Mineral Industry in A State of Flux

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"The Indian mineral industry is in a state of flux today. The life of non-captive mines is upto 31st March, 2020 and captive mines upto 31st March, 2030. After these dates, the mines will be granted for 50 years through auction route. The domestic demand for the minerals is depressed, as a result of which the production of almost all the minerals is coming down. On the other hand, the imports of minerals are going up unabashedly" says, **Raj Kumar Sharma, Secretary General, Federation of Indian Mineral Industries** in an exclusive interview with **Steelworld.** Excerpts

What is the present status of Indian Mineral Industries?

- The Indian mineral industry is in a state of flux today. The life of non-captive mines is upto 31st March, 2020 and captive mines upto a31st March, 2030. After these dates, the mines will be granted for 50 years through auction route. The domestic demand for the minerals is depressed, as a result of which the production of almost all the minerals is coming down. On the other hand, the imports of minerals are going up unabashedly. The position of some of the minerals is delineated below:

Iron Ore

There is a huge stockpile of 128.06 million tonnes of iron ore at the mine-heads out of which 27.69 million tonnes are lumps and 100.37 million tonnes are fines. The stockpile of iron ore in Odisha is about 77 million tonnes and in Jharkhand about 25 million tonnes. In the case of Odisha, one can not move iron ore outside the State more than what one supplies to the steel industry located in Odisha. The production of iron ore in Odisha has therefore come down drastically. The problem is further compounded because the Government of Odisha charges royalty of the highest grade on the fines generated after sizing of the ore for sponge or pig iron plants which works out to 25-30% instead of 15% as per law. In addition to this, there is spectre of contribution to DMF (equivalent of 30% of royalty) from 12th January, 2015. The industry is therefore suffering from low rate of production and heavy financial burden. As a result of low demand, the production of iron ore in the country has come down from a peak of 219 million tonnes in 2009-10 to 128 million tonnes in 2014-15.

I may mention that a substantial portion of fines, if not sold in domestic market or exported, would be washed away in rainy seasons. In this international commodity melt-down, iron ore prices are hovering around US$38 per tonne for 62% Fe delivered CIF at Chinese port. One cannot think of exporting iron ore with 30% export duty (10% export duty on iron ore upto 58% Fe grade). Complete removal of export duty will no doubt help the export of iron ore but since the iron ore miners are out of the international market for the last 3 years, it will be a herculean task to revive the exports; nonetheless it will definitely be the first positive step. However, the Ministry of Railways will have to reduce the railway freight on iron ore meant for export so that exports may become viable.

Manganese and Chrome Ore

As regards manganese and chrome ore, while there are ceilings on the export of manganese and chrome ores and export duty of 30% on chrome ore but there is no restriction on the import of these two commodities. I give here under the quantum of imports of these two commodities during the last three years:

MANGANESE / CHROME ORE IMPORTS

(Quantity in million tonnes)

Year	Manganese Ore	Chrome Ore
2012-2013	2.32	0.21
2013-2014	2.17	0.26
2014-2015	3.17	0.24

Source : Ministry of Commerce & Industry

This has resulted in the closing down of 90% manganese mines over the years in Odisha. Even MOIL, which is the largest producer of manganese in India, is struggling hard to break even. We feel that in the case of manganese and chrome ores, there should be a safeguard duty of atleast 50% to restrict the imports of these commodities. There should also be no ceiling on volume of exports and no export duty on the exports of chromite since there is slow down in steel industry in the country.

Bauxite

Saurashtra region of Gujarat produces basically refractory and non-metallurgical grade bauxite which is not suitable for alumina / aluminium industry. Of the total production of bauxite in Saurashtra, hardly 25% can be used in refractory industry and the balance 75%, which is of low grade, does not have any demand in the country. There is some demand of this grade in Middle East and China. However the imposition of export duty of 20% is making the exports of Indian bauxite unviable. I therefore feel that the export duty on bauxite needs to be withdrawn in the present depressing scenario.

