10 Km
Nearest Roadway	NH 7 - Salem ~ Bengaluru. SH 188 - Salem - Yercaud. Muthanaickanpatti Road (Salem) -	5.0 km - SW 3.12km - SE MDR 696 6.0km - SW
Nearest Railway station	Salem Junction Railway Station	6 km (S)

Water Bodies within 10km radius from the lease area

S.No	Water Bodies	Direction	Distance (km)
1	Kannankurichi Lake	SE	4.7
2	KannankurichiPuthueri	SE	4.64
3	Thathampatti lake	SE	7.97
4	Mariamman temple tank	SE	8.75
5	Selathampattiyeri	SW	7.05
6	Lake near Vellakalpatti	SW	1.12
7	Lake near NH 7	SW	2.9
8	Lake near Indiranagar	SW	3.14
9	Pallapatti Lake	S	6.50
10	Arisipalayam lake	S	7.07
11	Kumaragiri lake	S	8.5
12	Lake near Muthunaickenpatti	W	10
13	Lake near Anaigoundampatty -	W	7.7
14	Samuthiram Lake	W	4.40
15	Lake near Pagalpatti	W	6.21
16	Lake near RC.Chettipatti	NW	8.1
17	Lake near Kottaimettupatti	NW	7.64
18	Lake near Kamalapuram	NW	7.72
19	Lake near Vattakkadu	N	4.40

9. Water requirement:

Total water requirement	70 KLD	Fresh water	70 KLD
-------------------------	--------	-------------	--------

		Treated water
Source	Bore Hole	
Permission	LR.NO.OT8/AG-2/176/NOC/SALEM/2021 dt.17.11.2021.	

10. Presence of Environmentally Sensitive areas in the study area :

Forest Land/Protected Area/Environmental Sensitivity Zone	Yes/No	Details of Certificate/letter/Remarks
Forest Land	No	Tamil Nadu Forest Dept C.NO.2378/2021.D1 dt.04.10.2021
National park	No	
Wildlife Sanctuary	No	

Schedule-1 species	Yes/No	Details of Certificate/letter/Remarks
Schedule-I species	No	Tamil Nadu Forest Department C.NO.598/2021 DATED 24.09.2021.

11. Green belt/plantation details:

Proposed area for green belt/plantation	6 Ha
Budget for green plant& plantation till the end of life of mine.	Rs.13,50,000/-
Budget for nursery	Rs.4,00,000 per Annum

Particulars for Green belt/plantation	Area covered (in Ha)
7.5 m barrier & non-mineralized zone	60 Ha
50 m safety zone of nallah, roads, electric lines	9 Ha
500 m safety zones of nearest habitation villages	10 Ha

12. Baseline details:

Baseline Data (Air / Water / Noise / Soil / Ground water table/ others)	
Period of baseline data collection	Dec -2020- Feb 2021
Season (Summer / Pre-monsoon / Post-monsoon / Winter)	Winter Season.

13. Public Hearing Details:

Advertisement for PH with date	01.08.2021
Date of PH	03.09.2021
Venue	Dalmia Old Colony Canteen Building. Opp. Wiegh Bridge. Chettichavadi Village, Salem West Taluk, Salem District, Tamil Nadu-636012.
Chaired by	Dist. Collector & District Environmental

	Engineer, TNPCBD.
Main issues raised during PH	Employment for the local Villages
Budget proposed for addressing issues raised during PH	Rs.0.34 Crore.

14. Court case details:

Court Case	Yes, 9 court cases are pending.
Details	<ol style="list-style-type: none"> 1. W.P.25518/2006 Madras HC 2. Writ Petition No.29275 of 2016 Madras HC. 3. Writ Petition (Civil) No. 114 of 2014 of Supreme Court 4. District Collector, Salem has also raised another demand vide order dated 8th July, 2020 directing project proponent to pay sum of INR 7.24 Crore on the quantity of Magnesite mined without EC for the period 1st April, 2000 to 31st August, 2018. 5. District Collector's demand of surface compensation of Rs.79,88,39,062 from 20.08.1966 till 31.10.2017. 6. Show cause vide Proceeding Letter No.SLM0006/DEE/TNPCB/S LM/RL/2014, dated 03.06.2014 by Tamil Nadu State Pollution Control Board U/s 19 of Environment Protection Act. 7. Show Cause vide Proceeding Letter No.FEF/TNPBC/SLM/F/006 /20 by Tamil Nadu State Pollution Control Board U/s 19 of Environment Protection Act dated 4th May, 2020. 8. Show cause Notice dated 5th February, 2013 under Water Act. Show cause Notice dated 5th February, 2013 under Air Act. 9. Environmental Activist Mr.S.Sakthivel filed a petition before the Hon'ble NGT (SZ) raising certain Environmental issues against 6 respondents.

15. Affidavit/Undertaking details:

Affidavit	The project proponent submitted the Affidavit dated 21.10.2019 in accordance with the statutory requirement & judgment of Hon'ble Supreme Court dated 2nd August 2017 in writ Petition (civil) No. 114 of 2014 in the matter of common cause versus Union of India & Ores is submitted to MoEF&CC.
-----------	--

16. Details of the EMP:

S.No.	Description	Item	Amount (In Lacs)
-------	-------------	------	------------------

1	Air and water quality management and monitoring	ETP, STP, settling tanks, raw water storage tank , drains , toe walls, settling ponds, etc.	15.00
		Asphalting of Roads Including Side Drains and Avenue Plantation - Approach Road To Mine & Permanent Haul Road	12.00
		Fencing around the Quarry	20.00
2	Green belt development	Green Belt Development Around Quarry, Colony, Service Buildings Etc., and compensatory afforestation.	12.50
3	Plant & Machinery to be Used for Pollution Control	17 KL Water Sprinklers (@Rs70.00 Lakhs/Unit)	70.00
		420Hp Dozers (@ Rs. 120.00 Lakhs/Unit)	120.00
Total			249.50

17. Details of project cost and employment:

Particulars	Details (Crore)
Capital Cost for Environment Protection	Rs.2.49
Budget for addressing the Public Hearing issues	Rs.0.34
Total Cost for EMP	Rs.3.49
Recurring Cost for EMP	Rs.0.2 Lakhs/Annum.
Project Cost	Rs.19.57
Employment	300 persons

18. Observation and Recommendation of the Committee:

The proposal for Environmental Clearance was considered in the 43rdEAC meeting held during 14th to 16th December, 2021. After detailed deliberations, the Committee observed that there were few lacunae in the chapter 13 of the EIA/EMP report. Since the mine is in operation since 1966 and stopped operation in 2018, the Committee observed through KML file that plantation was not adequate. Also, the Committee noted that many court cases are pending against the project proponent. The Committee also noted that the project proponent could not comply a specific condition (xviii) i.e "Valid mine lease documents from the State Department of mines be submitted with EC application" mentioned in the ToR granted vide letter no. 23-227/2018-IA.III (V) dated 05.02.2021 due to which the Committee suggested the project proponent to apply for amendment of ToR letter dated 05.02.2021. Therefore, the Committee **deferred** the proposal due to want of following information:

- 1) The project proponent needs to submit the revised land use-land cover and damage calculation needs to be re-worked particularly damage to ecology and biodiversity.
- 2) The project proponent needs to submit the revised Environmental Management Plan budget. Also, 3% of EMP budget needs to be added in the cost of damage assessment.
- 3) The project proponent needs to calculate the net profit by finance which also needs to be a part of damage assessment (3% of net profit has to be considered in CRAP)
- 4) The project proponent needs to revise the NRAP and CRAP accordingly. Particularly, air quality assessment needs to be revised in the plan.
- 5) Since, the project proponent could not comply with the specific condition (xviii) of ToR dated 05.02.2021, PP needs to seek for amendment of ToR by submitting the following evidences related to the following:
 - a) The project proponent needs to submit that Chettichavadi Jaghir Magnesite and Dunite Mine is owned by M/s. Dalmia Bharat Sugar and Industries Limited.
 - b) The instant mine lease has not been lapsed currently.
 - c) The copy of the court order which has permitted M/s. Dalmia Bharat Sugar and Industries Limited to continue operation in the absence of valid extension of mine lease by DMG.

2.2 Proposal for Terms of Reference for Humdara-Ghodepaiwadi block of Bauxite Mine with the production capacity of 0.3 MTPA in the mining lease area of 120.48 ha located at Hamdara- Ghodepaiwadi village, Rajapur Tehsil, Ratnagiri District, Maharashtra by Gamma Iron India Ltd. – [File. No: J-11015/106/2021-IA-II(NCM), Proposal No: IA/MH/MIN/240932/2021] – ToR

EAC Meeting Details:

EAC meeting	43 rd EAC meeting
Date of Meeting	14 th to 16 th December, 2021

2. Project details:

Name of the Proposal	Humdara-Ghodepaiwadi block of Bauxite Mine with the production capacity of 0.3 MTPA in the mining lease area of 120.48 ha	
Location	Village	Hamdara- Ghodepaiwadi
	Tehsil	Rajapur
	District	Ratnagiri
	State / UT	Maharashtra
	Latitudes	16° 31'5.704"to16° 31'38.06" N
	Longitudes	73° 23' 11.61" to 73° 24' 23.50" E
	SolTopo sheet No.	47 H/6
Company's Name	M/s.Gamma Iron India Ltd.	
Accredited Consultant and certificate no.	Mineral Engineering Services NABET/EIA/1922/RA0158	
KML file	Submitted	
Seismic zone	II	

3. Category details:

Category of the project	Category "A", Project or Activity 1(a) – 3 for Mining of Mineral
Provisions	As per EIA Notification S.O. 1533 (E), dated 14th September 2006 and subsequent amendment
Mining lease Area	120.48 ha

4. ToR Details:

ToR Proposal No.	IA/MH/MIN/240932/2021
Online application date for Form-I	26.11.2021
Documents Submitted	Form-I and Pre-Feasibility Report
Production capacity	0.3 MTPA of Bauxite
Waste	10,80,648 tonnes

5. Lease Details:

Letter of Intent	In favor of	M/s. Gamma Iron India Ltd., Sindhudurg, has been declared as 'Preferred Bidder' in the e-auction process conducted by the Govt. of Maharashtra under Rule 9 (4) (b) (iii) of auction Rules
	Letter No.	MMN-0719/C.R.42(Part-4)/IND-9
	Date	13.09.2019
	Area	120.48 Ha

on the air quality, noise quality be submitted with a snapshot of one week monitoring in the villages on the road. The project proponent should also explore the possibility of bypass road for transportation.

- 5) The budget does not include the amount of plantation for 21 Ha area as suggested in the conceptual plan progressively as well as suggested by EAC in the 30.36 Ha area of no-mining zone should also be included in the EMP budget.
- 6) The suggestion made by the EAC regarding the manual sizing of the mineral is also be re-looked into and mechanical sizing practice can be adopted for safety of labor.

1.2 Proposal for Amendment in Terms of Reference dated 05.02.2021 for Chettichavadi Jaghir Magnesite and Dunite Mine with the production capacity of 1.4 MTPA in the mining lease area of 449.364 ha located at Village Chettichavadi, Taluk & District Salem, State TamilNadu by M/s. Dalmia Bharat Sugar and Industries Limited – [File No: 23-227/2018-IA.III (V); Proposal No: IA/TN/MIN/254214/2022] – Amendment in ToR

EAC Meeting Details:

EAC meeting	46 th
Date of Meeting	15 th to 17 th February, 2022

2. Project details:

Name of the Proposal	Amendment in Terms of Reference dated 05.02.2021 for Chettichavadi Jaghir Magnesite and Dunite Mine with the production capacity of 1.4 MTPA in the mining lease area of 449.364 ha	
Location	Village	Chettichavadi Village
	Tehsil/Taluka	Salem West
	District	Salem
	State / UT	Tamil Nadu
	Latitudes	N 11°43'09.71" to N 11°44'36.233"
	Longitudes	E 78°07'23.268" and E 78°09'13.068"
	SoI Topo sheet No.	58 I/2
Company's Name	M/s. Dalmia Bharat Sugar and Industries Ltd.	
Accredited Consultant and certificate no.	M/s. Aadhi Boomi Mining & Enviro Tech (P) Ltd, Salem NABET/EIA/1821/RA 0103	
KML file	Submitted	
Seismic zone	Zone-III	

3. Category details:

Category of the project	Category "A", Project or Activity 1(a) – 3 for Mining of Mineral
Provisions	As per EIA Notification S.O. 1533 (E), dated 14 th September 2006 and subsequent amendments

Mining lease Area	449.364 ha
-------------------	------------

4. Details of Terms of Reference:

Date of application	Proposal No	Details	Date of accord
19.03.2018	IA/TN/MIN/73566/2018	Chettichavadi Jaghir Magnesite & Dunite Mines for total excavation of 1.4 MTPA over an area of 449.364 ha located at Village Chettichavadi, Taluk & District Salem, Tamil Nadu of M/s. Dalmia Bharat Sugar and Industries Limited	05.02.2021
Production Capacity	Magnesite: 61,000 Ts / year, Dunite: 1,40,000Ts/ year.		
Soil	NIL		
Waste	11,99,000 TS		
Total Excavation	14,00,000 TS		
Reason for amendment	The project proponent could not comply with the specific condition (xviii) of ToR dated 05.02.2021 i.e. Valid mine lease documents from the State Department of mines be submitted with EC application, EAC in its 43 rd meeting held on 15.12.2021 suggested the project proponent to seek for amendment of ToR.		

5. Lease Details:

Grant of initial mine lease for Magnesite mineral	The mining lease for Magnesite over an extent of 574.46 ha. In S.F.No.6 (un assessed dry waste land belonging to Govt. of Tamil Nadu) of Chettichavadi village, Salem Taluk & Dist. was sanctioned over a period of 20 years by G.O.Ms. No.903 Industries, Labour and Co-operation Department dated 25-2-1966.
Grant of mine lease for Dunite mineral	By G.O.MS.No.801, 26th June 1976 another Mining Lease was granted over the same area of 574.46 ha land for mining of Dunite for a period of 10 years.
1 st Renewal of mine lease	By G.O.Ms.No.74 Industries Department dated 11th March, 1997 the Govt. of Tamil Nadu sanctioned the grant of first renewal of mining lease for Magnesite and Dunite over an extent of 531.98 hectares (to make them co-terminus) in S.F.No.6 of Chettichavadi village, Salem Taluk and District for a period of 20 years w.e.f. 20.8.1986 to 19.8.2006.
2 nd Renewal of mine lease	Application for second mining lease renewal was made on July 11, 2005 vide letter No. SL: GO: 55200(1). During the period 19.08.2006 to 11th January 2015 the mines were under deemed extension in view of Rule 24 (A) (6) of MCR 1960 read with order of injunction passed in MP No.1 of 2006 in W.P.Nos. 25518 and 25519 of 2006 of the Hon'ble High Court of Madras. Presently, according to project proponent lease has been extended up to

	the period ending on 31 st March 2030 in terms of Mines and Minerals (Development & regulation) Amendment Act 2015. Project Proponent from time to time vide its various letters including letter dated 17th Feb 2021 and letter dated letter dated 25th Sept 2021 had requested State Mining Dept. to issue valid mining lease documents. State Mining Dept. has not responded to the same. In this connection W. A. No. 834 & 835 are pending before Madras High Court.
Application for the Mining lease area and Date	Area: 449.364 Ha Date: 11-07-2005.
Validity of mine lease	31.03.2030 as per Sec 8(A)(5) of MMDR(Amendment) Act-2015.

6. Mining plan details:

Mining Plan(approved by Indian Bureau of Mines/DMG)	Letter No.	TN/SLM/ MG& DU/ ROMP-1646-MDS.
	Date	30.03.2021
	Validity	2021-22 to 2025-26 (till 31.03.2026)
Mining Parameters	Quantitative Description	
Bench Height	7.5 m Permitted	
Bench Width	15 TO 25 M	
Method of Mining	Open Cast Semi Mechanized Mining (Other than Fully Mechanized Mines).	
Individual bench slope	60° from Horizontal.	
Overall pit slope	45°	
Drilling/Blasting	Deep Hole Drilling 100-104 mm Dia& Small Dia 25 mm Dia Holes.	
RoM output size	14,00,000Tonnes.	
Life of mine	100 Years	
Transportation details	ROM by Dumpers & Mineral by 10 Tonners.	
Dumpers capacity	Dumpers 40 ts Capacity.	

7. Land Area Breakup:

Private land	-
Government land	Unassisted dry waste land belonging to Government
Total Mining lease area (MLA)	449.364 H.a

8. Presence of Environmentally Sensitive areas in the study area :

Forest Land/Protected Area/Environmental Sensitivity Zone	Yes/No	Details of Certificate/letter/Remarks
Forest Land	No	Tamil Nadu Forest Dept C.NO.2378/2021.D1 dt.04.10.2021
National park	No	
Wildlife Sanctuary	No	

Schedule-1 species	Yes/No	Details of Certificate/letter/Remarks
Schedule-I species	No	Tamil Nadu Forest Department C.NO.598/2021 dated 24.09.2021.

