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कोयला मंत्रालय

अधिसूचना

नई दिल्ली, 29 मई, 2020

सा.का.नि. 332(अ).—प्रारूप कोयला खान (विशेष उपबंध) संशोधन नियम, 2020 द्वारा कोयला खान (विशेष उपबंध) नियम, 2014 में संशोधन करने के लिए प्रस्तावित है जिन्हें उक्त अधिसूचना को सार्वजनिक किए जाने की तारीख से तीस दिन के भीतर भारत सरकार, कोयला मंत्रालय के लिए आक्षेपों और सुझाव, यदि कोई हो, मंगाते हुए सा.का.नि. सं.-249 (अ),तारीख 13 अप्रैल, 2020 भारत के राजपत्र, भाग-II, खंड-3, उप-खंड-(i) में प्रकाशित किया गया था;

और जनता से प्राप्त आक्षेपों और सुझावों पर विचार किया गया है;

अत: एव, केन्द्रीय सरकार कोयला खान (विशेष उपबंध) अधिनियम 2015 (2015 का 11) की धारा 31 की उप-धारा (1) तथा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कोयला खान (विशेष उपबंध) नियम, 2014 में और संशोधन करने के लिए निम्नलिखित नियम बनाती है:-

1. संक्षिप्त नाम और प्रारंभ.—(1) इन नियमों का संक्षिप्त नाम कोयला खान (विशेष उपबंध) संशोधन नियम 2020 है।

(2) यह राजपत्र में उनके प्रकाशन की तारीख को प्रवृत्त होंगे।

2. कोयला खान (विशेष उपबंध) नियम 2014 में (इसके पश्चात् मूल नियम कहा गया है):—

MINISTRY OF COAL

NOTIFICATION

New Delhi, the 29th May, 2020

G.S.R. 332(E).— WHEREAS, the draft Coal Mines (Special Provisions) Amendment Rules, 2020 proposing to amend the Coal Mines (Special Provisions) Rules, 2014 were published in in the Gazette of India, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 249 (E), dated the 13th April, 2020, inviting objections and suggestions, if any, to the Government of India, Ministry of Coal within thirty days from the date on which the said notification was made available to the public;

AND WHEREAS objections and suggestions received from the public have been considered;

NOW, therefore in exercise of the powers conferred by sub-sections (1) and (2) of section 31 of the Coal Mines (Special Provisions) Act, 2015 (11 of 2015), the Central Government hereby makes the following rules further to amend the Coal Mines (Special Provisions) Rules, 2014, namely:—

1. Short title and commencement.— (1) These rules may be called the Coal Mines (Special Provisions) Amendment Rules, 2020.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Coal Mines (Special Provisions) Rules, 2014 (hereinafter referred to as the principal rules):—

(i) throughout the principal rules wherever they occur, except in the preamble, for the words, brackets and figures, "Coal Mines (Special Provisions) Ordinance, 2014 (Ord. 5 of 2014)", the words, brackets and figures "Coal Mines (Special Provisions) Act, 2015 (11 of 2015) shall be substituted; and

(ii) throughout the principal rules wherever they occur, except in clause (j) of sub-rule (1) of rule 2, for the word, "Ordinance", the word "Act" shall be substituted.

3. In the principal rules, rule 2, sub-rule (1),

(i) for clause (a), the following clauses shall be substituted, namely:—

'(a) "Act" means the Coal Mines (Special Provisions) Act, 2015 (11 of 2015);

(aa) "additional levy" has the same meaning as assigned to it in clause (a) of sub-section (1) section 3 of the Coal Mines (Special Provisions) Act, 2015 (11 of 2015);

(ab) "affiliate" with respect to any person shall mean any other person who, directly or indirectly:—

(i) controls such person; or

(ii) is controlled by such person; or

(iii) is controlled by the same person who, directly or indirectly, controls such person; or

(iv) is an associate company of such person.

