



COAL INDIA LIMITED
MARKETING DIVISION
NOTICE

File: CIL/M&S/FSA/165

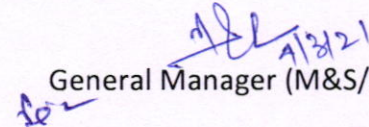
Date: 04.03.2021

Subject: Modification of FSA clause pursuant to modification in AMRCD

Earlier, CIL vide notice no. CIL/M&S/New Pol/47252/79 dated 22.02.2019 has circulated modification in FSA Dispute resolution clauses pursuant to introduction of Administrative Mechanism for Resolution of CPSEs Disputes (AMRCD) as per OM No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22.05.2018 issued by Department of Public Enterprises, Ministry of Heavy Industries & Public Enterprises, Government of India. It was informed in the notice that all commercial disputes between CPSEs/Port Trusts and Government Departments/ organizations (excluding disputes concerning Railways, Income Tax, Customs and Excise Departments) may be dealt with the new mechanism of AMRCD.

Now, Ministry of Heavy Industries & Public Enterprises vide OM no. DPE-GM-05/0003/2019-FTS-10937 dated 20.02.2020 (**Annexure-I**) has intimated that AMRCD mechanism be made applicable to all disputes other than those related to taxation and extended to all Ministries/Departments. The other provision of the AMRCD guidelines dated 22-05-2018 will remain unchanged.

Accordingly, all concerned are requested to take note of the above changes. A comparative chart of the modified dispute resolution clauses of all FSAs are enclosed as **Annexure-II**. Above modification has competent approval.


General Manager (M&S/QC)

Distribution

1. GM/HoD (M&S), ECL/BCCL/CCL/NCL/WCL/SECL/MCL/NEC
2. GM (System), CIL- with request to upload on CIL Website
3. MSTC Limited, Kolkata

Copy, for kind information to:

1. Director (Marketing), CIL
2. TS to Chairman, CIL
3. HOD (M&S/Operations), CIL
4. HOD (M&S/Comml.), CIL
5. HOD (M&S/FSA-Admin), CIL
6. HOD(M&S/Finance), CIL

DPE-GM-05/0003/2019-FTS-10937
Government of India
Ministry of Heavy Industries & Public Enterprises
Department of Public Enterprises

Public Enterprises Bhawan,
Block no. 14, CGO complex,
Lodhi Road, New Delhi-110003.

Dated: 20th February, 2020

OFFICE MEMORANDUM

Subject: Settlement of commercial disputes between Central Public Sector Enterprises (CPSES), inter se and CPSE(s) and Government – Department(s) / Organization(s) – Administrative Mechanism for Resolution of CPSEs Disputes (AMRCD).


The undersigned is directed to refer to DPE OM No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22nd May, 2018 on the above subject matter wherein Para 3 of said guidelines provides that in the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSES) / Port Trusts inter se and also between CPSES and Government Departments / Organizations (excluding disputes concerning Railways, income Tax, Customs & Excise Departments), such dispute or difference shall be taken up by either party for its resolution through AMRCD.

2. In the meeting of Committee of Secretaries (CoS) held on 23-01-2020 on the subject matter of "Evolving mechanism for resolving Inter-Ministerial / Departmental legal Disputes" it was inter alia decided that existing AMRCD mechanism be made applicable to disputes other than those related to taxation and extended to all Ministries / Departments.

3. In view of the above decision of CoS, it is clarified that under the existing AMRCD mechanism, all disputes (other than those related to taxation matters) between CPSEs inter se and other Government departments / organizations shall be taken up by either party for resolution only through the AMRCD. The other provisions of the AMRCD guidelines dated 22-05-2018 will remain unchanged.

P.T.O.

4. All the concerned Ministries / Departments of CPSEs are requested to advise CPSEs under their administrative control accordingly.
5. This issues with the approval of Competent Authority.



(P.K. Sharma)

Deputy Secretary to Government of India

Tel: 24363066

E-mail: pksharma.ship@nic.in

To

Secretaries of all Ministries / Departments concerned with CPSEs through e-mail as per list.

Copy to:-

- (I) CMD / Chief Executive of all CPSEs through e-mail.
- (II) Secretary, Department of Legal Affairs, 4th Floor, Shastri Bhawan, New Delhi in reference to D.O. No. 332619/338367/LS/2019 dated 14.02.2020.
- (III) Cabinet Secretariat in reference to communication no. 401/1/4/2019-TS dated 27.01.2020 in respect of minutes of CoS meeting held on 23.01.2020.
- (IV) NIC, Cell DPE for uploading on DPE web-site under what's -new and DPE guidelines / Chapter-VII-(a)

Existing provisions in model FSA (Ref. CIL/M&S/New Pol/47252/79 dated 22.02.2019)	New Provision in model FSA
<p>SEB Model for existing power plants</p> <p><u>Dispute Resolution Clauses in FSA applicable for CPSEs and Government organizations.</u></p> <p>Clause 15. Settlement of Disputes</p> <p>15.1 All differences or disputes between the Parties shall be settled/resolved amicably. If amicable settlement is not possible, then the unresolved disputes or differences shall be settled through the process below.</p> <p>15.2 "In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract (s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute/difference shall be taken up by either party for resolution through AMRCD as mentioned in DPE OM No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22-05-2018"</p>	<p>SEB Model for existing power plants</p> <p>Clause 15. Settlement of Disputes</p> <p>15.1 No Change</p> <p>15.2 "In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract (s) between Central Public Sector Enterprises (CPSEs) inter se and also between CPSEs and Government Departments/Organizations (other than those related to taxation matters), such dispute/difference shall be taken up by either party for resolution only through AMRCD as mentioned in DPE OM No. DPE-GM-05/0003/2019-FTS-10937 dated 20.02.2020. The other provisions of AMRCD shall be applicable as per DPE OM No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22-05-2018"</p>