9. Green belt/plantation details:

Proposed area for green belt/plantation	6 Ha
Budget for green plant& plantation till the end of life of mine.	Rs.13,50,000/-
Budget for nursery	Rs.4,00,000 per Annum

Particulars for Green belt/plantation	Area covered (in Ha)
7.5 m barrier & non-mineralized zone	60 Ha
50 m safety zone of nallah, roads, electric lines	9 Ha
500 m safety zones of nearest habitation villages	10 Ha

10. Court case details:

Court Case	Yes, 9 court cases are pending.
Details	<ol style="list-style-type: none"> 1. W.P.25518/2006 Madras HC 2. Writ Petition No.29275 of 2016 Madras HC. 3. Writ Petition (Civil) No. 114 of 2014 of Supreme Court 4. District Collector, Salem has also raised another demand vide order dated 8th July, 2020 directing project proponent to pay sum of INR 7.24 Crore on the quantity of Magnesite mined without EC for the period 1st April, 2000 to 31st August, 2018. 5. District Collector's demand of surface compensation of Rs.79,88,39,062 from 20.08.1966 till 31.10.2017. 6. Show cause vide Proceeding Letter No.SLM0006/DEE/TNPCB/S LM/RL/2014, dated 03.06.2014 by Tamil Nadu State Pollution Control Board U/s 19 of Environment Protection Act. 7. Show Cause vide Proceeding Letter No.FEF/TNPBC/SLM/F/006 /20 by Tamil Nadu State Pollution Control Board U/s 19 of Environment Protection Act dated 4th May, 2020. 8. Show cause Notice dated 5th February, 2013 under Water Act. Show cause Notice dated 5th February, 2013 under Air Act. 9. Environmental Activist Mr.S.Sakthivel filed a petition before the Hon'ble NGT (SZ) raising certain Environmental issues against 6 respondents.

11. Affidavit/Undertaking details:

Affidavit	The project proponent submitted the Affidavit dated 21.10.2019 in accordance with the statutory requirement & judgment of Hon'ble Supreme Court dated 2nd August 2017 in writ Petition (civil) No. 114 of 2014 in the matter of common cause versus Union of India & Ores is submitted to MoEF&CC.
-----------	--

12. Details of the EMP:

S.	Description	Budget
----	-------------	--------

No		
1	Safety kits for 320 persons @ Rs 1000 per head	Rs. 3,20,000
2	Water Sprinkling & Spraying	Rs.15,00,000
3	Afforestation for @ 75 per tree	Rs. 2,00,000
4	Noise & Vibration	Rs. 1,00,000
5	Drainage- Parapet -Retention Wall	Rs. 5,00,000
Total		Rs 26.2 Lakhs

13. Details of project cost and employment:

Particulars	Details (Rs. In Crore)
Capital Cost for Environment Protection	Rs.2.49
Budget for addressing the Public Hearing issues	Rs.0.39
Total Cost for EMP	Rs. 26 Lakhs/annum
Recurring Cost for EMP	Rs.0.2 Lakhs/annum.
Project Cost	Rs.19.57
Employment	300 Nos

14. Observation and Recommendation of the Committee:

The proposal for Amendment in Terms of Reference was considered in the 46th EAC meeting held during 15th to 17th February 2022. For this particular case an official of Department of Geology and Mining, Tamil Nadu was invited. It was mentioned that the mine lease was in operation since 1967 till 2019 without obtaining the Environmental Clearance. Therefore, it is a case of violation. The official of DMG, Tamil Nadu also submitted that currently as per the documents, this mine lease is not valid and does not come under deemed extension of mine lease validity as the project proponent is not fulfilling the required conditions. It is also noted that there are many court cases currently in progress between the project proponent and the State of Tamil Nadu. The Committee was of the opinion to wait for the clear-cut decision of the Hon'ble court in the matter before considering the request of amendment of removal of specific condition (xviii) of ToR letter dated 05.02.2021 i.e. Valid mine lease documents from the State Department of mines needs to be submitted with EC application. After detailed discussions, the committee **return** the proposal.

1.3 Proposal for Amendment in Terms of Reference dated 16.12.2021 of Kannur (Wadi area) Limestone Block (auction block) with production capacity of Limestone 12MTPA & 0.581 MTPA of waste including top soil with two nos. of crushers of 2000 TPH having mining lease area of 550 Ha located at Villages Ingalgi, Basaveshwaranagara, Halkatta, and Kundanoor, Taluka Chittapur, District Kalaburagi, Karnataka by M/s ACC Limited [File. No: IA-J-11015/76/2021-IA-II (NCM); Proposal No: IA/KA/MIN/252066/2022] - Amendment in ToR

EAC Meeting Details:

EAC meeting	46 th
-------------	------------------

Dalmia Bharat Sugar and Industries Limited

[Formerly : Dalmia cement (Bharat) Limited]

SALEM - 636 012 TAMILNADU

To,
The Member Secretary
IA-Division, Ministry of Environment, Forest & Climate Change (Non
Coal Mines)
Indira Paryavaran Bhawan, Jor Bagh Road, New Delhi-110003.

SL:MM:26150

Date:31.01.2021

Dear Sir,

Sub: Submission of letter seeking Amendment of TOR issued dated 05.02.2021 in accordance with recommendation and observation of Expert Appraisal Committee meeting held on 15.12.2021, Agenda Item no- 43.2.1-reg

Ref: (i) Our proposal No-IA/TN/MIN/241375/2018.
(ii) Minutes of Meeting of Expert Appraisal Committee held on 15th Dec 2021 Agenda Item No- 43.2.1 Observations & recommendations of the Committee.

Project Proponent in pursuance of ToR dated 5th Feb 2021 submitted its EIA & EMP Report. The said EIA and EMP report was considered by the Expert Appraisal Committee (EAC) in its 43rd meeting held on 15th December 2021.

EAC in its observations and recommendations contained in Item No. 18 of the minutes of said meeting observed amongst others that Project Proponent is required to revise its EIA and EMP in light of the observations contained in said Item No. 18 (1) to Item No. 18 (4) which are related to technical/ financial aspects of EMP. Project Proponent had complied with the said requirements and response in respect of the same is being tendered separately.

REGD. OFFICE : DALMIAPURAM(TAMILNADU) - 621 651.
HEAD OFFICE : HANSALAYA (11th&12th FLOORS)
15, BARAKHAMBA ROAD, POST BOX 364
NEW DELHI - 110 001.

EAC in its observations and recommendations contained in Item No. 18 (b) of the minutes of said meeting also noted that Project Proponent has not been able to furnish *Valid Mining Lease Documents*, which is one of the conditions of ToR dated 5th Feb 2021.

Further upon the submissions of Project Proponent, EAC agreed to dispense with the requirement of *Valid Mining Lease Documents* and directed Project Proponent to seek amendment of ToR by submitting evidences related to certain facts [Item No. 18 (5) of the Minutes of Meeting], response of Project Proponent in this regard is as under:

S.No	Observations and recommendations of EAC - Para 18 (5) of Minutes of Meeting dated 15.12.2021	Responses of Project Proponent
1	<p>The Project Proponent Needs To Submit That Chettichavadi Jaghir Magnesite And Dunite Mine Is Owned By M/S. Dalmia Bharat Sugar And Industries Limited.</p> <p>The Instant Mine Lease Has Not Been Lapsed Currently</p>	<p>The lease hold rights over the mining lease is based on following documents</p> <ul style="list-style-type: none"> a. G.O M.S. No. 74 dated 11.03.1997 for the duration granting first renewal of mining lease for the period 20 August 1986 to 19th August 2006. A copy of the same is enclosed herewith as Annexure No-I. b. Application dated 11th July 2005 for second renewal of mining lease. A copy of the same is enclosed herewith as Annexure No-II. c. Deemed extension of mining lease up to 31st March 2030 in view of Sec 8 (A) (5) of MMDR Act. d. Last Transport permit dated 18.11.2019 issued by Mining Dept. A copy of the same is enclosed herewith as Annexure No-III. e. Mining operations have been temporarily suspended since January 2020 to await grant of EC.

An application had also been filed by Project Proponent with State Mining Dept for extension the period of temporary suspension. The said application is also pending for disposal. Copy of notice of temporary submission and copy of application dated 14.07.2021 for extension of the period of temporary suspension is enclosed as Annexure No-IV (a) (b).

f. The Review of Mining Plan approved by IBM Chennai Region for 5 years from 2021-22 to 2025-26 for Mining Magnesite and Dunite over an area of 449.364 Ha in respect of our Chettichavadi Jaghir Magnesite and Dunite Mines of Dalmia Bharat Sugar and Industries Ltd vide letter dated 30.03.2021. Copy of the letter is enclosed as Annexure No- V.

Note - The application (dated 11th July 2005) for renewal of mining lease has yet not been disposed of by Mining Dept. The effect of delay in grant of EC on the mining lease is sub-judice in W.P. No. 835/2021 - Dalmia Bharat Sugar and Industries Ltd. Vs State of Tamil Nadu.

2

The Copy Of The Court Order Which Has Permitted M/S. Dalmia Bharat Sugar & Industries Limited To Continue Operation In The Absence Of Valid Extension Of Mine Lease By Department of Mines and Geology.

Copy of Interim Order dated 17th August 2006 in W.P. No. 25518/2017 passed by Hon'ble High Court of Madras is enclosed herewith as Annexure VI. The said order is still in force and Writ Petition is pending for disposal.

Copy of Interim order dated 21st October 2016 in Writ No- 29275/2016 passed by Hon'ble High Court of Madras is enclosed herewith Annexure VII. This order remained in force till 11th Jan 2022.

It is further submitted that Project Proponent in Writ No. 29275 /2016 before Hon'ble High Court of Madras sought relief for issuance of Transport Permits by State Mining Dept. without insisting for grant of EC. In the said writ Madras High Court vide Interim Orders dated 21.10. 2016 directed State Mining Dept. to issue Transport Permit. The said writ has now been disposed vide orders dated 11th January 2022 with following observations

It is left open to the Petitioner-Company to submit all the required documents, including the Environmental Clearance Certificate issued by the Competent Authorities of the State, enabling the State Authorities to consider the case and take a decision and pass appropriate orders on merits and in accordance with law.

A copy of final order dated 11th Jan 2022 is enclosed herewith as **Annexure No-VIII.**

In view of the forgoing facts, above mentioned orders of High Court, read with Sec 8 (A) (5) of MMDR Act, it is most humbly submitted that mining lease of the Project Proponent is in subsistence as on date with deemed extension up to 31st March 2030 and submission of *Valid Mining Lease Documents* is not required to be considered a pre-condition for grant of EC.

It is therefore most respectfully prayed that requirement of submission of *Valid Mining Lease Documents* as contained in ToR be dispensed with and EC may be issued without insisting for *Valid Mining Lease Documents*.

Thanking You.

Your's Faithfully,
For Dalmia Bharat Sugar & Industries Ltd,



[Handwritten Signature]

P.G. Kalidass,
Agent & Supdt of Mines,
Chettichavadi Jaghir Magnesite and Dunite Mines.

Encl:
Annexure-I, II, III, IV, V, VI, VII, VIII.

Annexure - I

GOVERNMENT OF KARNATAKA

ABSTRACT

AVL D (MMDI) (GMD) LTD.

DALMIACEM.

- 9 APR 1997

Mines and Minerals - Mining Lease - Magnesite and Dunite - Salem Taluk and District - Chettichavadi village - over an extent of 1314 acres - First renewal of mining lease application of Tvl. Dalmia (Bharat) Limited - Grant of first renewal of mining lease - Orders - Issued.

INDUSTRIES (MMDI) DEPARTMENT

G.O.Ms.No.74.

Dated the 11th, March 1997.

Read:

1. G.O.Ms.No.903, Industries, Labour and Cooperation Department, dated 25.2.1966.
2. Mining lease renewal application of Tvl. Dalmia Cements (Bharat) Limited, dt. 20.4.1983 and 27.6.1989.
3. From the Collector of Salem District, letter D.Dis.No. 376/83, dated 22.11.1983.
4. From the Director of Geology and Mining, letter No.20117/23/55, dated 20.8.1984.
5. Government letter No.64647/MMDI/81-29, dated 24.11.1984.
6. G.O.Ms.No.801, Industries Department, dated 26.6.1976.
7. Mining Lease renewal application of Tvl. Dalmia Cements (Bharat) Limited, dt.16.8.1983, and 12.5.1989.
8. From the Collector of Salem District, letter D.Dis.No.2467/85(A) dated 17.3.1986.
9. From the Director of Geology and Mining, letter No.20722/84/55, dated 27.5.1986.
10. From the Collector of Salem District, letter No.K.Dis. 2552/88, dated 15.6.1989.
11. From the Director of Geology and Mining, letter No.19585/84/55, dated 12.7.1989.

ORDER:

In G.O.Ms.No.903, Industries, Labour and Cooperation Department, dated 25.2.1966, a mining lease for magnesite over an extent of 1418.97 acres in S.No.6 (poramboke unassessed waste, dry) of Chettichavadi village, Salem taluk and District was sanctioned to Tvl. Dalmia Cements (Bharat) Limited for a period of 20 years. The lease deed was executed on 20.8.1966 and hence the lease period expired on 19.8.1986.

2. Tvl. Dalmia Cements (Bharat) Limited, has applied for grant or first renewal of mining lease over the above said area for a period of 20 years. The Collector of Salem District and the Director of Geology and Mining have forwarded the mining lease renewal application in 1984 itself. At that period, Tamil Nadu Magnesite had a proposal for a Chemical Beneficiation Plant

and hence wanted part of the area to be given to them. Based on their request Director of Geology and Mining, suggested that 3/5th of the area viz. 531.72 hectare (851.40 acres) alone may be renewed to M/s Dalmia Cements. However, Government gave an assurance in Government letter No.64647/DI/81-25, dated 24.11.1984 that the mining lease would be renewed for a further period of 20 years. But when the renewal was not granted from 1986, M/s Dalmia Cements filed a W.P.No.12358/86 in High Court for directing Government to grant the renewal and also not to interfere with the rights of the company in the entire leasehold area. The High Court in its order dated 17.11.1986 issued interim injunction, which was later made absolute on 23.7.1987. M/s Dalmia Cements is continuing mining operation based on the court order.

3. In the meanwhile in G.O.Ms.No.801, Industries, dated 26.6.1976 another mining lease for Dunite was granted to Tvl.Dalmia Cements Limited, Tiruchirappalli, over an extent of 1386.36 acres in S.No.6 of Chettichavadi village, Salem taluk, Salem District for a period of 10 years. Subsequently, the actual extent was amended as 1314.00 acres in Government letter No.87124/DI/76-4, dated 1.8.1987. The lease deed was executed on 12.9.1977. The applicant firm has filed its first renewal application in time. The Collector, Salem has forwarded the renewal mining lease application of the applicant to the Government for taking a decision according to the present policy of the State Government. The Director of Geology and Mining has requested the Government to consider the renewal application for dunite while disposing of the application of the firm for Magnesite since the area is one and the same for both the minerals.

4. The renewal applications for both magnesite and dunite were not processed in Government in view of Writ Petition pending in High Court. The company filed another W.P.No.7531/87 for grant of renewal for dunite and High Court ordered disposal by 15.9.1987. As both magnesite and dunite occur together, Government felt that the Court's decision on the earlier Writ Petition may be awaited.

5. The present position is that, though the lease is not renewed, Tvl.Dalmia Cements (Bharat) Limited is enjoying the benefit of renewal for the last 10 years. The Government after careful examination of the mining lease renewal applications for magnesite and Dunite of Tvl.Dalmia Cements (Bharat) Limited, with reference to the recommendation of the Collector of Salem and the Director of Geology and Mining, have decided to grant first renewal of mining lease for Magnesite and Dunite and make them Co-terminus over an extent of 1314 acres of land in S.No.6, of Chettichavadi village, Salem District, classified as unassessed dry waste, for a period of 20 years from 20.8.1986 to 19.8.2006 subject to the condition that all the dues to Government including surface rent from the date of deemed renewal (20.8.1986) should be paid at the time of execution of lease deed.

.....

6. In exercise of the powers conferred under section 10(3) of Mines and Minerals (Regulation and Development) Act 1957 (Central Act 67 of 1957) the Governor of Tamilnadu hereby sanction the grant of first renewal of mining lease for magnesite and Dunite over an extent of 1314 acres (to make them Co-terminus in SF.No.6 of Chettichavadi village, Salem taluk, Salem District for a period of 20 years with effect from 20.8.1986 to 19.8.2006 subject to the condition that all the arrears of revenues and other dues to Government from the date of deemed renewal(20.8.1986) should be paid at the time of execution of the lease deed and other usual conditions mentioned in the Appendix to this order.

7. The rates of royalty dead rent and surface rent shall be as follows:

Royalty:

Magnesite - Rs.25/- (Rupees twenty five only) per tonne.

Dunite - 12% (Twelve percent of sale price at pits mouth.

Dead Rent

First year of lease ; NIL

Second year to fifth:Rs. 30/- (Rupees thirty) per hectare
year of lease. per annum

Sixth year to tenth ; Rs. 60/- (Rupees sixty only) per hectare
year of lease. per annum

Eleventh year of lease and onwards. :Rs.90/- (Rupees ninety only) per hectare
per annum

Surface rent

Annual rent for the surface right shall be paid at the rate fixed by the District Collector, Salem District in addition to the land revenue and other cesses.

