

# Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987

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## THE GOA, DAMAN AND DIU MINING CONCESSIONS (ABOLITION AND DECLARATION AS MINING LEASES) ACT, 1987

No. 16 of 1987

[23<sup>rd</sup> May, 1987.]

An Act to provide for the abolition of the mining concessions in operation in the Union territory of Goa, Daman and Diu and specified in the First and the Second Schedules, and for the declaration of such mining concessions as mining leases under the Mines and Minerals (Regulation and Development) Act, 1957 with a view to the regulation of the mines to which such concessions relate and for the development of minerals under the control of the Union and for matters connected therewith or incidental thereto.

WHEREAS certain mining concessions have been granted in perpetuity under the former Portuguese Mining Laws (Decree of 20th day of September, 1906) in the territories now included in the Union territory of Goa, Daman and Diu by the former Portuguese Government and by the Government of Goa, Daman and Diu;

AND WHEREAS the aforesaid mining laws have ceased to be in force and doubts have been expressed as to whether such mining concessions are mining leases within the meaning of the Mines and Minerals (Regulation and Development) Act, 1957

AND WHEREAS it is expedient in the public interest to abolish such mining concessions and declare them as mining leases under the aforesaid Act for the purpose of making the provisions of that Act applicable to the mines to which such concessions relate with a view to the regulation of such mines and for the development of minerals under the control of the Union so as to subserve the common good;

Be it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

### CHAPTER I

#### PRELIMINARY

1. This Act may be called the Goa, Daman and Diu Mining Concessions(Abolition and Declaration as Mining Leases) Act, 1987.
2. In this Act, unless the context otherwise requires,-
  - a. "appointed day" means the 20th day of December, 1961;
  - b. "Commissioner" means the Commissioner of Payments appointed under; section 8;
  - c. "concession holder" means a person who has been granted a mining concession;
  - d. "date of assent" means the date on which the assent is given by the President to this Act;
  - e. "Goa, Daman and Diu" means the Union territory of Goa, Daman and Diu;
  - f. "Mines and Minerals Act" means the Mines and Minerals (Regulation and Development) Act, 1957;
  - g. "mining concession" means a mining concession granted under the Portuguese Colonial Mining Laws, 1906 (Decree of 20th September, 1906);
  - h. "notification" means a notification published in the Official Gazette;
  - i. "prescribed" means prescribed by rules made under this Act;
  - j. "specified date" means such date as the Central Government may, for the purpose of any provision of this Act, by notification, specify; and different dates may be specified for different provisions of this Act;
  - k. words and expressions used and not defined, but defined in the Mines Act, 1952 or the Mines and Minerals Act, shall have the meanings, respectively, assigned to them in those Acts.

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment (other than this Act), or any judgement, decree or order of any court, tribunal or other authority or any instrument having effect by virtue of any enactment other than this Act.

## **CHAPTER II**

### **ABOLITION OF MINING CONCESSIONS AND DECLARATION AS MINING LEASES UNDER THE MINES AND MINERALS ACT**

4. (1) Every mining concession specified in the First Schedule shall, on and from the appointed

day, be deemed to have been abolished, and shall, with effect from that day, be deemed to be a mining lease granted under the Mines and Minerals Act, and the provisions of that Act shall, save as otherwise provided in this Act, apply to such mining lease.

(2) Every mining concession specified in the Second Schedule shall, on and from the day next after the date of grant of the said concession and specified in the corresponding entry in the eighth column of the said Schedule, be deemed to have been abolished, and shall, with effect from that day, be deemed to be a mining lease granted under the Mines and Minerals Act, and the provisions of that Act shall, save as otherwise provided in this Act, apply to such mining lease.

(3) If, after the date of assent, the Central Government is satisfied, whether from any information received by it or otherwise, that there has been any error, omission or misdescription in relation to the particulars of any mining concession or the name and residence of any concession holder specified in the First or the Second Schedule, it may, by notification, correct such error, omission or misdescription, and on the issue of such notification, the First or the Second Schedule, as the case may be, shall be deemed to have been amended accordingly.

5. (1) Where a mining concession has been deemed to be a mining lease under section 4, the concession holder shall, on and from the day mentioned in that section, be deemed to have become the holder of such mining lease under the Mines and Minerals Act in relation to the mine to which the mining concession relates, subject to the condition that the period of such lease shall, notwithstanding anything contained in that Act, extend up to a period of six months from the date of assent.

(2) On the expiry of the period of any mining lease under sub-section (1), it may, if so desired by the holder of such lease and on an application being made by him in accordance with the provisions of the Mines and Minerals Act and the rules made thereunder, be renewed on such terms and conditions, and up to the maximum period for which, such lease can be renewed under the provisions of that Act and the rules made thereunder.

## **CHAPTER III**

### **PAYMENT OF AMOUNTS**

6. Every concession holder specified in the second column of the First and the Second Schedules shall be given by the Central government, in cash, and in the manner specified in Chapter IV, for the abolition of the mining concession held by him, and declaring it as a mining lease, under section 4, an amount equal to the amount specified against him in the corresponding entry in the eighth column of the First Schedule and ninth column of the Second Schedule, as the case may be.

7. (1) There shall also be given by the Central Government, in cash, to every concession

holder specified in the second column of the First and the Second Schedules, simple interest at the rate of four percent per annum on the amount specified against such concession holder in the corresponding entry in the eighth column of the First Schedule and the Ninth column of the Second Schedule, as the case may be, for the period commencing on the date of assent and ending on the date of payment of such amount to the Commissioner.

(2) The amount referred to in sub-section (1) shall be in addition to the amount specified in the First Schedule or the Second Schedule, as the case may be.