Explanation— For the purpose of this clause "associate company" shall have the same meaning as assigned to it in sub-section (6) of section 2 of the Companies Act, 2013 (18 of 2013);

(ac) "allocation" means allotment and auction referred together;

(ad) "allotment" means allotment of coal blocks referred to in section 5 of the Act;';

(ii) after clause (c), the following clauses shall be inserted, namely:—

'(ca) "auction" means the public auction by competitive bidding of Schedule I coal mines under section 4 of the Act;

(cb) "bidder" means a company or corporation which participate in auction of coal mine;';

(iii) after clause (d), the following clauses shall be inserted, namely:—

'(da) "ceiling price" means a price or percentage fixed by the Central Government for a coal mine which is to be allocated by way of reverse auction;

(db) "coal linkage" means a contract entered between coal producing Government company or corporation and consumer for supply of coal in accordance with the terms and conditions of the relevant fuel supply agreement;

(dc) "control" shall include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including

by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner;';

(iv) in clause (f), for the words "the price fixed by the Central Government for a Schedule I coal mine allocated by way of auction", the words "a price or percentage fixed by the Central Government for a Schedule I coal mine allocated by way of forward auction" shall be substituted;

(v) after clause (f), the following clauses shall be inserted, namely:—

'(fa) "forward auction" means the method of auction where the bidders shall be required to successively quote the bid higher than the floor price, subject to such conditions as may be specified in the tender document;

(fb) "group company" means a company which is an affiliate of another company;"

(fc) "infrastructure special purpose vehicle" means an entity incorporated by the nodal agency designated by the Central Government for the purposes of Ultra Mega Power Projects and shall –

(i) hold the land required for the construction of the Ultra Mega Power Project and grant the said land under lease or licence to the operating special purpose vehicle;

(ii) hold the allocation of the domestic captive coal block and grant the mining, development and operation rights of the said domestic captive coal block to the operating special purpose vehicle;

(fd) "operating special purpose vehicle" means an entity incorporated by the nodal agency designated by the Central Government for the purpose of an Ultra Mega Power Project and shall –

(i) be transferred to the awardee of an Ultra Mega Power Project on the basis of competitive bids for tariff for the execution of the Ultra Mega Power Projects;

(ii) execute the power purchase agreement with the distribution licensees for execution of the Ultra Mega Power Project;

(iii) hold the land required for the construction of the Ultra Mega Power Project on lease basis acquired in the name of infrastructure special purpose vehicle; act as a mine development operator of the captive coal mine allocated to the infrastructure special purpose vehicle;';

(vi) clause (j) shall be omitted;

(vii) after clause (j) so omitted, the following clauses shall be inserted, namely:—

'(ja) "person" shall include any company or association or body of individuals, whether incorporated or not;

(jb) "preferred allottee" means the allottee as referred to in sub-rule (8) of rule 11;

(jc) "preferred bidder" means the bidder as referred to in sub-rule (9) of rule 10;

(jd) "reverse auction" means the method of auction where the bidders shall be required to successively quote the bid lower than the ceiling price, subject to such conditions as may be specified in the tender document;';

(viii) in clause (k), for the words and figure "the price fixed by the Central Government for a Schedule I coal mine allocated by way of allotment", the words and figure "a price or percentage fixed by the Central Government for a Schedule I coal mine allocated by way of allotment or by way of reverse auction" shall be substituted;

(ix) for clause (m), the following clauses shall be substituted, namely:—

'(m) "successful allocatee" means the successful bidder and successful allottee referred together;

(ma) "successful allottee" means the allottee as referred to in sub-rule (9) of rule 11 or a company, or as the case may be, corporation to whom coal mine has been allotted in pursuance of rule 12;

(mb) "successful bidder" means the bidder as referred to in sub-rule (10) of rule 10;';

(x) after clause (o), the following clause shall be inserted, namely:—

'(p) "Ultra Mega Power Project" shall mean a power project based on supercritical coal thermal technology or more efficient technology, with installed capacity of 3960 Mega Watt (MW) or above or such other capacity as may be specified by the Central Government, from which power procurement is tied up by procurers in more than one State or Union territory, through tariff based competitive bidding initiated through a Central Government initiative under the Guidelines for Determination of Tariff Through Transparent Process of Bidding for Procurement of Power from Ultra Mega Power Projects notified by Central Government under section 63 of the Electricity Act, 2003 (36 of 2003)'.