Water rate:

As such rates as land revenue and other cesses assessable on the land shall be paid.

8. The applicant firm shall deposit as security for the due observance of terms and conditions of the lease, a sum of Rs.2,000/- (Rupees two thousand only) as prescribed in rule 32 of Mineral Concession Rules, 1960 before the lease deed is executed.

9. The terms and conditions specified in the appendix to this order are subject to further modifications, additions and alterations as may be included in the lease deed when finalized.

10. The District Collector, Salem District is requested to take necessary further action for execution of the lease deed in the prescribed form after satisfying the requirement mentioned in para 6 above. As soon as the deed is executed, the date of such execution should be reported to Government and the Director of Geology and Mining. The Collector is also requested to ensure compliance by the lessee of amended provisions of Mines and Minerals (Regulation and Development) Act 1957 and Mineral Concession Rules, 1960 and other Acts and Rules including the Forest (Conservation) Act 1980 before the lease deed is executed.

(BY ORDER OF THE GOVERNOR)

P.C. CYRIAC,
SECRETARY TO GOVERNMENT.

To
The Director of Geology and Mining,
Guindy, Chennai-32.

The Collector of Salem District, Salem.

~~To~~ Dalmia Cements (Bharat) Limited,
Dalmiapuram, Tiruchirappalli Perumbidugu
Muthurayar District, Tiruchirappalli.

The Secretary to Government of India,
Ministry of Mines,
Department of Mines,
Shastri Bhavan,
New Delhi 110 001.

The Regional Controller of Mines,
Indian Bureau of Mines,
C4A- CGO Complex, Rajaji Bhavan,
Besant Nagar, Chennai-90.

Copy to: The Industries (OP.2) Department, Chennai-9.

BC/SF

//FORWARDED / BY ORDER//

6K/19/3

[Handwritten signature]

[Handwritten signature]
SECTION OFFICER.

[Handwritten signature]
24/3



Salem - 636 012.

Tamil Nadu, India.

☎ : 91 (427) 440050
Grams : DALMAGSITE
Telex : 0450 - 202 DCSL IN
Fax : 91 (427) 447008
245516

The Secretary to the Government
Industries (MMDI) Department
CHENNAI: 600 009

SL:GO:55200(1)
July 11, 2005

Thro' The District Collector, Salem.

Sir,

We are submitting the application form in Form J in ^{triplicate} ~~duplicate~~ under Rule-24A of MCR 1960 for renewal of the part of the Mining Lease over an area of 449.364 hectares for mining Magnesite and Dunite in the S.F.No. 6 classified as unassessed dry waste in the Chettichavadi village, Salem Taluk and District, granted through the G.O. Ms. No.74 dated 11th March 1997 by Industries (MMDI) Department.

We have enclosed along with the application form all the required particulars and documents in Annexures, Figures and the Mining Scheme volumes approved by the COM (SZ) IBM, Bangalore as shown hereunder for your scrutiny and kind consideration.

List of Annexures, Figures and volumes enclosed herewith:

01. State Bank of India challan No.051002 dated 27.06.05 - Annexure - I, in duplicate
02. Attested copy of the certificate of Incorporation No.8 of 1951 - 1952 - Annexure - II, in duplicate
03. Mining dues clearance certificate for Dalmia Cement (Bharat) Ltd., - Annexure - III, in duplicate
04. Mining dues clearance certificate for Dalmia Cement (Bharat) Ltd., C/o. Dalmia Magnesite Corporation - Annexure IV, in duplicate
05. Affidavit that upto date income tax returns are filed and income tax is paid - Annexure V, in duplicate
06. Affidavit that upto date income tax returns are filed and income tax is paid issued by the Company Secretary of Dalmia Cement (Bharat) Ltd., - Annexure VI, in duplicate
07. Affidavit supporting the status of Mining Leases - Annexure VII, in duplicate

08. G.Os. for grant of Mining Leases / Renewal of Mining Leases, in duplicate
Magnesite & Dumite Minerals Mining Lease in Tamil Nadu.
- (a) G.O.Ms.No.74 dated 11th March 1997 – Annexure VIII
Limestone Mineral Mining Leases in Tamil Nadu.
- (b) G.O. Ms. No. 534 Industries Department dated 27th August 1998 – Annexure IX.
- (c) RC No. 17783/MM4/2002 dated 27.01.2004 – Annexure X.
- (d) RC No.14812/MM4/2003 dated 25.05.2005 – Annexure XI.
- (e) G.O.Ms.No.2802 Department of Industries, Labour and Co-operated dated 31st May, 1965– Annexure XII.
- (f) G.O.Ms. No.262 Industries (MMA2) Department dated 15.11.1995 – Annexure XIII.
- (g) G.O.Ms. No.263 Industries (MMA2) Department dated 15.11.1995 - Annexure XIV.
- (h) G.O.Ms.No. 2 Industries (MMA2) Department dated 05.01.93 – Annexure XV.
- (i) G.O.Ms. No.258 Industries (MMA2) Department dated 14.11.1995 – Annexure XVI.
- (j) G.O.(3D)No.1 Industries (MMA2) Department dated 08.01.2002 – Annexure XVII.
09. General Power of Attorney of the Whole Time Director Shri N.Gopalaswamy – Annexure XVIII.
10. Plan showing surrender of part Mining Lease areas to be surrendered.-Fig.No.I
11. Plan showing the area applied for renewal of Mining Lease. Fig. No.II

:: 3 ::

12. Approved copy of the Mining Scheme with a volume containing plans & Sections in Plates.
13. Approved copy of the Progressive Mine Closure Plan with a volume containing Plans & Sections in Plates.

We now request your good offices to grant the renewal of the part of the Mining Leasehold over an extent of 449.364 hectares and do the needful.

Thanking you,

Yours faithfully
for DALMIA CEMENT (BHARAT) LTD.,


S. VEERARAGHAVAN
GENERAL MANAGER

Encl : as above.

ktr:

FORM J
APPLICATION FOR RENEWAL OF MINING LEASE
- In duplicate -
(Rule 24 A)

To

The Secretary to the Government
Industries (MMDI) Department
CHENNAI : 600 009

Through : The District Collector, Salem

Sir,

We request for renewal of our mining lease under the Mineral Concession Rules, 1960. (A sum of Rs.2,500/- being the application fee payable under sub-rule (3) (i) (a) of rule 22 of the said rules has been deposited. State Bank of India , Salem Challan No. 051002 dt. 27.06.2005 is enclosed.

2. The required particulars are given below :

- | | |
|--|---|
| (i) Name of the applicant with complete address: | Dalmia Cement (Bharat) Ltd.,
C/o Dalmia Magnesite Corporation
Salem : 636 012 |
| (ii) Is the applicant a private individual/private company/public company/firm or association ? | A public limited company |
| (iii) In case the applicant is --
(a) an individual, his nationality
(b) a company, an attested copy of the certificate of registration/incorporation shall be enclosed)
(c) a firm or association, the nationality of all the partners of the firm or members of the association | Not applicable

An attested copy of the Certificate of Incorporation of the Company is enclosed.

Not applicable |
| (iv) Profession or nature of business of the applicant | Mining of Magnesite & Dunite Minerals.
Manufacture of Dead Burnt Magnesite/
Monoliths & Magnesia Carbon Refractory Bricks |

- (vi.a) No. and date of the valid clearance certificate of payment of mining dues (copy enclosed)
- (vii) an affidavit, that up-to-date Income tax returns, as prescribed under the Income Tax Act, 1961, have been filed, and the tax due, including the tax on account of self-assessment has been paid)
- (viii(a) Particulars of the mining lease of which renewal is desired.
- (ix) Period for which renewal of mining lease is required
- (x) Whether renewal is applied for the whole or part of the Leasehold
- (xA) (a) Does the applicant continue to have surface rights over the area of the land for which he requires renewal of the mining lease.
- (b) If not, has he obtained the consent of the owner and occupier for undertaking mining operations. If so, the consent of the owner and occupier of the land obtained in writing be filed.
- No. ROC 512/2005/Mines-A/dated 26.4.05 (copy enclosed)
- An affidavit that up-to-date income tax returns filed and the tax due has been paid, dated 8th April, 2005 is enclosed
- An extent of 1314 acres (531.98 ha) land in S.No.6 of Chetti Chavadi Village, Salem Taluk & District, classified as unassessed dry waste, mining lease expiring on 19.8.2006. Presently the company desires to apply for renewal of mining lease over an area of 449.364 ha. and surrender part lease areas measuring 82.616 ha. as shown in the enclosed Survey Plans.
- Renewal of Mining Lease sanctioned in G.O.Ms. No. 74 Industries (MMDI) Dept. dated 11th March, 1997. Govt. of India Lr.No.24159/MMDI/91-2 dt. 9.12.97 and Govt.(Industries Dept) Lr.No.3036/MMDI/98-1 dt. 12.3.98
- Renewal of Mining Lease is required for 20 years from 20.8.2006
- Renewal of Mining Lease is applied for part of the leasehold i.e.449.364 ha.
- The leasehold area is classified as unassessed dry waste, owned by the Government.
- Not applicable

(xB)	Particulars of the areas mineral-wise in each State duly supported by affidavit for which the applicant or any person joint in interest with him.	Status of Mining Leases applied /held by Dalmia Cement (Bharat) Ltd. in Tamilnadu as on 1.6.05 supported by an affidavit are enclosed :
	(a) already holds under mining lease :	1581.660 acres
	(b) has already applied for but not granted; or	2095.360 acres
	(c) being applied simultaneously	Nil
(xC)	a mining plan which shall include -	
	(a) the plan of the area showing the nature and the extent of the mineral body, spot or spots where the excavation is to be done in the first year and its extent, a detailed cross-section and detailed plan of spot(s) of excavation passed on prospecting data gathered by the applicant, a tentative scheme of mining (for the first five years of the lease.)	The Mining Scheme approved by the Controller of Mines (SZ), IBM, Bangalore vide letter No. TN/SLM/MG/MS-170/SZ dt. 18.9.2003 and the Progressive Mine Closure Plan, a component of the Mining Scheme approved by the Controller of Mines (SZ), IBM, Bangalore vide letter No. TN/SLM/MG/MS-170 / SZ dt. 27.10.2004, incorporating all the required particulars and the plans and sections in plates valid upto the date of lease expiry i.e. 19.8.2006 are enclosed herewith.
	(b) the details of geology and lithology of the area, the extent of manual mining and through machines	//do//
	(c) annual program and plan for excavation (for five years) and	//do//
	(d) the plan of the area showing natural water courses; limits of reserved and other forest areas and density of trees, assessment of impact of mining activity of Forest, Land surface and Environment including air and water pollution, and details of the scheme for afforestation, land reclamation, use of pollution control devices).	//do//
(xD)	Is the mineral going to be used in his own industry ? So give full details, (for " own industry " See Explanation under Rule 24B)	- Yes, the Raw Magnesite produced from the Chetti Chavadi Jaghir Mines is entirely for self consumption in our own plant for the manufacture of Dead Burnt Magnesite, which in turn is used for manufacture of Refractory monoliths, Magnesia Carbon Bricks and high thermal Shock resistant magnesite bricks in our Plant

- (xi) In case the renewal applied for is only for part of the leasehold :
- (a) the area applied for renewal 449,364 ha. of land
- (b) description of the area applied for renewal (description should be adequate for the purpose of demarcating the plot)
- LOCATION OF THE AREA**
The mining leasehold area is situated in the Chetti Chavadi village in Salem District in the Registration District of SALEM Sub-District and Thana SALEM bearing cadestral Survey No.6. The Chettichavadi village forms part of the Chalk Hills of Salem and is located between Latitudes 11° 43'15" and 11°44'30", Longitudes between 78° 07'00" & 78° 08'20" and falling within the limits of Survey of India Topo Sheet No. 58 I/2. The leasehold area lies to the East of Karunkaradu. To the south of this area lies the Nagaramalai Reserve Forest. The northern boundary of the lease area coincides with the limits of the Kurumbapatti Reserve Forest lying at the South Western foot of the Shevaroy Hills. In the North, adjoining this area lies the mining lease area of Tamil Nadu Magnesite Ltd. and in the West lies the Mining Lease area of Burn Standard Company Ltd.
- (c) particulars of map of the leasehold with area applied for renewal clearly marked on it (attached) Map enclosed
- (d) particulars of existing or created dumps of ore, if any. The existing stock of Raw Magnesite ore as on 01.07.2005 is 92262.124 tonnes
- (xii) Means by which the mineral is to be raised, i.e. by hand, labour or mechanical or electric power. Mining by semi-mechanised method. Ore collection, dressing & stacking are done manually. Drilling, dozing, spoil removal are carried out by heavy earth moving machinery.
- (xiii) Manner in which the mineral raised is to be utilised :
- (a) for manufacture in India - For Dead burning in Rotary kilns either by feeding direct or through Ore Beneficiation Plant
- (b) for exports to foreign countries -

(c) in the former case the industries in connection with which it is required, should be specified. In the latter case, the countries to which the Mineral will be exported and whether the mineral is to be exported after processing or in raw form should be stated.

It is required in

- (i) Refractory industry
- (ii) Cement industry
- (iii) Chemical industry
- (iv) Ferro Chrome industry
- (v) Dunite is used in Refractory industry and in Foundry as olive sand.

(xiv) Details of output during the last Three years and phased program for production during the next three years along with a layout plan for development, if any.

Output during the past 3 years

	<u>Raw Magnesite (MT)</u>	<u>Dunite (MT)</u>
2002-2003	42187	1749
2003-2004	31431	1823
2004-2005	42081	96

Production program for the next 3 years

2005-2006	42,500	3000
2006-2007	42,500	3000
2007-2008	60,000	3000

Layout plans for development enclosed.

(xv) In case of coal, details of existing railway transport facility available and additional transport facility, if any, required.

Not applicable.

(xvi) Any other particulars which the applicant wishes to furnish Nil

We do hereby declare that the particulars furnished above are correct and are ready to furnish any other details, including accurate plans as required by you before the Grant of renewal of the lease.

Yours faithfully

For Chetti Chavadi Jaghir Magnesite Mines
Of Dalmia Cement (Bharat) Limited



Signature and designation of the
Applicant

N. GOPALASWAMY
Whole Time Director
DALMIA CEMENT (BHARAT) LTD.
BALASPURAM-632 654
CHITAMPALAM (TAMILNADU)

Place: Salem -12,

Date : 06-07-2005

N.B : If the application is signed by an authorised agent of the applicant, Power of Attorney should be attached).

Dalmia Cement (Bharat) Ltd

Salem - 636 012.

Tamil Nadu, India.

☎ : 91 (427) 23456
 Grams : DALMAGSITE
 Telex : 0450 - 202 DCSL II
 Fax : 91 (427) 23456

-In Triplicate-

The Secretary
 Industries (MMDI) Department
 Govt. of Tamilnadu
 CHENNAI : 600 009

SL:GO:55200(1)
 July 11, 2005

Thro' : The District Collector, Salem.

Sir:

Sub : Submission of our proposal to surrender part lease area of 82.616 hectares out of the total 531.98 hectares of the Chettichavadi Jaghir Mines Lease area in S.F.No.6 of Chettichavadi village, Salem Taluk & District, Tamilnadu.

We submit to state that as per Government Order in G.O.No.74, Department of Industries Labour and Co-operation dated 11th March, 1997, we, Dalmia Cement (Bharat) Limited, Dalmiapuram and having our Head Office at 11th & 12th Floor, Hansalaya Building, 15, Barakhamba Road, New Delhi - 110 001, were granted with renewal of mining lease for a period of 20 years from 20.08.1986 to 19.08.2006 for mining Magnesite and Dunite Minerals over an extent of 531.98 hectares (1314 acres) in S.F.No.6 of Chettichavadi village, Salem Taluk and District, Tamilnadu.

Out of the total mining lease area of 531.98 hectares, presently we have applied for renewal of part mining lease area over an extent of 449.364 hectares only in Form J under Rule 24A of MCR 1960 vide our letter even dated for mining Magnesite and Dunite.

We also submit hereby our proposal to surrender part lease area measuring 82.616 hectares as detailed hereunder:

(a) Part mining lease area in 'C' Block on the north:

A portion of the area demarcated on the northern most part of the lease area measuring 61.80 hectares is proposed to be surrendered for the following reasons:

- (i) Mineral reserves have been removed upto the level of 360 m.RL above MSL. Further, it is not possible to win the ore economically due to very poor ore availability in this part.
- (ii) In the central and eastern parts of the area there are non ore bearing areas.
- (iii) On the northern and western sides it has common boundaries with the Tamil Nadu Magnesite limited mining area and Burn Standard Company Limited mining area respectively. It is not possible to carry out mining operations in these directions as we have reached the safe limits by maintaining prescribed bench heights. Further, we are constrained to mine deeper until upper benches are extended beyond the common boundaries which is not feasible for us.

