

Copy of letter No. IIM-12/2003/30044/W.R., dt. 28.8.2003 from Bhri B. PraChan, F.A. -cum-Additional Secretary to Government, Department of Water Resources addressed to the Engineer-in-chief, Water Resources, Orissa, Bhubaneswar and etc.

Sub:- Payment of Royalty on earth Ordinary earth.

In enclosing herewith a copy of D.O. Letter No. 37229, dated. 28.7.2003 of the Commissioner-cum-Secretary to Government, Revenue Department on the subject mentioned above, I am directed to say that suitable follow-up action in the matter may kindly be taken as per clarification contained in the Revenue Department letter under reference.

Office of the Engineer-in-chief,
Water Resources, Orissa, Bhubaneswar.

MEMO NO. IIM-12/2003/30044/W.R. /Dated, the 28.8.2003
Copy forwarded to All Chief Engineers/Chief Construction Engineers/Superintending Engineers/Executive Engineers of Water Resources for information and necessary action.

Asst. to Engineer-in-chief, W.R.

Copy of D.O. No. LEGR(C)MM-46/2003/37229/R., dated. 28.7.2003 from Shri. R. L. Ugrada, IAS, Commissioner-cum-Secretary to Govt., Revenue Department addressed to Shri B.K. Pattnaik, IAS, Commissioner-cum-Secretary to Government, Department of Water Resources.

Sub:- PAYMENT OF ROYALTY ON EARTH/ORDINARY EARTH.

Kindly refer to your D.O. Letter No. IIM-12/03-21187 dated. 23.6.2003 on the subject.

In this connection, I am to state that the Supreme Court of India in Civil Appeal No. 2235/96-State of Orissa and Others-Vrs.- Union of India and another has held in its judgement dt. 24.11.2000 that royalty is payable on the use of minor minerals like earth/ordinary earth, clay etc. It has also stated that a person utilising these minor minerals extracted from his own land for commercial purpose is also liable to pay royalty on these minor minerals. Accordingly, the matter was examined and this Department letter No. 7635/R., dt. 14.02.2003 was issued for collection of royalty on these minor minerals. The view that only the lessees have to pay royalty u/r 13(1) of the OMMC Rules, 1990, not others, is not, therefore, correct.

But as far as construction of canal embankment with earth extracted from Government land is concerned, it may be stated that such earth is liable to levy of royalty, but if the earth is used for normal agricultural operations, extraction/collection of such earth could not be called quarrying operation and liable to payment of royalty as per rule 3 of the OMMC Rules, 1990. When earth is removed from the canals or nearby Government land to be utilised in the construction of canal embankment, such earth is not liable to levy of royalty, if the canal is used for normal agricultural operation and the canal or nearby land from which earth is extracted, collected/removed belongs to the Government.

In view of the above noted position, suitable follow-up action may be taken-up by the W.R. Department.

With warm regards,

Memorandum No. 7057-62 dt. 10-11-03

Copy forwarded to the all CES/EES/CRS
for their information and necessary action.

Asst. Secy. C.E. & B.M.
Upper Merandj Basin

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