Existing provisions in model FSA (Ref. CIL/M&S/New Pol/47252/79 dated 22.02.2019)	New Provision in model FSA
<p>SEB Model for New Power Plants</p> <p><u>Dispute Resolution Clauses in FSA applicable for CPSEs and Government organizations.</u></p> <p>Clause 15. Settlement of Disputes</p> <p>15.1 All differences or disputes between the Parties shall be settled/resolved amicably. If amicable settlement is not possible, then the unresolved disputes or differences shall be settled through the process below.</p> <p>15.2 "In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract (s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute/difference shall be taken up by either party for resolution through AMRCD as mentioned in DPE OM No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22-05-2018"</p>	<p>SEB Model for New Power Plants</p> <p>Clause 15. Settlement of Disputes</p> <p>15.1 No Change</p> <p>15.2 "In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract (s) between Central Public Sector Enterprises (CPSEs) inter se and also between CPSEs and Government Departments/Organizations (other than those related to taxation matters), such dispute/difference shall be taken up by either party for resolution only through AMRCD as mentioned in DPE OM No. DPE-GM-05/0003/2019-FTS-10937 dated 20.02.2020. The other provisions of AMRCD shall be applicable as per DPE OM No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22-05-2018"</p>

Existing provisions in model FSA (Ref. CIL/M&S/New Pol/47252/79 dated 22.02.2019)	New Provision in model FSA
<p>FSA Model for Non Power – [old model] (Model-A: ACQ<50,000 tpa)</p> <p><u>Dispute Resolution Clauses in FSA applicable for CPSEs and Government organizations.</u></p> <p>Clause 14. Settlement of Disputes</p> <p>14.1 No Change 14.2 No Change 14.3 No Change</p> <p>14.4 If amicable settlement as above is not possible, then the unresolved disputes or differences shall be settled through the process as given below:</p> <p><i>“In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract (s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute/difference shall be taken up by either party for resolution through AMRCD as mentioned in DPE OM No. 4(1)/2013- DPE(GM)/FTS-1835 dated 22-05-2018”</i></p>	<p>FSA Model for Non Power – [old model] (Model-A: ACQ<50,000 tpa)</p> <p>Clause 14. Settlement of Disputes</p> <p>14.1 No Change 14.2 No Change 14.3 No Change</p> <p>14.4 If amicable settlement as above is not possible, then the unresolved disputes or differences shall be settled through the process as given below:</p> <p><i>“In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract (s) between Central Public Sector Enterprises (CPSEs) inter se and also between CPSEs and Government Departments/Organizations (other than those related to taxation matters), such dispute/difference shall be taken up by either party for resolution only through AMRCD as mentioned in DPE OM No. DPE-GM- 05/0003/2019-FTS-10937 dated 20.02.2020. The other provisions of AMRCD shall be applicable as per DPE OM No. 4(1)/2013- DPE(GM)/FTS-1835 dated 22-05-2018”</i></p>

Existing provisions in model FSA (Ref. CIL/M&S/New Pol/47252/79 dated 22.02.2019)	New Provision in model FSA
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Existing provisions in model FSA (Ref. CIL/M&S/New Pol/47252/79 dated 22.02.2019)	New Provision in model FSA
<p>FSA Model for Non-Regulated Sector</p> <p><u>Dispute Resolution Clauses in FSA applicable for CPSEs and Government organizations.</u></p> <p>Clause 16. Settlement of Disputes</p> <p>16.1 No Change</p> <p>16.2 No Change</p> <p>16.3 The representative of the Party which considers that a dispute has arisen shall give to the Representative of the other Party, a written notice setting out the material particulars of the dispute ("Dispute Notice"). Within 30(thirty) days or such longer period as may be mutually agreed by the Parties, of the Dispute Notice having been delivered to the other Party, the Representative of both Parties shall meet in person to attempt in good faith and using their best endeavours at all times, to resolve the Dispute. Once the Dispute is resolved, the terms of the settlement shall be recorded in writing and signed by the Representative of the Parties. In the event that the Representatives of the Parties fail to resolve or settle the Dispute within 90(ninety) days of their meeting, the Parties shall be entitled to exercise the remedies available to them under Clause 16.4</p> <p>16.4 If amicable settlement as above is not possible, then the unresolved disputes or differences shall be settled through the process as given below:</p> <p><i>"In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract (s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute/difference shall be taken up by either party for resolution through AMRCD as mentioned in DPE OM No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22-05-2018"</i></p>	<p>FSA Model for Non-Regulated Sector</p> <p>Clause 16. Settlement of Disputes</p> <p>16.1 No Change</p> <p>16.2 No Change</p> <p>16.3 No Change</p> <p>16.4 If amicable settlement as above is not possible, then the unresolved disputes or differences shall be settled through the process as given below:</p> <p><i>"In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract (s) between Central Public Sector Enterprises (CPSEs) inter se and also between CPSEs and Government Departments/Organizations (other than those related to taxation matters), such dispute/difference shall be taken up by either party for resolution only through AMRCD as mentioned in DPE OM No. DPE-GM-05/0003/2019-FTS-10937 dated 20.02.2020. The other provisions of AMRCD shall be applicable as per DPE OM No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22-05-2018"</i></p>