(b) Part mining lease area in the 'B' Block on the east:

A portion of the area demarcated on the eastern border of the lease area measuring 1.93 hectares marked as b(i) being developed by the local village panchayat as a pond for irrigation purpose and another portion of the land which is devoid of ore and under encroachment by the local villagers measuring 2.93 hectares marked as b (ii) totalling 4.86 hectares of land is proposed to be surrendered for the following reasons:



(i) These areas are not useful for our mining activities.

(c) Part mining lease area in 'A' Block on the west:

A portion of the area demarcated on the western most part of the lease area measuring 15.147 hectares is proposed to be surrendered for the following reasons:

- (i) Major portions of this area are non-ore or very low ore bearing areas and hence ore availability is very poor.
- (ii) In the western most part, the top benches have already been pushed to the ultimate limits by maintaining prescribed bench heights and widths. We cannot push the benches on the north into the adjoining Burn Standard company area also since the lease area is very very narrow here.

(d) Part Mining Lease area in MT Block in the South:

A portion of the land on the eastern border of the MT Block under encroachment by local villagers for long measuring 0.809 hectare is proposed to be surrendered for the following reasons:

- (i) The area is under encroachment by the local villagers since long.
- (ii) The area is totally barren and is devoid of any ore.
- (iii) The area is very narrow and will not be useful for our mining activities.



Totally the Company proposes to surrender 82.616 hectares.

<u>Block</u>	<u>Demarcation</u>	<u>Area</u>
C. Block	(a)	61.80 hectares
B. Block	b (i)	1.93 hectares
	b (ii)	2.93 hectares
A. Block	(c)	15.147 hectares
MT Block	(d)	0.809 hectares
TOTAL		82.616 hectares

Area proposed to be applied for
Mining lease renewal 449.364 hectares

Total lease area at present 531.980 hectares
Please see part mining lease area surrender plan enclosed.

We now request your goodselves to accept our proposal to
surrender part lease area over 82.616 hectares and grant
renewal of the part of the mining lease hold over an extent
of 449.364 hectares.

We are enclosing herewith a SBI receipt PTN NO.73 dt 19.7
for an amount of Rs. 200/- towards deposit amount.
Kindly do the needful.

Thanking you,

Yours faithfully
For Chettichavadi Jghir Magnesite Mines
Of Dalmia Cement (Bharat) Limited

N. Gopalaswamy

Signature and designation of the
Applicant.

N. GOPALASWAMY
Whole Time Director
DALMIA CEMENT (INDIA) LTD.
DALMIAPURAM-637 001
DIST. TRICHY (TAMILNADU)

Place : Salem-12,

Dated : 11.7.2005.

Encl as above



FORM - D

Receipt of application for renewal of mining leaseSee rule 23(4)GOVERNMENT OF TAMIL NADU

Roc.980/2005/Mines-A/

Dated: 11-7-2005.

Received the application with the following enclosures for renewal of mining lease of Tvl. Dalmia Cement (Bharat) Limited, C/o. Dalmia Magnesite Corporation, Salem-636 012 on 11-7-2005 for about 449.36.4 hectares of poramboke land located in S.F.No. 6 of Chettichavadi village, Salem Taluk, Salem District for mining Magnesite and Dunite.

Enclosures:

- 1) Application in Form-J in triplicate
- 2) Chalan for Rs.2500/- remitted at S.B.I.Salem on 27-6-2005
- 3) Attested copy of the Certificate of Incorporation No.8, of 1961-1952
- 4) Mining dues clearance Certificate for Dalmia Cement (Bharat) Limited issued by the Collector, Trichirapalli.
- 5) Mining Dues clearance certificate for Dalmia Cement (Bharat) Limited issued by the Collector, Perambalur.
- 6) Mining dues clearance certificate for Dalmia Cement (Bharat) Limited issued by the Collector, Salem.
- 7) Affidavit that upto date income tax returns are filed and income tax is paid .
- 8) Affidavit that upto date income tax returns are filed and income tax is paid issued by the Company Secretary of Dalmia Cement (Bharat) Limited.
- 9) Affidavit supporting the status of Mining leases.
- 10) G.Os for grant of mining leases/renewal of mining lease
1. G.O.Ms.No.74, dated 11-3-1997.- Magnesite & Dunite.

P.T.O.

Limestone Mineral Mining leases in TamilNadu.
ii. G.O.Ms.No.534, Industries, dated 27-8-1998.

iii. Ex-Commissioner's Proceedings Rc.No.17783/
MM4/2002/dated 27-1-2004.

iv. Director's Proceedings Rc.No.14812/MM4/2003
dated 25-5-2005.

v. G.O.Ms.No.2802, Industries & Labour and Co-operate
dated 31-5-1965.

vi. G.O.Ms.No.262, Industries (MMA2)Department,
dated: 15-11-1995.

vii. G.O.Ms.No.263, Industries (MMA2)Department,
dated: 15-11-1995.

viii. G.O.Ms.No. 2, Industries (MMA2) Department,
dated: 5-1-93.

ix. G.O.Ms.No.258, Industries (MMA2)Department,
dated: 14-11-1995.

x. G.O.(3D)No.1, Industries (MMA2) Department,
dated: 8-1-2002.

11. General Power of Attorney of the Whole Time Director
Shri N. Gopalaswamy.

12. Plan showing surrender of part Mining lease areas
to be surrendered.

13. Plan showing the area applied for renewal of
mining lease.

✓ 14. Approved copy of the Mining Scheme with a volume
containing plans & Sections in Plates.

✓ 15. Approved copy of the Progressive Mine Closure Plan
with a volume containing Plans & Sections in Plates.

Place: Salem

Date : 11-7-2005,

To

Tvl. Dalmia Cement (Bharat)Limited,
C/o. Dalmia Magnesite Corporation,
Salem-636 012.

FOR COLLECTOR, SALEM.

[Signature]
11.7.2005

11/06

FIRST SCHEDULE
FORM I
(See Regulation-6)
NOTICE OF TEMPORARY DISCONTINUANCE OF MINES

From:
The Agent & Mines Manager,
Chettichavadi Jaghir Magnesite & Dunite Mines,
Dalmia Bharat Sugar & Industries Ltd,
Salem-636012.

SL.UM: 26102
Dt. 14.1.2020

To:
The Director General of Mines Safety,
Post Box No-73,
Dhanbad-826001,
Jharkhand State.

Dy. Directorate General of Mines Safety (SZ),
No.5, 17th Main, 100ft Road,
Koramangala, 4th Block, Bengaluru - 560034,
Karnataka.

The Director of Mines Safety,
Chennai region,
No-46 (old), 5 - New, Second Street,
Block - AA, Anna Nagar,
Chennai-600 040.

Dear Sir,

We are furnishing the following particulars in respect of temporary discontinuance at Chettichavadi Jaghir Magnesite & Dunite Mine of Dalmia Bharat Sugar & Industries Ltd, Salem-636 012. This temporary discontinuance is with effect from 27.01.2020.

Dalmia Bharat Sugar and Industries Limited

[Formerly - Dalmia cement (Bharat) Limited]
 SALEM - 636 012 TAMILNADU

BY SPEED POST

Sl. MM 26142
 Date 14-Jul-2021

To
 The Secretary,
 Industries Department,
 Government of Tamilnadu,
 Fort St. George
 Chennai-600009.

Through: The District Collector, Salem.

Sub: Application under Rule 20(3) of MCR 2016 to bring our Chettichavadi Jaghir Magnesite & Dunite Mines in S.F.No:6 Chettichavadi village Salem District into non-lapsing mines list-reg.

We submit our application under Rule 20(3) of MCR 2016 and present the following facts in detail for your kind consideration:

1. SUB-RULE 20(4) OF MCR 2016:APPLICATION MADE UNDER SUB RULE (3) SHALL SPECIFY IN DETAIL:

The mining lease for Magnesite over an extent of 574.46 ha. in S.F.No.6 (un assessed dry waste land belonging to Govt.of Tamil Nadu) of Chettichavadi village, Salem Taluk & Dist. was sanctioned over a period of 20 years by G.O.Ms, No.903 Industries, Labour and Co-operation Department dated 25-2-1966. The lease was executed on 20-8-1966 and hence the lease period expired on 19-8-1986.

By G.O.Ms.No.74 Industries Department dated 11th March, 1997 the Govt. of Tamil Nadu sanctioned the grant of first renewal of mining lease for Magnesite and Dunite over an extent of 531.98 hectares (to make them co-terminus) in S.F.No.6 of

REGD. OFFICE : DALMIAPURAM(TAMILNADU) - 621 651.
 HEAD OFFICE : HANSALAYA (11th & 12th FLOORS)
 15, BARAKHAMBA ROAD, POST BOX 364
 NEW DELHI - 110 001.

Chettichavadi village, Salem Taluk and District for a period of 20 years w.e.f. 20.8.1986 to 19.8.2006.

The mining lease period expired on 19.8.2006. Application for second mining lease renewal was made on July 11, 2005 vide letter No. SL: GO: 55200(1) more than 12 months prior to the date of expiry. No orders were passed by the Govt. of Tamil Nadu so far. The company operates the mine by virtue of order of injunction passed in MP No.1 of 2006 in W.P.Nos. 25518 and 25519 of 2006 of the Honourable High Court of Madras. (Copy enclosed as Annexure No-1).

Presently as per Sec 8(A)(5) of the Mines and Minerals (Development & regulation) Amendment Act 2015, our lease has been extended upto the period ending on 31st March 2030. Ours is not a case of Lease renewal.

We had submitted FIRST application for Environmental Clearance for renewal of our part mining lease area of 449.364 Ha in S.F.No-6 in Chettichavadi village, Salem district to the Secretary, Industries (MMDI) Dept. Govt of Tamilnadu, Chennai vide our letter no: SL:GO:53200(1) dt Feb. 9th, 2006 requesting them to forward the application to MOEF New Delhi. (Copy of the letter enclosed as Annexure No-2).

- The application was received in the Secretariat, Industries (MMDI) Dept on 13.02.2006, from there along with reference No.2882/MMB2 our application was sent to the Dept of Geology and Mining, Chennai.
- The Dept of Geology & Mining Chennai had also given reference number 1355/MM3/06 on our application. We continuously pursued with the Dept of Geology & Mining, Chennai. Finally on 27.07.2010 after a period of 4 ½ years the Dept of Geology & Mining had returned our application back to us asking us to forward the application directly to MOEF New Delhi.
- The same application for EC was directly sent to MOEF vides our letter No.SL: GO: 55200(1) dt 17.08.2010. (Copy of the letter enclosed as Annexure No-3).

- The Dy. Director MOEF New Delhi had returned our document stating that the documents submitted are as per EIA notification 1994 and hence requested us to submit revised proposal as per procedure prescribed in EIA notification.2006 vide letter No.J-11015/327/2010-IA-II(M) dt. Dec 6th 2010.
- We submitted our revised application to MOEF New Delhi on 12.10.2011 for Environmental Clearance. (Copy of the letter enclosed as Annexure No-4).
- The MOEF in their letter No. J-11015/327/2010-IA-II (M) dt. 16 Dec 2011 asked our proposal for prescribing TOR along with pre feasibility report. We complied with the requirement vide our letter dt. Jan 09th 2012.
- Subsequently MOEF vide letter No.J-11015/43/2012/-IA (M) dt March 27th ,2012 asked us to present our case before the Expert Appraisal Committee on 17 April 2012 which we did at New Delhi.
- Based on the information furnished and presentation made by us, the Expert Appraisal Committee prescribed and issued the TOR for undertaking detailed EIA study in the MOEF website on 24-08-2012. (Copy enclosed as Annexure No-5). However signed official communication and TOR letter from MOEF New Delhi was not received by us.
- Thus delay in obtaining Environment Clearance is caused by the Dept of Geology and Mining, Tamilnadu Government and it was beyond our control.

2. SUB-RULE 20(3)(a) & (b) OF MCR 2016:REASONS FOR NOT UNDERTAKING MINING OPERATIONS & THE REASONS ARE BEYOND OUR CONTROL:

This District administration through police Department stopped our Mining operation on 11th Jan 2017 by oral information without any written communication.

Further based on MOEF & CC Notification dated 14.03.2017 & Memo dated 16.03.2018 we had submitted application for TOR on 19.03.2018.

We had been called to present our Mines case before EAC, MOEF & CC at New Delhi on 29th Aug 2018 and on 25th Nov 2019.

In 28th EAC meeting held on 25th Nov 2019, the EAC wanted us to submit details of Mine Closure notice submitted to DGMS. (Copy enclosed as Annexure No-6).

Hence we had submitted notice of temporary discontinuance of mines in FORM-1 of First Schedule to DGMS on 14.01.2020 intimating the date of temporary discontinuance as 27.01.2020 and in FORM E to Regional Controller of Mines, IBM, Chennai on 18.01.2020 intimating the date of temporary discontinuance as 27.01.2020 (Copies enclosed as Annexure No-7 (a) & (b)).

On account of the above reasons we are unable to continue Mining operations and it is beyond our control.

As per the permission letter from the District Collector, Salem ROC.No.711/2019/Mineral A dated 01.08.2019 for deepening the mine sumps under Prime Minister's Jal Sakthi Abhiyan Yojana for augmentation of drinking water supply to the surrounding villages, (Copy of the letter enclosed as Annexure No-8) we had initiated action for removal of loose material from mine sumps in B and MT Blocks by deploying FEL and Dumper combination. Thus we had deepened the mine sumps in B & MT Block and created additional space for collection of huge quantity of rain water for supplying to 18 villages in Salem & Omalur taluks for their drinking and other domestic purposes.

The Chettichavadi panchayat president gave thanks giving letter to the PM on 29-11-2020, the copies of which were sent to the Prime Minister, the Chief Minister of Tamil Nadu and to the District Collector, Salem. (Copy enclosed as Annexure No-9).

Since we had initiated deepening of the Mine sumps by deploying machinery we had submitted Notice of Re Opening of Mines in FORM-A as per First Schedule to the DGMPs on 08.08.2020 and Notice of Intimation of Reopening of Mines in FORM-C to RCOM, IBM, Chennai on 08.08.2020 for deepening and desilting of the water pits in MT and B Blocks for augmentation of drinking water supply to the surrounding villages

3. SUB-RULE 20 (4) (C) OF MCR 2016: STEPS TAKEN TO MITIGATE THE IMPACT OF THESE REASONS:

Based on our presentation through video conferencing in the 40th EAC meeting held on 31.12.2020, the EAC has issued TOR letter for our Chettichavadi Jaghir Magnesite and Dunite Mines to prepare and submit final EIA & EMP report.

We are in the process of preparing the draft EIA and EMP report. When the draft EIA & EMP report is ready, we will submit application to TNPC Bd, Salem along with the draft EIA & EMP report with a request to conduct Public Hearing.

The grievances during the public hearing will be addressed and final EIA and EMP report will be prepared including the public hearing grievances.

The final EIA/EMP report will be submitted to EAC, MOEF & CC, New Delhi for consideration to issue Environmental Clearance.

After obtaining Environmental Clearance from MEOF & CC, New Delhi we would resume mining operations.

4. SUB-RULE 20(5) OF MCR 2016: FEE OF RUPEES ONE LAKH:

In the context of the above as per Rule 20(5) of MCR 2016, we remit fees of Rs.1,00,000 (Rupees One Lakh only) for non-lapsing of our mining lease.

The SBI receipt No:3..... dated ..14.07.2021.... is enclosed as Annexure 10.

We now request your good selves to kindly pass an order for non-lapsing of our Chettichavadi Jaghir Magnesite and Dunite mining lease.

Thanking You.

Yours Faithfully,

For Dalmia Bharat Sugar & Industries Ltd,


P.G. Kalidass,

Agent & Mines Manager,

Chettichavadi Jaghir Mines.
P. G. KALIDASS

AGENT & MINES MANAGER,
CHETTICHAVADI JAGHIR MINES
DALMIA BHARAT SUGAR AND INDUSTRIES LTD.
DALMIA MAGNESITE CORPORATION
CO. DALMIA BHARAT SUGAR AND INDUSTRIES LTD.
2557B AND 2557C



Encl: Copies of:

1. Order of injunction passed in M.P.No-1 of 2006 in W.P.No.2557B and 2557C of 2006 of the Honourable Madras High Court.
2. First Application for EC dated 09.02.2006.
3. Direct Application for EC to MOEF dated 17.08.2010.
4. Revised application submitted for EC to MOEF dated 12.10.2011.
5. TOR published in MOEF website on 24.08.2012.
6. Observation and Recommendation of 28th EAC meeting held on 25th -26th Nov 2019.
7. Notice of Temporary Discontinuance submitted to
 - a. DGMS dated 14.01.2020 intimating the date of temporary discontinuance as 27.01.2020.
 - b. IBM dated 18.01.2020 intimating the date of temporary discontinuance as 27.01.2020.
8. Permission letter from District Collector for deepening and desilting of mine sumps dated 01.08.2019.
9. Thanks giving letter by the Chettichavadi Panchayat president dated 29.11.2020.
10. SBI Receipt No...3..... dated14.07.2021..... for Rs.1.00 Lakhs.