4. In the principal rules, in rule 7, in sub-rule (2), in clause (p), for the words and figures, "Schedule II coal mine;", the words and figures, "Schedule II coal mine and on the date of termination of vesting order or allotment order in case of a coal mine under production;" shall be substituted.

5. In the principal rules, in rule 8, in sub-rule (2),—

(i) in the opening portion, for the words "regarding the following", the words "specifying the following" shall be substituted;

(ii) clause (b) shall be omitted.;

(iii) after clause (b) so omitted, the following shall be inserted, namely:—

"(ba) the purpose of allocation of the coal mine including, but not limited to, own consumption of coal, or for sale of coal.

Explanation— For the purposes of this clause, own consumption may include consumption of coal in any specified end use or in any combination of specified end uses.";

(iv) in clause (c), for the words "conducting auction or allotment", the words "conducting allotment or conducting auction including by way of forward auction or reverse auction" shall be substituted.

6. In the principal rules, in rule 10,—

(i) in sub-rule (3),—

(a) for clause (a), the following clause shall be substituted, namely:—

"(a) the purpose of allocation of the coal mine including, but not limited to, own consumption of coal, or for sale of coal; ";

(b) for clause (c), the following clause shall be substituted, namely:—

"(c) the terms and conditions associated with the public auction, including the floor price in case of forward auction or the ceiling price in case of reverse auction, reserve price in case of reverse auction, eligibility conditions, the process of conduct of auction and other related information;";

(c) for clause (e), the following clause shall be substituted, namely:—

"(e) specimen of agreement proposed to be entered into with the successful bidder as specified in sub-rule (5) of rule 13.";

(ii) in sub-rule (4),—

(a) in clause (b), after sub-clause (B), the following sub-clause shall be inserted, namely:—

"(C) The financial bid stage may be divided into such sub-stages or rounds as may be deemed expedient by the Central Government.";

(b) in sub-clause (iii) of clause (c), for the words "provide security, guarantee.", the words "bid security in the form of bank guarantee." shall be substituted;

(c) clause (d) shall be omitted;

(iii) after sub-rule (4), the following sub-rules shall be inserted, namely:—

"(4A) In cases where auction of a coal mine has been conducted under sub-section (3) of section (4) of the Act and a company has been declared successful bidder before the commencement of the Coal Mines (Special Provisions) Amendment Rules, 2020, then the entitlement of such successful bidder to receive coal pursuant to such coal linkage shall stand proportionately reduced on the basis of the requirement of coal being met from the mine allocated to such successful bidder.

(4B) In cases of auction of coal mine for the purpose of own consumption of coal conducted after the commencement of the Coal Mines (Special Provisions) Amendment Rules, 2020 where a bidder having a coal linkage becomes the successful bidder, then the entitlement to receive coal pursuant to such coal linkage may be reduced on such basis as may be specified by the nominated authority in the tender document.

(4C) In case the coal mine is specified for auction for the purpose of own consumption, then the capacity of the end use project for which a bidder is bidding shall be in such proportion to the capacity of coal block as may be specified in the tender document.";

(iv) in sub-rule (5), for the words "or both that may be allocated to a company or its subsidiary or associate companies", the words "or a limit based on any other parameter regarding production of coal or any combination thereof that may be

auctioned to a company or corporation or its subsidiary or holding company or associate companies or group companies or its affiliate" shall be substituted;

(v) in sub-rule (9), for the words "the nominated authority shall forward", the words "the nominated authority shall declare the preferred bidder on the basis of the result of auction and shall forward" shall be substituted.