Graphite

India produces low grade graphite, which is limited mostly to Odisha. Despite the imposition of 10% import duty on graphite, the quality of graphite imported from China and Srilanka is such that it is still very profitable for the domestic consuming industry to import from China and Srilanka. The result is that almost all mines of graphite, barring a few, are closed. There is therefore urgent need for safeguard duty on the imports of graphite.

Conclusion

The economic condition of other minerals is also not very healthy; in fact, it is so serious that as a result of scaling down in production and the resultant closing down of mines, more than 1 million people, employed directly or indirectly, have been rendered unemployed. Mining industry which has the potential to create jobs, next only to agriculture, in remote and tribal areas, instead of providing jobs is rendering them unemployed. Unless Government of India takes immediate measures to arrest further slide-down, there will be more closure of mines resulting in more unemployment.

What has been the impact of slow down in metal manufacturing sector – domestically as well as globally ?

- The slow-down of manufacturing sector has been due to slackness of demand for steel, aluminium, cement and other metals. This has impacted the mining sector adversely. The export avenue which was available for some minerals has been blocked because of the imposition of export duties while imports are freely allowed leading to scaling down or closure of mines.

As far as the international scenario is concerned, there is a global slow-down in commodity and metal market because of the slow growth in China which has affected the demand for minerals and metals. Whereas the other commodity exporting countries such as Australia, Brazil and South Africa have responded positively towards relieving the strains on the mining sector by scaling down or postponement of royalties etc., in India this has not been at all appreciated either by the Central or State Governments.

The recent failure in the auction of coal blocks and other non-coal blocks is basically because the landed prices of raw materials are cheaper compared to domestic prices. Even then, there is no scaling down of royalty and other imposts by the State Governments. This has affected the production of various minerals leading in a number of cases to job losses.

When do you see the better days coming for the mineral Industries ?

- I do not know when better days will visit the mining sector and how long it will take. As of now, there is a bleak future till demand goes

up for various products which will lead to more demand for minerals.

What are the major issues plaguing the mining sector?

- Some of the issues which have plagued the mining sector since new amendments in MMDR Act, 1957 are narrated hereunder:

I - Case of Non-captive Leases

Before putting a deposit for auction, it has to be explored upto G2 level. State public sector mining units, which have been authorised for undertaking prospecting, have to gear themselves to explore areas to be allocated to them by respective State government will take time. The dependency on the reports of the MECL and GSI is in doubt. The term of the existing non-captive mines will end on 31 March, 2020. The lessees of these mines will have to be given time to remove their plant and machineries and the mined-out material. If explored blocks (upto G2 level) are not available and the term of existing leases comes to an end on 31 March, 2020, only the captive mines will be in operation to feed their plants. This is a scary situation for the country's manufacturing industry, which do not have captive mines. This will also have cascading effect on the down-stream industries since one man's production is another man's raw material.

FIMI had therefore suggested that the existing non-captive leases should be brought at par with the captive mining lease since over the years, a huge amount has been invested in exploration and plant and machinery by non-captive mining industry. In fact 'captive mine' is typically Indian concept not followed anywhere else in the world where 'mining' is regarded as an independent industry. Accordingly FIMI suggested that :

(i) the term of non-captive mining leases may be extended to 31 March 2030 instead of existing 31 March, 2020; and

(ii) the right of first refusal be granted to the non-captive mining leases.

II - Exploration

After the present Government came in power, it was presumed that mining has a huge margin and the States should derive maximum revenue from the sale of mineral deposits. Auction of ML and PL was considered as a panacea of all the rut that was supposed to be prevalent in mining and bring transparency. Mines and Minerals (Development and Regulation) Amendment Act, 2015 provided for auction of mining leases as well as for prospecting licence-cum-mining leases. Even the issue of non-exclusive reconnaissance permit was not without hassles: "The grant of a non-exclusive reconnaissance permit over any area shall not prohibit the State Government from notifying all or any part of such area for grant of a mining lease or a prospecting licence-cum-mining lease and upon such notification the validity of all non-exclusive reconnaissance permits over such notified area will stand automatically terminated." (Rule 3(11) of Mineral (Non-exclusive Reconnaissance Permits) Rules, 2015)

Further "the holder of a non-exclusive reconnaissance permit may choose to submit its findings to the State Government and may request the State Government to conduct auction for grant of a prospecting licence-cum-mining lease or a mining lease based on such findings. (Rule 4(1) (ibid). And finally "the NERP holder shall not be entitled to make any claim for the grant of any Composite Licence or Mining Lease on the basis of non-exclusive reconnaissance permit". (Rule 4(4)(e) (ibid).