भारत सरकार / GOVERNMENT OF INDIA
 केंद्रीय मंत्रालय / MINISTRY OF MINES
 भारतीय मंत्रालय / INDIAN BUREAU OF MINES

Annexure V

Telephone no. 044-24914401/15/17
 Telefax no. 044-24911291
 Email ID: to: cherthai@ibm.gov.in

C. A. Prasad Iyengar
 CGO complex, Besant Nagar
 Chennai - 600 032

Dated: 30.03.2021

No. TN.SI.MM.G&D/ROAMP-16-6/MDS

To
 M/s. Dalma Bharat Sugar and Industries Ltd.
 C/o Dalma Magnesite Corporation
 Salem - 636 012.

- Subj: Approval of Review Mining Plan with P.M.C.P. for Chettichavadi Jaghir Magnesite and Dunite Mine over an extent of 449.364 Hectares in S.F.No.6/1 in Chettichavadi Village, Salem Taluk and District, Tamilnadu submitted by M/s. Dalma Bharat Sugar and Industries Ltd. under Rule 17(F) of MCR, 2016
- Ref: Party letter No. SI/MM/26141-B dated 19.03.2021.

SIR,

In exercise of the powers delegated to me under Rule 16 of Minerals (Other than Atomic & Hydro Carbon Energy Minerals) Concession Rules, 2016 vide Gazette Notification No. S.O. 1857(E) dated 18.5.2016 issued by the Controller General, Indian Bureau of Mines under F.No. T-43004/CGBM/MM(DR)/2015, I hereby approve the above said Review of Mining Plan for Magnesite & Dunite mineral only. This approval is subject to the following conditions

- 1) That the Review of Mining Plan (including Progressive Mine Closure Plan) is approved without prejudice to any other law applicable to the mine/area from time to time whether made by the Central Government, State Government or any other authority.
- 2) That this approval of the Review of Mining Plan (including Progressive Mine Closure Plan) does not in any way imply the approval of the Government in terms of any other provision of the Mines & Mineral (Development & Regulation) Act, 2015 or the Mineral Concession Rules, 2016 or any other law including Forest (Conservation) Act, 1980, Environment Protection Act, 1986 and the rules made there under
- 3) That this Review of Mining Plan (including Progressive Mine Closure Plan) is approved without prejudice to any other order or direction from any court of competent jurisdiction.
- 4) Provisions of the Mines Act, 1952 and Rules & Regulations made thereunder including submission of notice of opening, appointment of manager and other statutory officials as required by the Mines Act, 1952 shall be complied with.
- 5) The Provisions made under MM(D&R) Act, 2015 (Amended) and Rules made thereunder shall be complied with
- 6) The contents of circular No. 2/2010 issued by the Chief Controller of Mines, IBM, Nagpur vide his letter No. 11013/3/MP/90-CCOM Vol. VII dated 06.04.2010 shall be complied with on or before 31.08.2021 as time limit communicated by the Commissioner of Geology & Mining Govt. of Tamilnadu vide their letter No. Rc.No.2921/MM4/2016 dated 09.03.2021
- 7) The execution of Mining Plan / Review of Mining Plan shall be subjected to vacation of prohibitory orders / notices, if any
- 8) This approval of mining operations and associated activities is restricted to the mining lease area only. The mining lease area is as shown on the statutory plans under rule 32 of Mineral Conservation and Development Rules, 2017, by the lessee. Indian Bureau of Mines does not take any responsibility regarding correctness of the boundaries of the lease shown on the ground with reference to the lease map and other plans furnished by the lessee

- 9) The Environmental Monitoring Cell of the Company shall continue monitoring with at least quarterly dust fall rate, water quality, soil sample analysis and noise level measurements etc. at the stations established for the purpose both in the work zone and tail race zone as per Department of Environment guidelines and keeping in view B.M.F. Circular No 3662 season-wise every year or by engaging preferably the services of an Environmental Laboratory approved by MOEF/PCB. The data generated shall be maintained in a bound period register kept for the purpose and the same shall be made available to the inspecting officer on demand.
- 10) If anything is found to be concealed as required by the Mines Act in the contents of Review of Mining Plan and proposal for rectification has not been made, the approval shall be deemed to have been withdrawn with immediate effect.
- 11) Yearly report as required under Rule 26(2) of MCLR 2017 setting for the extent of protection and rehabilitation works carried out as envisaged in the approved progressive mine closure plan and if there is any deviations, reasons thereof shall be submitted before 31st July of every year to the regional office, B.M.F., Chennai.
- 12) The Review of Mining Plan is approved for the proposals contained therein and as applicable from 01-04-2024 for the mining activities to be carried out within the mining lease hold. The earlier instances of irregular mining/illegal mining, if any, shall not be regularized through the approval of this document.
- 13) The financial assurance submitted should be renewed before expiry of the same.
- 14) In case mining lease falls within a radius of 10 kms. of National Park/Sanctuary, recommendations of NBWL have to be obtained as per the orders of the Hon'ble Supreme Court in J.A. No. 496/2004.
- 15) This approval is subject to the mining operations as per the proposals shall be carried out only after obtaining necessary clearances from MOEF, Pollution Control Board, Forest Department etc.
- 16) This approval is subjected to the extension of the validity of the mining lease by the State government as per Section 8A(5) of MMDR Act, 2015 (Amended).
- 17) This approval is subject to submission of DGPS Plan duly authenticated by the State Government and submission of modifications in the approved Mining Plan if, consequent to the authentication of DGPS Survey Plan, any change in mining lease area is accepted by the State Government.
- 18) This approval is subject to the conditions or per the directions given in WPC/No 114/2014 given by the Hon'ble Supreme Court of India should be taken care while implementing the proposals given in the PMC/P part of the documents.

Yours faithfully,

Encd - Copy of approved Review of Mining Plan
(including Progressive Mine Closure Plan)

(श्री जयकृष्ण बाबु / V. Jaya Krishna Babu)
क्षेत्रीय खान नियंत्रक / Regional Controller of Mines

Copy for information to -

1. ✓ श्री P.G. Kalidass, Qualified person, Chettichavath Jagalur Magnesite & Dumite Mines, M.S. Dalmia Bharat Sugar and Industries Ltd., Salem - 636 012
2. The Commissioner of Geology & Mining, Government of Tamilnadu, Guindy, Chennai - 600 032 along with copy of the approved Review of Mining Plan

Encl - As above

(श्री जयकृष्ण बाबु / V. Jaya Krishna Babu)
क्षेत्रीय खान नियंत्रक / Regional Controller of Mines

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Friday, the Twenty First day of October Two Thousand Sixteen

PRESENT

THE HON'BLE MR. JUSTICE T.S.SIVAGNAM

WP.No.29275 of 2016

and WMP.25308/2016

M/S.DALMIA BHARAT SUGAR & [PETITIONER IN BOTH THE PETITIONS]
INDUSTRIES LTD, (PREVIOUSLY KNOWN AS
DALMIA CEMENT (BHARAT) LTD.,) A
COMPANY INCORPORATED UNDER THE INDIAN
COMPANIES ACT 1913, HAVING ITS REGISTERED
OFFICE AT DALMIAPURAM DISTRICT, TIRUCHIRAPALLI
TAMILNADU, INTER ALIA, CARRYING ON BUSINESS
UNDER THE NAME AND STYLE OF DALMIA
MAGNESITE CORPORATION AT SALEM,
TAMILNADU 636 012 REP BY ITS
MANAGING DIRECTOR, MR.JAI HARI DALMIA

Vs

1 THE STATE OF TAMIL NADU [RESPONDENTS IN BOTH THE PETITIONS]
REP. BY ITS SECRETARY TO GOVERNMENT,
DEPARTMENT OF INDUSTRIES LABOUR AND
CO-OPERATION, FORT ST. GEORGE,
CHENNAI-9.

2 THE SECRETARY
INDUSTRIES DEPARTMENT (MMDI) &
(MMCI), FORT ST. GEORGE,
CHENNAI-9.

3 THE COMMISSIONER
DEPARTMENT OF GEOLOGY AND
MINING, GUINDY INDUSTRIAL ESTATE,
CHENNAI-32

4 THE DEPUTY DIRECTOR,
GEOLOGY AND MINING,
COLLECTORATE COMPLEX,
SALEM

5 THE DISTRICT COLLECTOR,
SALEM-636 001.

AZ 0099229

Writ Petition under Article 226 of the Constitution of India praying that in the circumstance stated therein and in the affidavit filed therewith the High Court will be pleased to issue a writ of mandamus or any other appropriate writ or order direction of like nature

(i) Forbearing the respondents from interfering with the mining operations of the petitioners in the petition Schedule Premises and directing the respondents to continue to issue permits to excavate minerals namely Magnesite and Dunite on payment of the requisite royalty and without insisting on an Environmental Clearance Certificate (in WP.No.26275/2016) and;

(ii) To pass an order of ad interim injunction, restraining the respondents, their men, agents and servants from interfering with the mining operations of the petitioners in the petition Schedule Premises and to continue to issue permits to remove the excavated minerals namely Magnesite and Dunite on payment of the requisite royalty, (in WMP.25308/2016) pending disposal of the above WP.29275/2016 respectively.

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.T.POORNAM AND MR.RAHUL BALAJI, Advocates for the petitioner in both the petitions and of MR.V.AYYADURAI, AAG ASST. BY MR.S.DIWAKAR, Special Government Pleader on behalf of the Respondents the court made the following order:-

Heard Mr.T.Poornam, and Mr.Rahul Balaji, learned counsels appearing for the petitioner and Mr.S.Ayyadurai, learned Additional Advocate General assisted by Mr.S.Diwakar, learned Special Government Pleader appearing for the respondent.

2. The petitioner seeks for issuance of a Writ of Mandamus, to forbear the respondents from interfering with the mining operations of the petitioner in the petition schedule premises and to direct the respondent to continue to issue permits to excavate minerals namely Magnesite and Dunite on payment of the requisite royalty and without insisting on an Environmental Clearance Certificate.

3. The controversy, which has arisen in this case leading to the filing of the Writ Petition, is on account of the fact that the minerals which were subject matter of the quarrying done by the petitioner, have now been notified as a minor mineral. Pursuant to an ordinance promulgated on 12.01.2015, wherein Section 8A of the Mines and Minerals (Development and Regulation), was brought into vogue and since on and from the said date, the minerals in the schedule were declared to be minor minerals vide notification, dated 10.02.2015, which were hitherto major minerals.

AZ 009923

4. The larger issue, which is canvassed in this Writ Petition, has to be decided after the respondents file their counter affidavits including the Central Government whose stand is very relevant while deciding the relief that can be granted to the petitioner, but however in the interregnum, on account of the notification issued, the petitioner is unable to transport the mined minerals and therefore, they sought for an interim prayer.

5. Though the learned Additional Advocate General would submit that the issue, whether such permits can be granted without obtaining the Environment Clearance Certificate, has to be considered in the main Writ Petition and the current problem has arisen only on account of the fact that minerals in question have been declared to be minor minerals. Therefore, till the matter is heard and decided, the respondent should not refuse to issue transport permits.

6. Accordingly, till the Writ Petition is finally heard, there will be a direction to the concerned respondents to continue to issue transport permits to remove the excavated minerals, as was done hitherto until further orders.

Admit. Issue Rule Nisi.


Call for records returnable by 18.11.2016.

Post the main Writ Petition on 18.11.2016.

-sd/-

21/10/2016

/ TRUE COPY /


Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY TO GOVERNMENT,
GOVERNMENT OF TAMIL NADU, DEPARTMENT OF
INDUSTRIES LABOUR AND CO-OPERATION,
FORT ST. GEORGE, CHENNAI-9.

2 THE SECRETARY
INDUSTRIES DEPARTMENT (MMDI) & (MMCI),
FORT ST. GEORGE, CHENNAI-9.

3 THE COMMISSIONER
DEPARTMENT OF GEOLOGY AND MINING,
GUINDY INDUSTRIAL ESTATE, CHENNAI-32

4 THE DEPUTY DIRECTOR,
GEOLOGY AND MINING, COLLECTORATE COMPLEX,
SALEM

5 THE DISTRICT COLLECTOR,
SALEM-636 001.

C.C. to M/S.T.POORNAH Advocate Sr.No.14562

The Special Government Pleader, High Court, Madras 104. Sr.No.14536

Order

in
WP.29275/2016

and WMP.25308/2016

Date :21/10/2016

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
KP(30.09.2016)
RRI 03/11/2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Thursday, the Seventeenth day of August Two Thousand Six

PRESENT

THE HON'BLE MR. JUSTICE K.RAVIRAJA PANDIAN

MP No.1 of 2006

IN WP.25518/2006

DALMIA CEMENT (SIKAPAT) LTD. [PETITIONER]
A COMPANY INCORPORATED UNDER THE INDIAN
COMPANIES ACT 1913, HAVING ITS REGISTERED
OFFICE AT DALMIAPURAM,
DIST.TIRUCHIRAPALLI,
TAMIL NADU, INTER ALIA, CARRYING
ON BUSINESS UNDER THE
NAME AND STYLE OF
DALMIA MAGNESITE CORPORATION AT
SALEM, TAMIL NADU 636 012,
REP.BY ITS LEGAL
ADVISOR S.N.MITTA.

Vs

1 THE STATE OF TAMILNADU [RESPONDENTS]
REP.BY ITS SECRETARY TO GOVT.,
DEPARTMENT OF INDUSTRIES
LABOUR AND CO-OPERATION,
FORT ST.GEORGE, CHENNAI-9.
2 THE DISTRICT COLLECTOR
SALEM 636001.

Petitioner praying that in the circumstances stated therein
and in the affidavit filed therewith the High Court will be pleased
to pass an order of ad interim injunction restraining the
respondents their men, agents, servants and persons claiming under
them through them from interfering with the mining of the aforesaid
minerals by the petitioner at the Petition Schedule Premises and to
continue issue permits for removal of excavated minerals from the
petition schedule premises on payment of the requisite royalty
pending disposal of the application dated 11.7.2005 pending
W.P.No.25518/2006

21/8/06

AI 004719

SCHEDULE (EROX COPY ENCLOSED):

Order: This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr. T. POORNAM, Advocate for the petitioner and Mr. C. on behalf of the Respondents, SPL.G.P. on behalf of the Respondents, the court made the following order:-

The learned counsel for the petitioner submits that the original lease period granted in favour of the petitioner has expired by 19.8.2006 and the petitioner has preferred an application on 11.7.2005 for renewal of the lease. However, the State Government has not disposed of the said Application as on date.

In view of the statutory provision, Rule 24(A)(6) of the Mineral Concession Rules, 1960 if an application for renewal made within the time referred to in sub-rule (1) is not disposed of by the State Government, the lease period shall be deemed to have been extended by a further period till the State Government passes orders thereon, there will be an order of interim injunction.

-sd/-
17/08/2006

/ TRUE COPY /

J. S. S. S.
Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY TO GOVT.,
GOVERNMENT OF TAMIL NADU, DEPARTMENT OF
INDUSTRIES LABOUR AND COOPERATION, FORT ST.
GEORGE, CHENNAI - 9.

2 THE DISTRICT COLLECTOR
SALEM 636001.

AI 00471

C.C. to M/S P. POORNAM Advocate on payment of necessary
charges S.R.No. 1947
The Special Government Pleader, High Court, Madras - 104.

Order

In

MP.1/2006

In

WP.25518/2006

Date: 17/08/2006

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
NR(16.8.2006)

NA
18/8

2/11/14

AI 004719



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11-01-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.29275 of 2016

M/s.Dalmia Bharat Sugar and Industries Limited,
(Previously known as 'Dalmia Cement (Bharat) Ltd'),
a Company incorporated under the
Indian Companies Act, 1913, having its
Registered Office at Dalmiapuram,
District, Tiruchirapalli, Tamil Nadu,
Inter alia, carrying on business under
the name and style of Dalmia Magnesite
Corporation at Salem, Tamil Nadu 636 012
Represented by its Managing Director,
Mr.Jai Hari Dalmia.

.. Petitioner

vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Department of Industries Labour and Cooperation,
Fort St. George,
Chennai – 600 009.
- 2.The Secretary,
Industries Department (MMDI) and (MMCI),
Fort St. George,
Chennai – 600 009.



3.The Commissioner,
Department of Geology and Mining,
Guindy Industrial Estate,
Chennai – 600 032.

4.Deputy Director,
Geology and Mining,
Collectorate Complex,
Salem.

5.The District Collector,
Salem – 636 001.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, forbearing the respondents from interfering with the mining operations of the petitioner in the Petition Schedule Premises and directing the respondents to continue to issue permits to excavate minerals namely Magnesite and Dunite on payment of the requisite royalty and without insisting on an Environmental Clearance Certificate.

For Petitioner : Mr.T.Poornam

For Respondents-1 to 5 : Mr.R.Shanmugasundaram,
Advocate General Assisted by
Mr.K.M.D.Muhilan,
Government Advocate.



ORDER

The relief sought for in the present writ petition is to forbear the respondents from interfering with the mining operations of the petitioner in the Petition Schedule Premises and directing the respondents to continue to issue permits to excavate minerals namely Magnesite and Dunite on payment of the requisite royalty and without insisting on an Environmental Clearance Certificate.

2. The learned counsel for the petitioner made a submission that the petitioner-Company had already suspended their mining operations and submitted an application for Environmental Clearance Certificate before the Competent Authority and the process is in advanced stage and they are waiting for orders.