7. In the principal rules, in rule 11—

(i) in sub-rule (2) for the words "shall specify the maximum number of mines or coal reserves or both that may be allotted to a Government company or corporation of a State", the words "may specify the maximum number of mines or coal reserves or a limit based on any other parameter regarding production of coal or any combination thereof that may be allotted to a company or corporation or its subsidiary or holding company or associate companies or group companies or its affiliate" shall be substituted;

(ii) in sub-rule (3), for the words "shall prepare an allotment document that is, the allotment document", the words "shall prepare a document for the allotment process, that is, the allotment document" shall be substituted;

(iii) in sub-rule (4),—

(a) for clause (a), the following clause shall be substituted, namely:—

"(a) the purpose of allotment of the coal mine including, but not limited to, own consumption of coal or for sale of coal;";

(b) in clause (c) after the words "eligibility conditions,", the words "procedure for making application for allotment," shall be inserted;

(c) after clause (c), the following proviso shall be inserted, namely:—

"Provided that in case the coal mine whose mining plan has not been prepared, the nominated authority may specify the reserve price after the allotment of coal block and preparation of mining plan for such mine; and the successful allottee shall furnish an undertaking as a part of the agreement, as specified in sub-rule (5) of rule 13, to pay the reserve price within the specified time, as may be specified by the nominated authority.";

(d) for clause (d), the following clause shall be substituted, namely:—

"(d) specimen of agreement proposed to be entered into with the successful allottee as specified in sub-rule (5) of rule 13.";

(iv) in sub-rule (6),—

(a) clause (d) shall be omitted;

(b) in clause (g),—

(i) in the opening portion, for the words "towards any specified end use", the words "for own consumption" shall be substituted;

(ii) in sub-clause (iii), for the words "the specified end-use", the words "specified as the purpose" shall be substituted;

(v) for sub-rule (8), the following sub-rule shall be substituted, namely:—

"(8) The nominated authority shall declare the preferred allottee on the basis of the result of allotment process and shall forward its recommendations to the Central Government with regard to the selection of the successful allottee.";

(vi) in sub-rule (10), for the words and figure "Schedule I coal mine to a Central Government company or corporation.", the following shall be substituted, namely:—

"Schedule I coal mine to,—

(i) a Government company or corporation owned, managed or controlled by the Central Government, or

(ii) a Government company or corporation for utilisation of coal in the linked power project to be awarded on the basis of competitive bid for tariff (including Ultra Mega Power Project):

Provided that in case of allotment of a coal block to a Government company or corporation for utilisation of coal in the linked power project to be awarded on the basis of competitive bid for tariff (including Ultra Mega Power Project), the Central Government shall first issue an in-principle allotment letter for such coal block to such Government company or corporation recommended by the Government of India in the Ministry of Power before the competitive bidding for tariff and thereafter on successful award of power project, the final allotment order shall be issued in accordance with the process specified in rule 13."

(vii) after sub-rule 10, the following sub-rule shall be inserted, namely:—

"(11) In cases of allotment of coal mine for the purpose of own consumption of coal where an applicant having a coal linkage becomes the successful allottee, then the entitlement of such successful allottee to receive coal pursuant to such coal linkage may be reduced on such basis as may be specified by the nominated authority in the allotment document.".

8. In the principal rules, for rule 12, the following shall be substituted, namely:—

"**12. Allotment on the basis of tariff based competitive bidding for power projects.-** (1) Notwithstanding anything contained in rules 8, 10 or 11, the Central Government may in accordance with the provisions of sub-section (1) of section 5 of the Act, allot any Schedule I coal mine to any company recommended for such allotment by the Government of India in the Ministry of power, which has been awarded power project on the basis of competitive bids for tariff) including Ultra Mega Power Projects), on such terms and conditions as the Central Government may deem expedient.

