

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO. 715 OF 2024

KIRLOSKAR FERROUS INDUSTRIES
LIMITED & ANR.

...PETITIONER(S)

VERSUS

UNION OF INDIA & ORS.

...RESPONDENT(S)

O R D E R

1. Our order dated 08.04.2025 should be first looked into. The order reads thus:-

"1. We take notice of our order dated 28-2-2025. It is an exhaustive order. We need not reproduce the entire order. The order dated 28-2-2025 was corrected to some extent on 6-3-2025.

2. We had granted five weeks' time to the Union to take an appropriate decision in the matter. However, we regret to note that till this date, the Cabinet Secretariat has not been in a position to take any final decision in the matter.

3. Today, when the matter was taken up for further hearing, we took notice of one Interlocutory Application filed on behalf of the Union of India praying for more time in the matter. According to Mr. Rajesh Madiyal, the learned counsel appearing for the Union, the issue is pending before the Cabinet Secretariat. The Cabinet Secretariat has to place the appropriate proposal before the Union Cabinet.

4. We propose to grant one last opportunity to the Cabinet Secretariat to prepare the appropriate proposal and place it before the Union Cabinet. The Cabinet Secretariat, while preparing the appropriate proposal shall make a reference of our order dated 28.02.2025 and the corrected order dated 6.03.2025 respectively. We expect the Cabinet Secretariat also to look into our order and try to

understand the same and thereafter, prepare the appropriate proposal.

5. We direct the Cabinet Secretariat to prepare the proposal within a period of four weeks from today and place it before the Union Cabinet to enable it to take an appropriate decision on the same.

6. We further direct that at the time of presenting the proposal, our order dated 28-2-2025 and the corrected order dated 6.03-2025 should also be annexed along with the proposal so that the Union Cabinet can look into our order and try to understand in what circumstances we had to pass the order.

7. Post this matter after four weeks to report compliance as to whether the Cabinet Secretariat has prepared the proposal and has forwarded the same to the Union Cabinet or not.

8. We make it clear that for any good reason the Cabinet Secretariat is unable to prepare the proposal and forward the same to the Union Cabinet, we shall proceed to deal with the matter accordingly.

9. Post this matter on 13-5-2025."

2. Later the Union came with an I.A. praying that some of the paragraphs of the order dated 08.04.2025 be deleted in the wake of some developments.

3. In such circumstances, we passed a further order on 09.05.2025 which reads thus:-

"IA NO.120724/2025 IN W.P.(C) NO.715/2024:-

1. xxx xxx xxx

2. xxx xxx xxx

3. By this application, the Union wants to bring it to our notice that the Cabinet Secretariat will no longer be preparing any proposal to be placed before the Cabinet for the purpose of taking an appropriate decision. According to the learned Solicitor General, it is the concerned Ministry itself that will take an appropriate decision.

4. It has been stated on oath that the concerned Ministry shall take appropriate decision within a period of one week from today.

5. In view of the aforesaid, our order dated 8-4-2025 should be read accordingly.

6. We hope and trust that the concerned Ministry takes an appropriate decision in accordance with law more particularly keeping in mind the main judgment delivered by this Court as well as various further orders passed by this Court from time to time. Whatever decision the Ministry may take, the same shall be placed before this Court for its consideration."

4. Today when the matter was taken up for further hearing Mr. K. M. Nataraj, the learned ASG placed on record the affidavit filed by one Shri Dinesh Mathur, Joint Secretary to Government of India, Ministry of Mines, New Delhi.

5. By way of affidavit referred to above it has been brought to our notice that the Central Government has taken the decision not to amend the Rule 38 of the MCR, 2016 and Rule 45 of the MCDR, 2017 respectively leading to the cascading impact of royalty on royalty in the calculation of the "average sale price" by virtue of the Explanation(s) to Rule 38 of the MCR, 2016 and Rule 45 of the MCDR, 2017 respectively. The Union has also taken a decision not to look into the anomaly in computation of royalty as discussed in the main judgment of this Court dated 07-11-2024.

6. In the affidavit, the following has been stated:-

"5. I state that the Central Government has taken a decision not to amend the said rule. Following grounds have been weighed by the Central Government for taking such a decision -

(i) Inclusion of royalty while calculating average sales price [ASP] is not a novel method and this method of calculation of royalty is very well known to miners and

is prevalent in mining industry. The miners are fully aware of this method of calculation at a time of bidding for grant of mining lease.

Further, this methodology is also considered by the Central Government to be similar to calculation of income tax which is payable on total income and not on the amount which is arrived at by deducting income tax from the total income.

(ii) There are different methods of calculation of royalty for different minerals. For certain minerals like limestone, monazite, graphite, etc. royalty is calculated on unit of production basis or tonnage basis. While in case of certain minerals like iron ore, manganese, etc. royalty is payable on ad valorem basis on ASP, and for certain metallic minerals like bauxite, copper, gold, etc. royalty rate is payable on international prices. In case of coal itself, there are three different methodologies for royalty calculation.

It is the considered view of the Central Government that this happens due to the different use of minerals, nature of its market and trade, availability of international benchmark prices as well as to address issues like under-invoicing, etc. The Government, therefore, considered that comparison of methodologies of calculation of royalty for coal and iron ore may not direct the Government's decision to decide as to whether the rule under question needs to be amended or not.

6. Taking holistic view of the matter from the aforesaid angle and considering the impact of the decision of the revenue of the States, the Government has taken a conscious decision to not amend the rules. While taking this decision, the Government has very respectfully considered the judgment of this Hon'ble Court dated 07.11.2024 passed in W.P. [C] No.715 of 2024.