3. The learned Advocate General made a submission that the question of suspension of mining operations by the petitioner-Company would not arise at all, in view of the fact that no lease has been granted in favour of the petitioner by the State. Pursuant to the judgment of the



Supreme Court in the case of **Common Cause vs. Union of India and Others [(2016) 11 SCC 455]**, the Environmental Clearance Certificate becomes mandatory for the purpose of grant of lease by the State. Therefore, only in the event of furnishing Environmental Clearance Certificate, the case of the petitioner-Company needs to be considered, but not otherwise.

4. The learned Advocate General further made a submission that all other requirements are also to be complied with for the purpose of grant of lease in accordance with the provisions of the Act and the Rules.

5. Thus, it is made clear that petitioner-Company is required to submit necessary Environmental Clearance Certificate and comply with all other requirements under the provisions of the Act and the Rules, enabling the Competent Authorities of the Department to consider the case for grant of lease for carrying on the mining operations strictly in consonance with the Act and Rules in force.

6. In the present case, the writ itself is to forbear the respondents



from interfering with the mining operations of the petitioner-Company and the petitioner-Company have made a submission that they are not carrying on any mining operations at present. It is left open to the petitioner-Company to submit all the required documents, including the Environmental Clearance Certificate issued by the Competent Authorities of the State, enabling the State Authorities to consider the case and take a decision and pass appropriate orders on merits and in accordance with law. The respondents are directed to conduct inspection and verify whether mining operations were done or not, by verifying the statement made by the learned counsel for the petitioner.

7. With the abovesaid directions, the writ petition stands disposed of. However, there shall be no order as to costs.

11-01-2022

Index : Yes/No.
Internet : Yes/No.
Speaking Order/Non-Speaking Order.
Svn



WP No.29275 of 2016

S.M.SUBRAMANIAM, J.

Svn

To

- 1.The Secretary to Government,
State of Tamil Nadu,
Department of Industries Labour and Cooperation,
Fort St. George,
Chennai – 600 009.
- 2.The Secretary,
Industries Department (MMDI) and (MMCI),
Fort St. George, Chennai – 600 009.
- 3.The Commissioner,
Department of Geology and Mining,
Guindy Industrial Estate,
Chennai – 600 032.
- 4.Deputy Director,
Geology and Mining,
Collectorate Complex,
Salem.
- 5.The District Collector,
Salem – 636 001.

WP 29275 of 2016

11-01-2022

6/6

REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 4795 OF 2021**

M/S PAHWA PLASTICS PVT. LTD. AND ANR. Appellants

Versus

DASTAK NGO AND ORS. Respondents

J U D G M E N T

INDIRA BANERJEE, J.

This appeal under Section 22 of the National Green Tribunal Act, 2010, is against an order dated 3rd June 2021 passed by the Principal Bench of the National Green Tribunal (NGT) in O.A No.287/2020 at New Delhi, *inter alia*, holding that establishments such as the manufacturing units of the Appellants, which did not have prior Environmental Clearance (EC) could not be allowed to operate.

2. The question of law involved in this appeal is, whether an establishment employing about 8000 workers, which has been set up pursuant to Consent to Establish (CTE) and Consent to Operate (CTO) from the concerned statutory authority and has applied for *ex post facto* EC can be closed down pending issuance of EC, even though it

may not cause pollution and/or may be found to comply with the required pollution norms.

3. With increasing industrialization and the establishment of factories which emitted smoke and other pollutants, there was worldwide concern for protection of environment. In June 1972, the United Nations Conference on the Human Environment was held in Stockholm, where decisions were taken to take appropriate steps for preservation of the natural resources of the earth, which, among other things, included preservation of the quality of air and water by controlling pollution.

4. In 1974, Parliament enacted the Water (Prevention and Control of Pollution) Act, 1974, with a view to prevent and control water pollution and to maintain and restore wholesomeness of water.

5. In furtherance of the decisions taken at Stockholm, Parliament enacted the Air (Prevention and Control of Pollution) Act, 1981, hereinafter referred to as "the Air Pollution Act", to provide for prevention, control and abatement of air pollution.

6. The Air Pollution Act provides for the constitution of a Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCB) to deal with the problem of air pollution. Section 16 of the Air Pollution Act enables the Central Pollution Control Board to take steps to improve the quality of air and to prevent, control or abate air pollution in the country. Section 17 of the Air Pollution Act enables the State Pollution Control Boards to plan comprehensive programmes for

the prevention, control or abatement of air pollution, *inter alia*, by laying down standards for emission of air pollutants.

7. Section 18 of the Air Pollution Act enables the Central Government to give directions by which the CPCB is to be bound. Similarly, every SPCB is to be bound by directions in writing as might be given by the CPCB or the State Government.

8. Where a notification is issued under the Air Pollution Act, placing an area within the control area of air pollution, permission is necessary to set up and operate any factory or plant thereat. No person operating any factory or plant in any air pollution control area is to discharge or cause or permit to be discharged the emission of any air pollutants, in excess of the standards laid down by the SPCB under Clause (g) of sub-Section (1) of Section 17.

9. The Environment (Protection) Act, 1986, hereinafter referred to as "the EP Act" was also enacted pursuant to the decisions taken at the United Nations Conference on the Human Environment, held in Stockholm in June, 1972. As per the Statement of Objects and Reasons for enactment of the EP Act, the said Act has been prompted by concern over the environment, that has grown all over the world since the 60s.

10. Sub-section (1) of Section 3 of the EP Act empowers the Central Government to take all such measures as it might deem necessary or expedient for the purpose of protecting and improving the quality of

the environment and preventing, controlling and reducing environmental pollution.

11. Sub-section (2) of Section 3 of the EP Act enables the Central Government to take, *inter alia*, the following measures:

“(i) co-ordination of actions by the State Governments, officers and other authorities—

(a) under this Act, or the rules made thereunder; or

(b) under any other law for the time being in force which is relatable to the objects of this Act;

(ii) planning and execution of a nation-wide programme for the prevention, control and abatement of environmental pollution;

(iii) laying down standards for the quality of environment in its various aspects;

(iv) laying down standards for emission or discharge of environmental pollutants from various sources whatsoever:

Provided that different standards for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources;

(v) restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards;

(vi) laying down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents;

(vii) laying down procedures and safeguards for the handling of hazardous substances;

(viii) examination of such manufacturing processes, materials and substances as are likely to cause environmental pollution;

(ix) carrying out and sponsoring investigations and research relating to problems of environmental pollution;

(x) inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or

persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution;

(xi) establishment or recognition of environmental laboratories and institutes to carry out the functions entrusted to such environmental laboratories and institutes under this Act;

(xii) collection and dissemination of information in respect of matters relating to environmental pollution;

(xiii) preparation of manuals, codes or guides relating to the prevention, control and abatement of environmental pollution;

(xiv) such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act."

12. Sub-section (3) of Section 3 of the EP Act provides as follows:

"3. Power of Central Government to take measures to protect and improve environment.—

*...
(3) The Central Government may, if it considers it necessary or expedient so to do for the purposes of this Act, by order, published in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions (including the power to issue directions under Section 5) of the Central Government under this Act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and the provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures."*

13. Subject to the provisions of the EP Act, the Central Government has power under sub-Section (1) of Section 3, to take all such measures, as it deems necessary or expedient, for the purpose of

protecting and improving the quality of environment and preventing, controlling or reducing environmental pollution.

14. Section 5 of the EP Act provides that notwithstanding anything contained in any other law, but subject to the provisions of the EP Act, the Central Government may, in exercise of its powers and performance of its functions under the EP Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

15. In exercise of powers conferred by Sections 6 and 25 of the EP Act, the Central Government has made the Environment (Protection) Rules, 1986, hereinafter referred to as "the EP Rules".

16. The Central Government issued an Environmental Impact Assessment Notification dated 27th January 1994 in exercise of powers conferred by sub-section (1) and clause (v) of sub-section (2) of Section 3 of the EP Act read with clause (d) of sub-rule (3) of Rule 5 of the EP Rules, directing that on and from the date of publication of the said notification in the Official Gazette, expansion or modernization of any activity or a new project listed in Schedule I to the said notification shall not be undertaken in any part of India, unless it has been accorded EC by the Central Government in accordance with the procedures specified in the said notification.

17. In exercise of powers conferred by sub-section (1) and clause (v) of sub-section (2) of Section 3 of the EP Act read with clause (d) of sub-rule (3) of Rule 5 of the EP Rules and in supersession of notification

number S.O. 60 (E) dated 27th January 1994, except in respect of things done or omitted to be done before such supersession, the Central Government issued a notification dated 14th September 2006, being Notification S.O. 1533 (E) requiring prior environmental clearance from the Central Government or as the case may be, by the State-Level Environment Assessment Authority, duly constituted by the Central Government under sub-section (3) of Section 3 of the EP Act.

18. In terms of the said notification dated 14th September 2006, the process of environmental clearance for new projects was to comprise of a maximum of four stages, all of which might not apply to particular cases. The stages were (1) Screening, (2) Scoping, (3) Public Consultation and (4) Appraisal.

19. In the meanwhile, by a notification being S.O. 327 (E) dated 10th April 2001, published in the Gazette of India on 12th April 2001, the Central Government has delegated the powers vested in it under the EP Act, to the Chairpersons of the respective State Pollution Control Boards/Committees to issue directions to any industry or any local or other authority to prevent violation of the Rules.

20. The Appellants carry on business, *inter alia*, of manufacture and sale of basic organic chemicals, namely, Formaldehyde. The Appellant No.1, M/s Pahwa Plastics Private Limited has two manufacturing units, one at village Kharawar in Rohtak, hereinafter referred to as the "Rohtak Unit" and the other at village Jathlana, Jagadhri in Yamuna Nagar in Haryana, hereinafter referred to as the "Yamuna Nagar Unit".

The Appellant No.2 has a manufacturing unit at village Ghespur in Yamuna Nagar, Haryana which is hereinafter referred to as the "Yamuna Nagar Unit". The manufacturing units established, run and operated by the respective Appellants fall in the category of Micro, Small and Medium Enterprise (MSME) as defined under the Micro, Small and Medium Enterprises Development Act, 2006, hereinafter referred to as "the MSME Act".

21. On or about 31st March 2014, the Appellant No.1, M/s Pahwa Plastics Ltd. applied for Consent to Establish (CTE) its Yamuna Nagar unit for manufacture of Formaldehyde.

22. By a communication No. HSPCB/Consent/:2846616YAMCTE 3087415 dated 2nd June 2016, the Haryana State Pollution Control Board (HSPCB) granted Consent to Establish (CTE) to the Appellant No.1 M/s Pahwa Plastics Private Limited in respect of its Yamuna Nagar Unit. The CTE was to remain valid for 60 months from the date of its issue, to be extended for another year at the discretion of the Board or till the time the unit started its trial production, whichever was earlier.

23. Some of the terms and conditions on which CTE was granted are set out hereinbelow:-

"3. The officer/official of the Board shall have the right to access and inspection of the industry in connection with the various processes and the treatment facilities being provided simultaneously with the construction of building/machinery. The effluent should conform the effluent standards as applicable.

4. That necessary arrangement shall be made by the industry for the control of Air Pollution before commissioning the plant. The

emitted pollutants will meet the emission and other standards as laid/will be prescribed by the Board from time to time.

5. The applicant will obtain consent under section 25/26 of the Water (Prevention & Control of Pollution) Act, 1974 and under section 21/22 of the Air (Prevention & Control of Pollution) Act, 1981 as amended to-date-even before starting trial production.

6. The above Consent to Establish is further subject to the conditions that the unit complies with all the laws/rules/decisions and competent directions of the Board/Government and its functionaries in all respect before commissioning of the operation and during its actual working strictly.

8. The Electricity Department will give only temporary connection and permanent connection to the unit will be given after verifying the consent granted by the Board, both under Water Act and Air Act.

12. That there is no discharge directly or indirectly from the unit or the process into any interstate river or Yamuna River or River Ghaggar.

13. That the industry or the unit concerned is not sited within any prohibited distances according to the Environmental Laws and Rules, Notification, Orders and Policies of Central Pollution Control Board and Haryana State Pollution Control Board.

17. In case of change of name from previous Consent to Establish granted, fresh Consent to Establish fee shall be levied.

18. Industry should adopt water conservation measures to ensure minimum consumption of water in their Process. Ground water based proposals of new industries should get clearance from Central Ground Water Authority for scientific development of previous resources.

19. That the unit will take all other clearances from concerned agencies, whenever required.

20. That the unit will not change its process without the prior permission of the Board.

21. That the Consent to Establish so granted will be invalid, if the unit falls in Aravali Area or non conforming area.

22. That the unit will comply with the Hazardous Waste Management Rules and will also make the non-leachate pit for storage of Hazardous waste and will undertake not to dispose off the same except for pit in their own premises or with the authorized disposal authority.

23. That the unit will submit an undertaking that it will comply with all the specific and general conditions as imposed in the above

Consent to Establish within 30 days failing which Consent to Establish will be revoked."

24. By another communication No.HSPCB/Consent/: 2846618YAMCTO3098246 dated 26th March 2018, HSPCB granted consent to the Appellant No.1 to operate its Yamuna Nagar Unit from 8th February 2018 to 31st March 2022.

25. By an order No.HSPCB/YMN/2242, dated 31st March 2010, the Appellant No.2, M/s Apcolite Polymer Private Limited was granted CTE to establish its Yamuna Nagar Unit for manufacture of Formaldehyde with the manufacturing capacity of 80 tonnes per day.

26. By another communication Nos. HSPCB/Consent/: HSPCB/YMN/DLC/2011/4027 & HSPCB/YMN/DLC/2011/4029 dated 16th January 2012, HSPCB granted the Appellant No.2, M/s Apcolite Polymers Private Limited, Consent to Operate (CTO) its Yamuna Nagar Unit. The CTO has been extended from 1st April 2016 till 31st March 2026, by a letter dated 13th March 2016. The CTO is valid till March 2026.

27. By a communication No. HSPCB/Consent/: 2846616YAMCT OHWM2630357 dated 13th March 2016, HSPCB granted consent for emission of AIR to Appellant No.2, M/s Apcolite Polymers Private Limited in respect of its Yamuna Nagar Unit on, *inter alia*, the terms and conditions specified in the said letter, some of which are extracted hereinbelow:-

“10. The air pollution control equipment of such specification which shall keep the emissions within the emission standard as approved by the State Board from time to time shall be installed and operated in the premises where the industry is carrying on/proposed to carry on its business.

11. The existing air pollution control equipment if required shall be alerted or replaced in accordance with the direction on the Board.

12. All solid wastes arising in the factory premises shall be properly graded and disposed of by:-

(i) In case of Land fill material, care should be taken to ensure that the material does not give rise to leachate which may percolate in ground water or be carried away with storm run off.

(ii) Composting in case of bio degradable materials.

(iii) If the method of incineration is used for the disposal of solid waste the consent application should be processed separately and it should be taken up which consent is granted.

13. The industry shall submit an undertaking to the effect that the above conditions shall be complied with by them.

14. The applicant shall submit its undertaking to the effect that the above conditions shall be complied with by them.

15. The applicant shall make an application for grant of fresh consent at least 90 days before the date of expiry of this consent.

18. There should not be any fugitive emission from the premises.

19. The liquid effluent arising out of the operation of the air pollution control equipment shall also be treated in a manner and to the standards stipulated in the consent granted under Water (Prevention & Control of Pollution) Act, 1974 by this Board.

21. If the industry fails to adhere to any of the condition of this consent order the consent so granted shall automatically lapse.

33. The industry shall submit Environment Audit report once in a year.

38. In case of by passing the emissions, the consent shall be deemed revoked.”

28. It is the case of the Appellants that at the time when CTE was granted to the Appellants, it was thought that EC was not required for units which manufactured Formaldehyde. Even HSPCB itself was not sure of whether EC was required for such units.

29. Mr. Gupta argued that the Appellants were *bona fide* under the impression that the Appellants were not required to obtain prior EC for setting up this establishment to manufacture Formaldehyde. On the basis of CTE granted by HSPCB, the Appellants set up their units taking huge loans from banks for which repayments have to be paid in installments.

30. In exercise of power under Section 3(1) and Section 3(2)(v) of the EP Act read with Rule 5(3)(d) of the EP Rules, the Central Government issued a notification being S.O. 804(E) dated 14th March 2017 which provides for grant of *ex post facto* EC for project proponents who had commenced, continued or completed a project without obtaining EC under the EP Act/ EP Rules or the Environmental Impact Notification issued thereunder. Paragraphs 3, 4 and 5 of the said notification, read as hereunder:

“(3) In cases of violation, action will be taken against the project proponent by the respective State or State Pollution Control Board under the provisions of section 19 of the Environment (Protection) Act, 1986 and further, no consent to operate or occupancy certificate will be issued till the project is granted the environmental clearance.

(4) The cases of violation will be appraised by respective sector Expert Appraisal Committees constituted under sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 with a view to assess that the project has been constructed at a site which under

prevailing laws is permissible and expansion has been done which can be run sustainably under compliance of environmental norms with adequate environmental safeguards; and in case, where the finding of the Expert Appraisal Committee is negative, closure of the project will be recommended along with other actions under the law.