(2) The Central Government may notify a list of such Schedule I coal mines which would be available for allotment under this rule and may also specify the terms and conditions for such allotment.".

9. In the principal rules in rule 13,—

(i) in sub-rule (1), for the word "allottee", the words "successful allottee" shall be substituted;

(ii) in sub-rule (3), in clause (a), for the word "proceeds", the word "compensation" shall be substituted;

(iii) in sub-rule (4),—

(a) in the opening portion, for the words "successful bidder or allottee", the words "successful allocatee" shall be substituted;

(b) in clause (ii), for the words "till it reaches its peak rated capacity as specified in the approved mine plan as may be specified by the Central Government", the words "as provided in the agreement specified in sub-rule (5)" shall be substituted;

(c) after clause (iii), the following proviso shall be inserted, namely:—

"Provided that in case the allotment is made under sub-rule (10) of rule 11 to a Government company or corporation for utilisation of coal in the linked power project to be awarded on the basis of competitive bid for tariff (including Ultra Mega Power Project), the performance Bank Guarantee shall be provided by the operating special purpose vehicle on behalf of the successful allottee after award of power project on the basis of competitive bidding in accordance with the guidelines issued by the Central Government in the Ministry of Power.";

(iv) after sub-rule (5), the following sub-rules shall be inserted, namely:—

"(5A) The terms and conditions of the agreement as specified in sub-rule (5) shall be included in terms and conditions of the mining lease for the coal block along with any other terms and conditions that the Central Government or the State Government may deem fit under the Mineral Concession Rules, 1960 and upon grant of the mine opening permission under rule 9 of the Colliery Control Rules, 2004, the agreement as specified in sub-rule (5) shall stand terminated.

(5B) Upon grant of the mine opening permission under rule 9 of the Colliery Control Rules, 2004, the successful allocatee shall provide an unconditional and irrevocable performance bank guarantee in favour of the State Government for the amount equivalent to the performance bank guarantee submitted by it to the Central Government under sub-rule (4) for ensuring the production of coal as per the mining plan:

Provided that in case the allotment is made under sub-rule (10) of rule 11 to a Government company or corporation for utilisation of coal in the linked power project to be awarded on the basis of competitive bid for tariff (including Ultra Mega Power Project), the performance bank guarantee shall be provided by the operating special purpose vehicle on behalf of the successful allottee after award of power project on the basis of competitive bidding in accordance with guidelines issued by the Central Government in the Ministry of Power.

(5C) The performance bank guarantee submitted under sub-rule (4) shall be returned to the successful allocatee after submission of performance bank guarantee under sub-rule (5B) or after sixty days of termination of the agreement as specified in sub-rule (5), whichever is earlier.";

(v) in sub-rule (6), for the words "and these rules, or in the event of cancellation of mining lease under any other law in force", the words "and these rules, on recommendation of the State Government concerned in the event of breach of terms and conditions of reconnaissance permit, prospecting license, mining lease or prospecting license-cum-mining

lease, in the event of cancellation of said concessions under any other law in force, or it is expedient in public interest to terminate the allocation in the opinion of the Central Government, for the reasons to be recorded in writing" shall be substituted.

10. In the principal rules, in rule 14,—

(i) in the heading, the words "to the prior allottee" shall be omitted;

(ii) in sub-rule(1), the words "payable to the prior allottee", at both the places where they occur, shall be omitted.

11. In the principal rules, in rule 15,—

(a) in the heading, for the words "proceeds to persons other than the prior allottee", the word "compensation" shall be substituted;

(b) in sub-rule (1),—

(i) for the words "proceeds arising out of land and mine infrastructure", at both the places where they occur, the words "compensation deposited by the successful allocattee with the nominated authority" shall be substituted;

(ii) after clause (b), the following clause shall be inserted, namely:—

"(c) amount payable to the prior allottee in respect of Schedule I coal mine.".