With these provisions in place, it will be naïve to think that any state-of-the-art technology and investment (FDI) which is available with private sector will come in exploration in this country. Mineral exploration is a scientific knowledge driven process of searching deposits involving high risk capital with the eventual aim of mining the deposit for profit. In the present depressing situation in commodity market, investment dollar is in short supply. If the conditions are not congenial in India, as they have been so far, the investment money ($) will go to those countries which provide more favourable atmosphere. India will thus remain, as it is now, one of the most un-explored countries in the world, always dependent on imports in metals such as gold, diamond, nickel, lead/zinc, copper, PGMs, etc. There is therefore an urgent need to revisit this area.

III - Contribution to District Mineral Foundation (DMF)

Ministry of Mines had issued an extra-legal Order No. 16/7/2015-M.VI (Part) dated 16 September, 2015 directing "the concerned State Governments that the notification establishing the District Mineral Foundations shall state that such District Mineral Foundations shall be deemed to have come into existence with effect from the 12th of January, 2015." Section 9B of the amended MMDR Act 2015 does not authorise the Government of India to order the State Governments to establish DMFs (District Mineral Foundations) from back date. The onus of establishing DMFs is on the State Governments and the Centre has no locus standi.

To give legitimacy to its Order dated 16 September, 2015, Ministry of Mines brought out, under Section 9B of MMDR Act, 1957, Mines and Minerals (Contribution to District Foundation) Rules, 2015 though Notification (G.S.R. 715(E)) on 17 September, 2015 asking every holder of a mining lease or a prospecting licence-cum-mining lease to pay to the District Mineral Foundation, an amount, in addition to the royalty, 10% in case of the mining leases or, as the case may be, prospecting licence-cum-mining lease granted on or after 12 January, 2015 and 30% granted before 12th January, 2015.

Under the same Section 9B of MMDR Act, 1957 the Ministry of Coal issued another Notification (G.S.R. 792 (E)) on 20 October, 2015 notifying Mines and Minerals (Contribution to District Foundation) Rules, 2015 for coal and lignite which made it effective from the date of Notification i.e. 20 October, 2015 or the date on which District Mineral Foundation is established, which ever is later.

It is therefore surprising that the two Ministries of the Government of India issue two set of Rules for different set of minerals under same Section i.e. 9B. Further, even till now, hardly any State Government has established District Mineral Foundation.

FIMI had represented the Ministry of Mines as to how two Ministries of the Government of India had issued identical Mines and Minerals (Contribution to District

Foundation) Rules, 2015 be made effective from different dates. FIMI have further submitted that the Hon'ble Prime Minister and the Hon'ble Finance Minister have been declaring at every forum in India and abroad that any future taxation would be from the prospective date rather than retrospective. Since the Ministry of Mines did not favour us with a reply, we were left with no choice but to approach the Hon'ble Supreme Court of India who by its order dated 7 December, 2015 advised us to approach the High Court with the observation that "We are sure that the Delhi High Court will entertain the petition on its merits, if filed." Accordingly, we filed Writ Petition in Delhi High Court, who gave the following order on 22 December, 2015:

"no coercive steps shall be taken pursuant to the impugned order of the respondent No. 2 dated 16.09.2015 to the extent that it directs establishment of the District Mineral Foundations retrospectively from 12 January, 2015."

Can you sum up the recent changes in the mining industry?

- I am personally of the view that the recent changes in mining legislative providing for auction and conditions under which non-exclusive exploration licences will be issued has put damper on the further growth of mining industry. Unless exploration is encouraged and minerals/metals discovered, particularly those which we import, domestic growth cannot take place and we will continue to depend on imports.