## **CHAPTER IV**

### **Commissioner of Payments**

8. (1) For the purpose of disbursing the amounts payable to the concession holders under this Act, the Central Government shall appoint such person as it may think fit to be the Commissioner of Payments.

(2) The Central Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.

(4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.

9. (1) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to the concession holders, a sum equal to the sum specified against the mining concessions in the First and the Second Schedules, together with the amount of interest referred to in section 7.

(2) A deposit account shall be opened by the Central Government, in favour of the Commissioner, in the Public Account of India, and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the commissioner.

(3) Records shall be maintained by the Commissioner in respect of each of the concession holder in relation to which payments have been made to him under this Act.

(4) Interest accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall ensure to the benefit of the concession holders.

10. (1) Every concession holder, having a claim for the payment of the amount referred to in section 6, shall prefer such claim before the Commissioner within thirty days from the specified date:

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days, but not thereafter.

(2) The Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim.

(3) Not less than fourteen days notice of the date so fixed shall be given by advertisement in one issue of the daily newspaper in the English language and one issue of any daily newspaper in the regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the time specified in the advertisement.

(4) Every claimant, who fails to file the proof of his claim within the time specified by the Commissioner, shall be excluded from the disbursement made by the Commissioner.

(5) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the concession holder, a reasonable opportunity of being heard, by order in writing, admit or reject the claim in whole or in part.

(6) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he will hold his sittings and shall, for the purpose of making any investigation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:-

- a) the summoning and enforcing the attendance of any witness and examining him on oath;
- b) the discovery and production of any document or other material object producible as evidence;
- c) the reception of evidence on affidavits;
- d) the issuing of any commission for the examination of any witnesses.

(7) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

(8) A claimant, who is dissatisfied with the decision of the Commissioner, may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the relevant mine is situated.

11. After admitting a claim under this Act, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such amount is due, and, on such payment, the liability of the Central Government in respect of such claim shall stand discharged.

12. In the event of there being a doubt or dispute as to the right of a person to receive the whole or any part of the amount referred to in section 6 or section 7, the Commissioner shall refer the matter to the court for a decision, and shall make the disbursement in accordance with the decision of the court.

*Explanation* —In this section "court", in relation to a mining concession, means the principal civil court of original jurisdiction within the local limits of whose jurisdiction the mines relating to such concession is situated.

13. Any money paid to the Commissioner which remains undisbursed or unclaimed after such payment for a period of three years shall be transferred by the Commissioner to the general revenue account of the Central Government; but a claim to any money transferred may be preferred to the Central Government by the concession holder entitled to such payment and shall be dealt with as if such transfer had not been made, the order, if any, for the payment of the claim being treated as an order for the refund of revenue.

## **CHAPTER V**

### **MISCELLANEOUS**

14. In the Mines and Minerals (Regulation and Development) Act, 1957, in sub-section (1) of section 4, after the second proviso, the following proviso shall be inserted and shall be deemed to have been, inserted with effect from the 1st day of October, 1963, namely:-

"Provided also that nothing in this sub-section shall apply to any mining lease (whether called mining lease, mining concession or by any other name) in force immediately before the commencement of this Act in the Union territory of Goa, Daman and Diu."

15. Any person who contravenes the provisions of this Act shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees, or with both.

16. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company, for the conduct of the business of the company as well as the company, shall be deemed to be guilty of offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent commission of such offence.

(2) Notwithstanding anything contained in sub-section(1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and(b) "director", in relation to a firm, means a partner in the firm.

17. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or other employee of that Government, or any person authorised by that Government for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or any officer or other employee of that Government or any person authorised by that Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

18. (1) The Central Government may, .by notification, direct that all or any of the powers exercisable by it under this Act, other than the powers conferred by sections 20 and 21, may also be exercised by such person or persons as may be specified in thc notification.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

19. It is hereby declared that this Act is for giving effect to the policy of the State -towards securing the principles specified in clauses (b) and (c) of article 39 of the Constitution.

*Explanation.*—In this section, "State" has the same meaning as in article 12 of the Constitution.

20. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

21. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty.

Provided that no such order shall be made after the expiry of a period of two years from the date of assent.

22. (1) Notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any court, tribunal or other authority,—

(a) every concession holder shall, for the period commencing on and from the date when his mining concession had been declared to be a mining lease and ending with the date of expiry of the period of his lease under the provisions of this Act (hereafter in this section referred to as the said period), be liable to pay the dead rent or, as the case may be, royalty, due in respect of such lease under the provisions of the Mines and Minerals Act and the rules made thereunder, and such amount shall, save as otherwise provided in this section, be recoverable from him;

(b) any amount paid by the concession holder for the said period, either as a fixed tax or as a proportional tax, or both, or as a royalty under protest shall be deemed to have been dead rent or, as the case may be, royalty, paid in accordance with law and such amounts shall not be liable to be refunded; and ,

(c) due credit of all such amounts paid by a concession holder under clause (b) shall be given to him in determining the dead rent or, as the case may be, royalty payable by him under clause (a), as if this Act and the Mines and Minerals Act and the rules made there under had been in force at all material times, and accordingly-

(i) no suit or other proceeding shall be instituted, maintained or continued in any court or other authority against the Government or any person or authority whatsoever for the refund of any amounts paid by a concession holder under clause (b); and

(ii) no court shall enforce any decree or order directing the refund of any amounts so paid, on the ground that the mining concession is not a mining lease

(2) For the removal of doubts, it is hereby declared that nothing in sub-section shall be construed as preventing any person,-

(a) from questioning, in accordance with the provisions of the Mines and Minerals Act and the rules made thereunder, the assessment of any dead rent or royalty for the said period; or

(b) from claiming refund of any dead rent or royalty paid by him in excess of the amount due from him under the Mines and Minerals Act and the rules made thereunder.