12. In the principal rules, for rule 17, the following rule shall be substituted, namely:—

"**17. Re-auction and re-allotment.—** In case any Schedule I coal mine is not allocated pursuant to rules 10, 11 or 12, or the vesting order or allotment order in respect of any Schedule I coal mine is terminated, as the case may be, the nominated authority shall have the power to re-initiate auction under rule10 or allotment of the coal mine under rule 11 or rule 12, subject to such order as the Central Government may deem fit to issue under rule 8.".

13. In the principal rules, in rule 19,—

(i) in sub-rule (1), the words "or a coal linkage holder" shall be omitted;

(ii) in sub-rule (2), after clause (c), the following clause shall be inserted, namely:—

"(d) details of coal linkages of the parties, if any.";

(iii) after sub-rule (2), the following sub-rule shall be inserted, namely:—

"(2A) Before applying, the parties shall ensure that all parties to the arrangement or agreement are otherwise eligible for the allocation of the coal mine or grant of coal linkage, as the case may be, which are subject matter of such agreement or arrangement.";

(iv) after sub-rule (4), the following sub-rules shall be inserted, namely:—

"(4A) The Central Government while granting its approval may impose any condition which shall be binding on the parties to such agreement or arrangement.

(4B) Upon execution of such agreement or arrangement, the party carrying out the mining operations in the coal mine or receiving coal under coal linkage shall bear the liabilities in relation to such coal mine or coal linkage.";

(v) after sub-rule (5), the following sub-rule shall be inserted, namely:—

"(6) An allottee to whom the coal mine has been allotted under sub-rule (10) of rule 11 for utilisation of coal in the linked power project awarded on the basis of competitive bid for tariff (including Ultra Mega Power Project) or under rule 12, shall not be entitled to enter into such arrangement or agreement.".

14. In the principal rules, in rule 20,—

(i) in sub-rule (1), for the words "subsidiary company for common", the words "holding company or its subsidiary company for same" shall be substituted;

(ii) after sub-rule (3), the following sub-rule shall be inserted, namely:—

"(4) An allottee to whom the coal mine has been allotted under sub-rule (10) of rule 11 for utilisation of coal in the linked power project awarded on the basis of competitive bid for tariff (including Ultra Mega Power Project) or under rule 12, shall not be entitled to enter into such arrangement or agreement.".

15. In the principal rules, in rule 26,—

(a) in sub-rule (1),—

(i) for the word "may", the word "shall" shall be substituted;

(ii) for the words and figure "Schedule I coal mine", the words and figure "Schedule II coal mine or a coal mine under production whose vesting order or allotment order has been terminated," shall be substituted;

(b) in sub-rule (2), the word and figure "Schedule I" shall be omitted;

(c) in sub-rule (4), in clause (b), the word and figure "Schedule I" shall be omitted.

16. In the principal rules, in rule 27, for sub-rule (3), the following sub-rule shall be substituted, namely:—

"(3) In case of a Schedule II coal mine or a coal mine under production whose vesting order or allotment order has been terminated, if so directed by the designated custodian, the prior allottee shall hold the relevant coal mine in trust for the designated custodian until the designated custodian assumes possession of the relevant coal mine.".

17. In the principal rules, in rule 30, after sub-rule (1), the following sub-rule shall be inserted, namely:—

"(1A) The powers conferred to a designated custodian under sub-rule (1) may also, *mutatis mutandis,* be exercised by designated custodian in respect of any mine under production whose vesting order or allotment order has been terminated."

[F. No. CBA2-13011/1/2020-CBA2]

RAJESH KUMAR SINHA, Jt. Secy.

Note:- The principal rules were published in the Gazette of India, Part II, Section 3, Sub-section (i) vide number G.S.R. 883(E), dated the 11th December, 2014 and lastly amended vide number S.O. 782(E), dated the 18th March, 2015

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