(5) In case, where the findings of the Expert Appraisal Committee on point at sub-para(4) above are affirmative, the projects under this category will be prescribed the appropriate Terms of Reference for undertaking Environment Impact Assessment and preparation of Environment Management Plan. Further, the Expert Appraisal Committee will prescribe a specific Terms of Reference for the project on assessment of ecological damage, remediation plan and natural and community resource augmentation plan and it shall be prepared as an independent chapter in the environment impact assessment report by the accredited consultants. The collection and analysis of data for assessment of ecological damage, preparation of remediation plan and natural and community resource augmentation plan shall be done by an environmental laboratory duly notified under Environment (Protection) Act, 1986, or a environmental laboratory accredited by National Accreditation Board for Testing and Calibration Laboratories, or a laboratory of a Council of Scientific and Industrial Research institution working in the field of environment.”

31. The Notification of 2017 is a valid statutory notification issued by the Central Government in exercise of power under Sections 3(1) and 3(2)(v) of the EP Act read with Rule 5(3)(d) of the EP Rules in the same manner as the EIA Notification dated 27th January 1994 and the Notification dated 14th September 2006.

32. Section 21 of the General Clauses Act, 1897 provides that where any Central Act or Regulations confer a power to issue notifications, orders, rules or bye-laws, that power includes the power, exercisable in

like manner, and subject to like sanction and conditions, if any, to add to, amend, vary or rescind any notification, order, rule or bye-law so issued. The authority, which had the power to issue Notifications dated 27th January 1994 and 14th September 2006 undoubtedly had, and still has the power to rescind or modify or amend those notifications in like manner. As held by this Court in ***Shree Sidhballi Steels Ltd. & Others v. State of Uttar Pradesh & Others***¹, power under Section 21 to amend, vary or rescind notifications, orders, rules or bye-laws can be exercised from time to time having regard to the exigency.

33. Puducherry Environment Protection Association filed a Writ Petition being W.P. No.11189 of 2017 in the High Court of Madras assailing the said notification dated 14th March 2017. By a judgment and order dated 13th October 2017, a Division Bench of the High Court refused to interfere with the said notification, holding that the impugned notification did not compromise with the need to preserve environmental purity.

34. The Ministry of Environment, Forest and Climate Change (MoEF &CC) issued a draft notification dated 23rd March 2020 which was duly published in the Gazette of India Extraordinary Part II. The Notification was proposed to be issued in exercise of powers conferred by sub-section (1) and clause (v) of sub-section (2) of Section 3 of the EP Act for dealing with cases of violation of the notification with regard to EC.

¹ (2011) 3 SCC 193

It was proposed that cases of violation would be appraised by the Appraisal Committee with a view to assess whether the project had been constructed or operated at a site which was permissible under prevailing laws and could be run sustainably on compliance of environmental norms with adequate environmental safeguards. Closure was to be recommended if the findings of the Appraisal Committee were in the negative. If the Appraisal Committee found that such unit had been running sustainably upon compliance of environmental norms with adequate environment safeguards, the unit would be prescribed appropriate Terms of Reference (TOR) after which the procedure for grant of EC would follow.

35. On 10th November 2020, the Department of Environment and Climate Change of the Government of Haryana issued an order which is extracted hereinbelow for convenience:

“Whereas the process of manufacturing of Formaldehyde is covered under the provisions of 5(f) of Schedule of Environment Impact Assessment Notification (EIA), 2006 of Government of India, and requires the prior Environmental Clearance (EC) from the competent authority State Environment Impact Assessment Authority (SEIAA)/Ministry of Environment, Forest and Climate Change, Government of India, before establishment and operation of such units, besides other mandatory clearance, as applicable;

Whereas, it has come to the notice of Government that around 15 such units have been permitted to establish/operate in the State of Haryana, without obtaining the necessary Prior Environmental Clearances, but with the Consent of the Haryana State Pollution Control Bureau (HSPCB), which misinterpreted the category of such units and on realising the requirement of EC in these cases, has revoked its consents issued earlier to these units recently;

Whereas, some of these units approached the Government explaining their hardship due to such sudden revocation of their consents and have sought time for obtaining the necessary EC from the competent authority as the process is likely to take a minimum of 6 months to one year period, and to allow them to operate with

all pollution control measures, following the pollution control norms applicable, and,

Whereas, the Government has carefully considered their request and the competent authority has decided that these units shall be allowed to continue their operations for a period of six months, without prejudice to any legal action taken against the violations committed by them, by the competent authorities, with the conditions that they will immediately apply for Environmental Clearance from the competent authority and provide the proof of such application within 60 days from the issuance of this communication to Environment and Climate Change Department and to Haryana State Pollution Control Board.

Therefore, it is ordered accordingly."

36. Referring to the Counter Affidavit filed by HSPCB before the NGT, Mr. Gupta pointed out that, since HSPCB itself was under the misconception that prior EC was not necessary for units such as the Yamunanagar units of the Appellants Nos. 1 and 2 respectively. HSPCB took a policy decision to allow the units which did not have prior EC to operate for six months, on condition that they would apply for EC within sixty days.

37. The Appellants duly applied for EC in respect of their manufacturing units. After scrutinizing their applications and after finding the units suitable for grant of EC in terms of the prevailing guidelines, the Expert Appraisal Committee constituted by the MoEF&CC conducted a public hearing to finalize the cases of the Appellants for issuance of Terms of Reference (TOR).

38. By an Office Memorandum, being F.No. 22-21/2020-1A III, dated 7th July 2021, the MoEF&CC issued Standard Operating Procedure (SOP) for identification and handling of violation cases under EIA Notification 2006.

39. The said Office Memorandum, *inter alia*, reads:

"The Ministry had issued a notification number S.O.804(E), dated the 14th March, 2017 detailing the process for grant of Terms of Reference and Environmental Clearance in respect of projects or activities which have started the work on site and/or expanded the production beyond the limit of Prior EC or changed the product mix without obtaining Prior EC under the EIA Notification, 2006.

2. This Notification was applicable for six months from the date of publication i.e. 14.03.2017 to 13.09.2017 and further based on court direction from 14.03.2018 to 13.04.2018.

3. Hon'ble NGT in Original Application No.287 of 2020 in the matter of Dastak N.G.O. Vs Synochem Organics Pvt. Ltd. & Ors. and in applications pertaining to same subject matter in Original Application No. 298 of 2020 in Vineet Nagar vs. Central Ground Water Authority & Ors., vide order dated 03.06.2021 held that "(...) for past violations, the concerned authorities are free to take appropriate action in accordance with polluter pays principle, following due process".

*4. Further, the Hon'ble National Green Tribunal in O.A. No. 34/2020 WZ in the matter of Tanaji B. Gambhire vs. Chief Secretary, Government of Maharashtra and Ors., vide order dated 24.05.2021 has directed that".... **a proper SoP be laid down for grant of EC in such cases so as to address the gaps in binding law and practice being currently followed. The MoEF may also consider circulating such SoP to all SEIAAs in the country"**.*

5. Therefore, in compliance to the directions of the Hon'ble NGT a Standard Operating Procedure (SoP) for dealing with violation cases is required to be drawn. The Ministry is also seized of different categories of 'violation' cases which have been pending for want of an approved structural/procedural framework based on 'Polluter Pays Principle' and 'Principle of Proportionality'. It is undoubtedly important that action under statutory provisions is taken against the defaulters/violators and a decision on the closure of the project or activity or otherwise is taken expeditiously.

6. In the light of the above directions of the Hon'ble Tribunal and the issues involved, the matter has accordingly been examined in detail in the Ministry. A detailed SoP has accordingly been framed and is outlined herein. The SoP is also guided by the observations/decisions of the Hon'ble Courts wherein principles of proportionality and polluters pay have been outlined."

40. The SOP formulated by the said Office Memorandum dated 7th July 2021 refers to and gives effect to various judicial pronouncements

including the judgment of this Court in ***Alembic Pharmaceuticals Ltd. v. Rohit Prajapati & Others***².

41. In terms of the SOP, the proposal for grant of EC in cases of violation are to be considered on merits, with prospective effect, applying principles of proportionality and the principle that the polluter pays and is liable for costs of remedial measures.

42. By an order dated 9th July 2021, the MoEF&CC confirmed the minutes of an earlier meeting of the Expert Appraisal Committee and recommended issuance of terms of reference to the Appellant No.1, M/s Pahwa Plastics Private Limited for expansion of its Formaldehyde Manufacturing unit from 60 TPD to 150 TPD.

43. In the meanwhile, on or about 26th November 2020, the Respondent No.1, a Non-Governmental Organisation (NGO) hereinafter referred to as "Dastak" filed an application being O.A. No./287/2020 before the NGT praying that the order dated 10th November 2020 passed by the State of Haryana be quashed and units which were operating without EC be closed. The NGT disposed of the said application of Dastak by the impugned order dated 3rd June 2021.

44. A Public Interest Litigation being W.P. (MD) No. 11757 of 2021 (***Fatima v. Union of India***) was filed before the Madurai Bench of the Madras High Court challenging the said Memorandum dated 7th July 2021. By an interim order dated 15th July 2021 a Division Bench of the

² 2020 SCC Online SC 347

Madras High Court admitted the Writ Petition and stayed the said memorandum.

45. The Madurai Bench of the Madras High Court observed and held:-

“This writ petition has been filed as a public interest litigation challenging the validity of the office memorandum dated 07.07.2021, issued by the respondent.

2. We have heard Mr.A.Yogeshwaran, learned counsel appearing for the writ petitioner and Mr.L.Victoria Gowri, learned Assistant Solicitor General of India, accepts notice for the respondent.

3. The impugned office memorandum is challenged as being wholly without jurisdiction, contrary to the Environment Impact Assessment Notification, 2006, ultra vires the powers of the respondent under the Environment (Protection) Act, 1986 and violative of the various principles enunciated by the Hon'ble Supreme Court, while interpreting Article 21 and Article 48-A of the Constitution of India.

4. Further, it is submitted that the impugned notification is in gross violation of the undertaking given before the Hon'ble Full Bench of this Court in W.P.No.11189 of 2017, wherein, the Court took note of the submissions made on behalf of the Government of India, that the notification impugned therein is only a one-time measure. Further, it is submitted that the respondent failed to see that concept of ex-post facto approval is alien to environment jurisprudence and it is anathema to the Environment Impact Assessment Notification, 2006.

*5. Further, it is submitted that the impugned notification is in gross violation of the judgment of the Hon'ble Supreme Court in the case of **Alembic Pharmaceuticals Ltd. vs Rohit Prajapati**, 2020 SCC Online SC 347 and the orders passed by the National Green Tribunal, Principal Bench, New Delhi, in the case of **S.P.Muthuraman vs. Union of India & Another**, 2015 SCC Online NGT 169.*

6. Identical grounds were considered by us in a challenge to an office memorandum dated 19.02.2021, which provided a procedure for granting post facto clearance under Coastal Regulation Zone (CRZ) Notification 2011, on the ground that despite no such provisions in the notification and being contrary to the earlier judgments and undertaking. The said writ petition in W.P(MD).No.8866 of 2021 was admitted and by order dated 30.04.2021, the said office memorandum dated 19.02.2021 has been stayed.

7. The core issue in this writ petition is whether the Government of India could have issued the office memorandum and brought about the Standard Operating Procedure for dealing with violators, who failed to comply with the mandatory

condition of obtaining prior environment clearance under the Environment Impact Assessment Notification 2006, read with the provisions of Environment (Protection) Act, 1986. This issue was considered by the Hon'ble Supreme Court in **Alembic Pharmaceuticals Ltd** (cited supra), and it was held that such office memorandum in the nature of circular is without jurisdiction. The operative portion of the judgment reads as follows:

"...What is sought to be achieved by the administrative circular dated 14 May 2002 is contrary to the statutory notification dated 27 January 1994. The circular dated 14 May 2002 does not stipulate how the detrimental effects on the environment would be taken care of if the project proponent is granted an ex post facto EC. The EIA notification of 1994 mandates a prior environmental clearance. The circular substantially amends or alters the application of the EIA notification of 1994. The mandate of not commencing a new project or expanding or modernising an existing one unless an environmental clearance has been obtained stands diluted and is rendered ineffective by the issuance of the administrative circular dated 14 May 2002. This discussion leads us to the conclusion that the administrative circular is not a measure protected by Section 3. Hence there was no jurisdictional bar on the NGT to enquire into its legitimacy or vires. Moreover, the administrative circular is contrary to the EIA Notification 1994 which has a statutory character. The circular is unsustainable in law."

8. Despite the above decision, once again the Government of India, Ministry of Environment, Forest and Climate Change have chosen to adopt the route of issuing the office memorandum and virtually setting at naught the provisions of the Environment Impact Assessment Notification and the Environment (Protection) Act.

9. Before the Hon'ble First Bench, a public interest litigation was filed by the Puducherry Environment Protection Association, challenging the notification dated 14.03.2017, on identical grounds and the Hon'ble First Bench by judgment dated 13.10.2017, recorded the submissions of the learned Assistant Solicitor General of India that the said notification was a one-time measure and accordingly, disposed of the writ petition.

10. Once again, the Ministry of Environment, Forest and Climate Change have issued the impugned office memorandum. Thus, from what we have noted above, we are of the clear view that the petitioner has made out a prima facie case for entertaining the writ petition. Accordingly, the writ petition is **admitted** and there shall be an order of interim stay."

46. It is true that in the case of ***Puducherry Environment Protection Association v. Union of India***³, the Division Bench of Madras High Court took note of and recorded the submission made on behalf of the Union of India that the relaxation was a one time relaxation. In view of such submission, this Court held that a one time relaxation was permissible.

47. It is, however, well settled that words and phrases and/or sentences in a judgment cannot be read in the manner of a statute, and that too out of context. The observation of the Division Bench that a one time relaxation was permissible, is not to be construed as a finding that relaxation cannot be made more than once. If power to amend or modify or relax a notification and/or order exists, the notification and/or order may be amended and/or modified as many times, as may be necessary. A statement made by counsel in Court would not prevent the authority concerned from making amendments and/or modifications provided such amendments and/or modifications were as per the procedure prescribed by law.

48. The Division Bench of Madras High Court fell in error in staying the said office memorandum, by relying on observations made by this Court in ***Alembic Pharmaceuticals Ltd.*** (supra), in the context of a circular which was contrary to the statutory Environment Impact Notification of 1994. The attention of the High Court was perhaps not drawn to the fact that the notification of 7th July 2021 was in pursuance of the statutory notification of 2017 which was valid. The judgment of

3 2017 SCC OnLine Mad 7056

this Court in ***Alembic Pharmaceuticals Ltd.*** (*supra*), was clearly distinguishable and could have no application to the office memorandum dated 7th July 2021 which was issued pursuant to the notification dated 14th March 2017.

49. The Appellants have already applied for EC. The Expert Appraisal Committee of the MoEF&CC has, after scrutinizing the application of the Appellants and finding them eligible for grant of EC, recommended their cases for grant of Terms of Reference (ToR). ToR was granted to the Appellants and a public hearing had also been conducted. Only last procedural step of issuance of EC is left.

50. It is claimed that the units of the Appellants are totally non-polluting units having "Zero Trade discharge". They have been in operation for many years. In the reply affidavit filed by the State before the NGT, it was mentioned that the units were operating in good faith with valid CTOs granted by the HSPCB. It was stated that the units were not causing pollution hazards. The only thing against the units was the procedural lapse of not obtaining EC.

51. By a communication No. F. No. IA-J-110011/185/2020-IA-II(I) dated 20th July 2021 issued to the Appellant No.1, the MoEF&CC rejected the proposal for terms of reference on the purported ground that the activity of the Appellant No.1 was covered under category "A" of item 5(f) "Synthetic Organic Chemicals" of the Schedule to the EIA Notification, 2006. A similar communication was issued in respect of M/s Apcolite Polymers Pvt. Ltd. Significantly, by an order dated 9th July 2021, the MoEF&CC had confirmed the minutes of an earlier meeting of the Expert

Appraisal Committee and recommended issuance of ToR to the Appellant No.1, as observed above. The proposal for Terms of Reference has obviously been rejected at the final stage after the public hearing, by reason of the impugned order dated 3rd June 2021 passed by the NGT on the application of Dastak, which is under appeal.

52. This appeal was listed for admission on 30th September 2021, along with an application for interim relief being I.A. No.110064 of 2021 praying for orders permitting the Appellants to operate their units during the pendency of the appeal. The appeal was heard at length at the admission stage and reserved for judgment along with the interim application by an order dated 30th September 2021.

53. After receiving the communication dated 20th July 2021 rejecting the proposal for Terms of Reference, the Appellants requested HSPCB to forward to the Appellants the proceedings of public hearing in respect of the manufacturing units of the Appellants. By a communication No. HSPCB/YR/2021/2830 dated 15th February 2022, HSPCB forwarded proceedings of the public hearing in respect of the Yamuna Nagar unit of the Appellant No.1. By another Communication No. HSPCB/YR/29021/2829 dated 15th February 2022 the HSPCB forwarded to the Appellant No.2 the proceedings of the public hearing held on 3rd February 2022 in connection with the Yamuna Nagar Unit of the Appellant No.2.