7. As this Hon'ble Court in the aforesaid judgment dated 07.11.2024 clarified in para 83 thereof that it is open for the petitioner to lay challenge to the final policy decision taken by the Central Government, I am not elaborating the grounds on which the decision not to amend the rules is taken. If and when any such challenges is made to the decision of the Central Government in not amending the rules, the Central Government would file a reply justifying the decision.

8. It is humbly submitted that the issue of calculation of

royalty, contribution of District Mineral Foundation, auction premium and other statutory payments affects the revenue of the State which are the owner of the minerals. In case any step is proposed which impact the revenue of the States, the Central Government always consult the State Governments. In the present case also, the decision was taken after due consultation with the States. It is further submitted that any challenge to the rules will have to be examined in the appropriately laid proceedings in appropriate forum, after duly hearing the affected parties, namely the State Governments. As pointed out above, the present decision has been taken after consulting all the stakeholders, including the States."

7. In our main judgment dated 07-11-2024, we observed thus:-

"83. In view of the decisions referred to above, we may only say that since the respondents herein are already in seisin of the anomaly in computation of royalty and the policy is being reconsidered on the grounds raised by the petitioners herein, we do not say anything further as regards the provisions in question other than what we have observed. We clarify that this decision shall not preclude the petitioners from challenging the final policy decision that the respondents may take on completion of the ongoing consultation process.

84. In view of the aforesaid, we grant the respondents a period of 2-months from the date of pronouncement of this judgment to conclude the public consultation process undertaken for amending the MMDR Act initiated pursuant to the Notice dated 25.05.2022 and take a final decisive call in regard to the cascading impact of royalty on royalty in the calculation of the 'average sale price' by virtue of the Explanation(s) to Rule 38 of the MCR, 2016 and Rule 45 of the MCDR, 2017.

85. The challenge to the validity of Explanation(s) appended to Rule 38 of the MCR, 2016 and Rule 45 of the MCDR, 2017 is answered accordingly.

86. The Registry shall notify this matter before an appropriate Bench after a period of two months from the date of pronouncement of this judgment to report compliance of our directions."

(Emphasis supplied)

8. Since, the Central Government has taken a policy decision not to reconsider the Rule 38 of the MCR, 2016 and Rule 45 of the MCDR, 2017 respectively in consonance with what fell from this Court in the impugned judgment, there is no other option left for the petitioners but to question the legality and validity of such decision by filing a fresh petition before this Court.

9. We grant liberty to the petitioners to question the decision taken by the Central Government on all grounds available to them in law.

10. If according to the petitioners the decision which the Central Government has taken and placed on record is not in the spirit of the original judgment of this Court dated 07-11-2024 they may raise such ground in their fresh petition.

11. With the aforesaid liberty we close this matter.

12. Pending application(s), if any, stands disposed of.

.....J.
[J.B. PARDIWALA]

.....J.
[R. MAHADEVAN]

New Delhi
19th May, 2025

ITEM NO.77

COURT NO.11

SECTION III

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No.4683/2018

SALITHO ORES PVT. LTD. & ORS.

Appellant(s)

VERSUS

THE CAPTAIN OF PORTS & ORS.

Respondent(s)

[ONLY W.P.(C) NO.715/2024 IS LISTED UNDER THIS ITEM]

WITH

W.P.(C) No. 715/2024 (X)

FOR EX-PARTE STAY ON IA 125313/2023
FOR CLARIFICATION/DIRECTION ON IA 148772/2023
FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA
148776/2023, FOR PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES ON IA 164842/2023, IA No. 90800/2025 -
APPLICATION FOR EXTENSION OF INTERIM PROTECTION, IA No. 120724/2025
- APPLICATION FOR RECTIFICATION, IA No. 126530/2025 - APPROPRIATE
ORDERS/DIRECTIONS, IA No. 22190/2025 - APPROPRIATE
ORDERS/DIRECTIONS, IA No. 148772/2023 - CLARIFICATION/DIRECTION
IA No. 125313/2023 - EX-PARTE STAY, IA No. 164842/2023 - PERMISSION
TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 148776/2023 -
PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

Date : 19-05-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE R. MAHADEVAN

For Appellant(s) : Dr. A.M. Singhvi, Sr. Adv.
Mr. Shyam Divan, Sr. Adv.
Mr. Ninad Laud, Adv.
Mr. Avishkar Singhvi, Adv.
Mr. Ms Anant, Adv.
Ms. Aanchal Mullick, Adv.

Ms. Kamakshi Sehgal, Adv.
Mr. Ivo Dcosta, Adv.
Ms. Ishani Shekhar, Adv.
Ms. Sakshi Raman, Adv.
Mr. Aryan, Adv.
Mr. Abhinav Agrawal, AOR
Mr. Piyush Bhardwaj, Adv.
Mr. Siddharth Seem, Adv.

Ms. Kiran Suri, Sr. Adv.
Mr. S.j. Amith, Adv.
Mrs. Maria Carmita Dcosta Mashelkar, Adv.
Ms. Vidushi Garg, Adv.
Dr. Mrs. Vipin Gupta, AOR

For Respondent(s) : Mr. K M Nataraj, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Ms. Chinmyee Chandra, Adv.
Mr. Sandeep Singh, Adv.
Mr. Sridhar Pottaraju, Adv.
Mr. Veer Vikrant Singh, Adv.
Mr. Shailesh Madiyal, Adv.
M/S. K J John And Co, AOR

UPON hearing the counsel the Court made the following
O R D E R

W.P.(C) No. 715/2024

1. The petition is closed in terms of the signed order, which is placed on the file.
2. Pending application(s), if any, stands disposed of.

(CHANDRESH)
ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)
COURT MASTER (NSH)