54. The manufacturing units of the Appellants appoint about 8,000 employees and have a huge annual turnover. An establishment contributing to the economy of the country and providing livelihood ought

not to be closed down only on the ground of the technical irregularity of not obtaining prior Environmental Clearance irrespective of whether or not the unit actually causes pollution.

55. In ***Electrosteel Steels Limited v. Union of India***⁴, this Court held:-

“82. The question is whether an establishment contributing to the economy of the country and providing livelihood to hundreds of people should be closed down for the technical irregularity of shifting its site without prior environmental clearance, without opportunity to the establishment to regularize its operation by obtaining the requisite clearances and permissions, even though the establishment may not otherwise be violating pollution laws, or the pollution, if any, can conveniently and effectively be checked. The answer has to be in the negative.

83. The Central Government is well within the scope of its powers under Section 3 of the 1986 Act to issue directions to control and/or prevent pollution including directions for prior Environmental Clearance before a project is commenced. Such prior Environmental Clearance is necessarily granted upon examining the impact of the project on the environment. Ex-Post facto Environmental Clearance should not ordinarily be granted, and certainly not for the asking. At the same time ex post facto clearances and/or approvals and/or removal of technical irregularities in terms of Notifications under the 1986 Act cannot be declined with pedantic rigidity, oblivious of the consequences of stopping the operation of a running steel plant.

84. The 1986 Act does not prohibit ex post facto Environmental Clearance. Some relaxations and even grant of ex post facto EC in accordance with law, in strict compliance with Rules, Regulations Notifications and/or applicable orders, in appropriate cases, where the projects are in compliance with, or can be made to comply with environment norms, is in over view not impermissible. The Court cannot be oblivious to the economy or the need to protect the livelihood of hundreds of employees and others employed in the project and others dependent on the project, if such projects comply with environmental norms.

88. The Notification being SO 804(E) dated 14th March, 2017 was not an issue in Alembic Pharmaceuticals (supra). This Court was examining the propriety and/or legality of a 2002 circular which was inconsistent with the EIA Notification dated 27th January, 1994, which was statutory. Ex post facto

⁴ 2021 SCC online SC 1247

*environmental clearance should not however be granted routinely, but in exceptional circumstances taking into account all relevant environmental factors. Where the adverse consequences of ex post facto approval outweigh the consequences of regularization of operation of an industry by grant of ex post facto approval and the industry or establishment concerned otherwise conforms to the requisite pollution norms, ex post facto approval should be given in accordance with law, in strict conformity with the applicable Rules, Regulations and/or Notifications. **Ex post facto approval should not be withheld only as a penal measure.** The deviant industry may be penalised by an imposition of heavy penalty on the principle of 'polluter pays' and the cost of restoration of environment may be recovered from it.*

96. The appeals are allowed. The impugned order is set aside. The Respondent No. 1 shall take a decision on the application of the Appellant for revised EC in accordance with law, within three months from date. Pending such decision, the operation of the steel plant shall not be interfered with on the ground of want of EC, FC, CTE or CTO."

56. As held by this Court in ***Electrosteel Steels Limited*** (supra) *ex post facto* Environmental Clearance should not ordinarily be granted, and certainly not for the asking. At the same time *ex post facto* clearances and/or approvals and/or removal of technical irregularities in terms of a Notification under the EP Act cannot be declined with pedantic rigidity, oblivious of the consequences of stopping the operation of mines, running factories and plants.

57. The 1986 Act does not prohibit *ex post facto* Environmental Clearance. Grant of *ex post facto* EC in accordance with law, in strict compliance with Rules, Regulations, Notifications and/or applicable orders, in appropriate cases, where the projects are in compliance with, or can be made to comply with environment norms, is in our view not impermissible. The Court cannot be oblivious to the economy or

the need to protect the livelihood of hundreds of employees and others employed in the project and others dependent on the project, if such projects comply with environmental norms.

58. As held by a three Judge Bench of this Court in **Lafarge Umiam Mining Private Limited v. Union of India**⁵:-

"119. The time has come for us to apply the constitutional "doctrine of proportionality" to the matters concerning environment as a part of the process of judicial review in contradistinction to merit review. It cannot be gainsaid that utilization of the environment and its natural resources has to be in a way that is consistent with principles of sustainable development and intergenerational equity, but balancing of these equities may entail policy choices. In the circumstances, barring exceptions, decisions relating to utilisation of natural resources have to be tested on the anvil of the well-recognized principles of judicial review. Have all the relevant factors been taken into account? Have any extraneous factors influenced the decision? Is the decision strictly in accordance with the legislative policy underlying the law (if any) that governs the field? Is the decision consistent with the principles of sustainable development in the sense that has the decision-maker taken into account the said principle and, on the basis of relevant considerations, arrived at a balanced decision? Thus, the Court should review the decision-making process to ensure that the decision of MoEF is fair and fully informed, based on the correct principles, and free from any bias or restraint. Once this is ensured, then the doctrine of "margin of appreciation" in favour of the decision-maker would come into play."

59. In **Alembic Pharmaceuticals Ltd.**(supra), this Court observed:-

"27. The concept of an ex post facto EC is in derogation of the fundamental principles of environmental jurisprudence and is an anathema to the EIA notification dated 27 January 1994. It is, as the judgment in Common Cause holds, detrimental to the environment and could lead to irreparable degradation. The reason why a retrospective EC or an ex post facto clearance is alien to environmental jurisprudence is that before the issuance of an EC, the statutory notification warrants a careful application of mind, besides a study into the likely consequences of a proposed activity on the environment. An EC can be issued only after various stages of the decision-

5 (2011) 7 SCC 338

making process have been completed. Requirements such as conducting a public hearing, screening, scoping and appraisal are components of the decision-making process which ensure that the likely impacts of the industrial activity or the expansion of an existing industrial activity are considered in the decision-making calculus. Allowing for an ex post facto clearance would essentially condone the operation of industrial activities without the grant of an EC. In the absence of an EC, there would be no conditions that would safeguard the environment. Moreover, if the EC was to be ultimately refused, irreparable harm would have been caused to the environment. In either view of the matter, environment law cannot countenance the notion of an ex post facto clearance. This would be contrary to both the precautionary principle as well as the need for sustainable development."

60. Even though this Court deprecated *ex post facto* clearances, in ***Alembic Pharmaceuticals Ltd.*** (*supra*), this Court did not direct closure of the units concerned but explored measures to control the damage caused by the industrial units. This Court held:-

"However, since the expansion has been undertaken and the industry has been functioning, we do not deem it appropriate to order closure of the entire plant as directed by the High Court."

61. The Notification being SO. 804(E) dated 14th March 2017 was not in issue in ***Alembic Pharmaceuticals Ltd.*** (*supra*). In ***Alembic Pharmaceuticals Ltd.*** (*supra*) this Court was examining the propriety and/or legality of a 2002 circular which was inconsistent with the EIA Notification dated 27th January 1994, which was statutory. The EIA Notification dated 27th January 1994 has, as stated above, been superseded by the Notification dated 14th September 2006.

62. There can be no doubt that the need to comply with the requirement to obtain EC is non-negotiable. A unit can be set up or allowed to expand subject to compliance of the requisite

environmental norms. EC is granted on condition of the suitability of the site to set up the unit, from the environmental angle, and also existence of necessary infrastructural facilities and equipment for compliance of environmental norms. To protect future generations and to ensure sustainable development, it is imperative that pollution laws be strictly enforced. Under no circumstances can industries, which pollute, be allowed to operate unchecked and degrade the environment.

63. *Ex post facto* environmental clearance should not be granted routinely, but in exceptional circumstances taking into account all relevant environmental factors. Where the adverse consequences of denial of *ex post facto* approval outweigh the consequences of regularization of operations by grant of *ex post facto* approval, and the establishment concerned otherwise conforms to the requisite pollution norms, *ex post facto* approval should be given in accordance with law, in strict conformity with the applicable Rules, Regulations and/or Notifications. The deviant industry may be penalised by an imposition of heavy penalty on the principle of 'polluter pays' and the cost of restoration of environment may be recovered from it.

64. The question in this case is, whether a unit contributing to the economy of the country and providing livelihood to hundreds of people, which has been set up pursuant to requisite approvals from the concerned statutory authorities, and has applied for *ex post facto* EC, should be closed down for the technical irregularity of want of prior

environmental clearance, pending the issuance of EC, even though it may not cause pollution and/or may be found to comply with the required norms. The answer to the aforesaid question has to be in the negative, more so when the HSPCB was itself under the misconception that no environment clearance was required for the units in question. HSPCB has in its counter affidavit before the NGT clearly stated that a decision was taken to regularize units such as the Apcolite Yamuna Nagar and Pahwa Yamuna Nagar Units, since requisite approvals had been granted to those units, by the concerned authorities on the misconception that no EC was required.

65. It is reiterated that the 1986 Act does not prohibit *ex post facto* EC. Some relaxations and even grant of *ex post facto* EC in accordance with law, in strict compliance with Rules, Regulations, Notifications and/or applicable orders, in appropriate cases, where the projects are in compliance with environment norms, is not impermissible. As observed by this Court in ***Electrosteel Steels Limited*** (supra), this Court cannot be oblivious to the economy or the need to protect the livelihood of hundreds of employees and others employed in the units and dependent on the units in their survival.

66. *Ex post facto* EC should not ordinarily be granted, and certainly not for the asking. At the same time *ex post facto* clearances and/or approvals cannot be declined with pedantic rigidity, regardless of the consequences of stopping the operations. This Court is of the view

that the NGT erred in law in directing that the units cannot be allowed to function till compliance of the statutory mandate.

67. Accordingly, the appeal is allowed. The impugned order is set aside in so far as the same is applicable to the units of the Appellants established and operated pursuant to CTE and CTO from the HSPCB in respect of which applications for *ex post facto* EC have been filed. The Respondent shall take a decision on the applications of the Appellants for EC in accordance with law within one month from date. Pending decision, the operation of the Pahwa Yamuna Nagar Unit and the Apcolite Yamuna Nagar Unit, in respect of which consents have been granted and even public hearing held in connection with grant of EC, shall not be interfered with.

68. The Appellants will be allowed to operate the units. Electricity, if disconnected, shall be restored subject to payment of charges, if any. If the application for EC is rejected on the ground of any contravention on the part of the Appellants, it will be open to the Respondents to disconnect the supply of electricity.

69. The Union of India had proceeded with the application for EC and even public hearing had been held. Counsel appearing on behalf of the Union of India contended that the Appellant had not submitted its final application for EC, after public hearing. It is not clear what more was required of the Appellants. Be that as it may, the Union of India shall, within three working days from the date of receipt of a copy of this judgment and order, inform the Appellants in writing of whether

anything further is required to be done by the Appellants, and if so what is required to be done. The Appellants shall, within a week thereafter do the needful. The final decision on the application of the Appellants for EC shall be taken within three weeks thereafter.

70. The application being I.A. No.110064/2021 and other pending applications, if any, in this appeal are disposed of accordingly.

.....J.
[INDIRA BANERJEE]

.....J.
[J.K. MAHESHWARI]

**NEW DELHI
MARCH 25, 2022**

18th April 2022

To,

The Secretary,
Ministry of Environment, Forest & Climate Change
Indira Paryavaran Bhawan,
Jor Bagh,
New Delhi-110003

Handwritten notes and stamps in the top right corner, including a date stamp '20/4/22' and a signature.

Sub: Grant of Environment Clearance for Mining Magnesite and Dunite Minerals in Chettichavadi, District Salem, Tamil Nadu

Ref: (i) Our proposal No-IA/TN/MIN/241375/2018.

(ii) Minutes of Meeting of 46th Expert Appraisal Committee meeting (Non-Coal Mining) held on 15th Feb 2022

Dear Sir,

We solicit your intervention on the above referred proposal for expediting the issuance of Environment Clearance (EC) for our mining operations. The proposal was considered by the Expert Appraisal Committee (non-Coal Mining) (EAC) and after issuance of Terms of Reference dated 5th Feb 2022 (ToR), the committee desired to have a valid mining lease document or a court order for further consideration of the proposal and returned the proposal.

We present herein below chronology of events for your kind consideration and request your kind intervention for expediting grant of EC: -

1. The Mining Lease deed for the mines in reference was granted and executed in the year 1966 for 20 yrs. It was further renewed in 1986 for another 20 years, till 2006. Needless to mention here that, when the mines commenced operations in the year 1966, there was no requirement of EC, it was introduced in 1994 for new projects. Later on in 2004, as per amendment brought in EIA notification 1994 EC was mandated at the time of renewal of Mining Lease.
2. We timely applied for renewal of mining lease vide application dated 14th July 2005 for the renewal due on 20th August 2006. The mining operations continued beyond 20th Aug 2006, under the provisions of deemed extension under Mineral Concession Rules 1960, read with interim orders (dated 17th August 2006) of Hon'ble High Court of Madras in WP 25518/2006, filed by us with regard to renewal of mining lease. The mining operations continued with payment of due royalties and other statutory dues, the concerned department/s also issued necessary permit/consent to operate, including the Transport Permit.

Dalmia Bharat Sugar and Industries Limited

11th and 12th Floor, Hansalaya Building, 15 Barakhamba Road, New Delhi - 110 001, Delhi, India

T +91 11 2346 5100 W www.dalmiasugar.com CIN: L15100TN1951PLC000640

Registered Office: Dalmiapuram, District Tiruchirappalli - 621 651, Tamil Nadu, India

A Dalmia Bharat Group company, www.dalmiabharat.com

Item No.07:

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

(Through Video Conference)

**Original Application No. 213 of 2021(SZ) &
I.A. No. 78 of 2022(SZ)**

IN THE MATTER OF:

S. Sakthivel,
Environmental Protection & Anti
Pollution Group, Salem.

...Applicant(s)

The Secretary,
MOEF & CC, New Delhi and Ors.

...Respondent(s)

Date of hearing: 23.11.2022.

CORAM:

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER

HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

For Applicant(s): None.

For Respondent(s): Mrs. P. Kavitha for R1.
Dr. D. Shanmuganathan for R2 & R3.
Ms. Aarti represented
Mr. S. Sai Sathya Jith for R4.
Mr. S. Raghunathan and
Mr. T. Poornam for R6.

ORDER

1. After an elaborate hearing of all the learned counsel appearing for the parties, the following are elucidated:-

1.1 The Dalmia Bharat Sugar and Industries Limited/6th respondent herein had earlier approached the Hon'ble High Court of Madras in W.P. No.25518 of 2006 seeking an injunction not to interfere with their mining activity in the petition mentioned premises.

1.2 It was stated that their application dated 11.07.2005 was pending before the authorities for a renewal of the lease, as the original lease period granted in their favour had expired on 19.08.2006. Despite the application being made, much ahead of the date of expiry of the lease, the State Government had not disposed of the said application. In view of the statutory provision viz., Rule 24 A (6) of the Mineral Concession Rules, 1960, if the renewal application which is made within time was not disposed of by the State Government, the lease period shall be deemed to have been extended by further period till the State Government passed the orders. Based on the said rules, the Hon'ble High Court granted an injunction which is said to be in force till today.

- 1.3** After the said order was passed, it is stated that neither the Writ Petition is taken up for final disposal nor the authorities had filed an application to vacate the order of injunction granted. On the strength of the said order, it is stated by the 6th respondent that they have a valid lease till 2030.
- 1.4** In the meanwhile, after the advent of the Environmental Impact Assessment (EIA) Notification, 2006, the 6th respondent applied for the Environmental Clearance (EC) in the month of February 2006 before the State Government and the same was returned by the State Government after four years in the month of July 2010 to be re-presented before the appropriate authority viz., the Ministry of Environment, Forests & Climate Change (MoEF&CC).
- 1.5** Accordingly, it is stated that the 6th respondent had represented the application for consideration before the MoEF&CC on 17.08.2010 which was returned. Even the same was again re-presented on 12.10.2011.
- 1.6** Later, on 15.01.2016, it was classified as a violation category and it was re-presented which was considered between 15th & 17th February, 2022 and it was again returned for want of a valid lease in their favour, as the 6th respondent did not possess the same. Thereafter, on 18.04.2022, a detailed representation was sent to the MoEF&CC explaining the existence of a valid lease in virtue of the order of the Hon'ble High Court. The said application is also said to be pending and no order has been passed by the officials till today.

2. This Tribunal would not be able to pass orders in this original application unless the MoEF&CC decides on the application for an Environmental Clearance (EC) in light of the representation made by the 6th respondent and the State Government decides on the grant of lease application which has been pending with them since 2006.
3. The learned counsel representing the State Government requested time to get appropriate instruction with regard to the pendency of the application of the 6th respondent and also about the status of the writ petition viz., W.P. No.25518 of 2006.
4. The learned counsel for the State Pollution Control Board also wanted time to file the report.
5. Post the matter on 10.01.2023.

Sd/-

Smt. Justice Pushpa Sathyanarayana, JM

Sd/-

Dr. Satyagopal Korlapati, EM

**O.A. No.213/2021(SZ) &
I.A. No.78/2022(SZ)
23rd November, 2022. Mn.**