

PANORAMIC

MINING

India



LEXOLOGY

Mining

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MINING INDUSTRY

Standing

What is the nature and importance of the mining industry in your country?

Mining is an important economic activity in India and India is one of the largest exporters of bauxite, chromite, iron ore, manganese and mica in the world.

While there has been private-sector participation in mining, the government, through its various public-sector companies, continues to be the largest participant in the domestic mining industry. Much of India's potential mineral resources are yet to be fully explored. Historically, government policies and legislation largely focused on the regulation of mines and minerals rather than on exploration and development. Taking cognisance of the stagnation of the mineral industry, various reforms have been initiated by the government to open up the mining sector allowing for greater private-sector participation in mineral exploration, mine development and maintenance. However, there is much that still needs to be done to harness the mineral resources for increased economic growth. The Directorate General of Mine Safety has informed all stakeholders that India is progressing towards a US\$5 trillion economy by 2030, and to achieve this, the contribution of mining sector in the GDP must expand to at least 3 per cent in the coming years. Currently, the mining sector contributes approximately 2 per cent to the GDP of the country.

Law stated - 1 April 2025

Target minerals

What are the target minerals?

India produces nearly 95 minerals, which include atomic, hydrocarbon energy, metallic and non-metallic minerals. India is a leading producer of several metallic minerals such as aluminium, bauxite, chromite, copper, iron ore, manganese, rare earth minerals, silver and zinc.

The Mines and Minerals (Development and Regulation) Amendment Act 2023 (2023 MMDR Amendment) classified certain minerals, including lithium, nickel, cobalt and graphite as 'critical and strategic minerals' and streamlined the auction process for such minerals to bolster the development of the mining blocks.

Law stated - 1 April 2025

Regions

Which regions are most active?

India's mining wealth is concentrated in Andhra Pradesh, Chhattisgarh, Jharkhand, Karnataka, Madhya Pradesh, Gujarat, Odisha, Rajasthan, Tamil Nadu, Maharashtra, and Telangana. Iron ore reserves are predominantly found in Andhra Pradesh, Chhattisgarh, Goa, Jharkhand, Karnataka, Maharashtra and Odisha. Manganese reserves are mainly found in Karnataka, Madhya Pradesh, Maharashtra and Odisha.

Copper reserves are available in Jharkhand, Madhya Pradesh and Rajasthan. Zinc reserves are predominantly found in Andhra Pradesh, Bihar, Madhya Pradesh, Maharashtra and Rajasthan. Chromite ore reserves are available in Andhra Pradesh, Jharkhand, Karnataka, Maharashtra, Manipur, Nagaland, Odisha and Tamil Nadu.

In the past year, the government has successfully conducted auctions for mining rights of limestone, graphite, iron ore, bauxite, glauconite, gold, manganese, phosphorite, lithium, rare earth elements and tungsten in Rajasthan, Madhya Pradesh, Gujarat, Maharashtra, Goa, Telangana, Andhra Pradesh, Karnataka and Bihar.

Law stated - 1 April 2025

LEGAL AND REGULATORY STRUCTURE

Basis of legal system

Is the legal system civil or common law-based?

The Indian legal system is common law-based.

Law stated - 1 April 2025

Regulation

How is the mining industry regulated?

Regulatory framework

The mining industry is regulated both at the central and state level. Under the Indian Constitution, the states have the power to regulate mines and mineral development. However, this power is subject to the central laws and regulations on mining.

Mineral classification

Minerals are classified into two types: major and minor. State governments have the power to frame policy and regulate the exploration, extraction and processing of all minor minerals such as building stones, clay and sand. All minerals (other than the minor minerals) are automatically classified as major minerals. The central government has the power of revision, fixing of royalty, issuing regulations, etc, in respect of major minerals. As metallic minerals and precious stones (including diamond) are largely classified as major minerals, we have focused on central legislation and major minerals in this chapter.

The central government also has ownership over all minerals extracted from the sea or ocean floor in the Indian maritime zones such as territorial waters, continental shelf and exclusive economic zones (Offshore Minerals). The central government has the right to allot concessions and collect royalties for mining offshore minerals.

Law stated - 1 April 2025

Regulation

What are the principal laws that regulate the mining industry? What are the principal regulatory bodies that administer those laws? Were there any major amendments in the past year?

The Mines and Mineral (Development and Regulation) Act 1957 (MMDRA) is the central legislation that regulates the mining sector and ensures that the states exercise their power within a uniform national framework. The Mines Act 1952 sets out the regulations for health and safety in mines and the conduct of mining operations. The development and regulation of offshore mineral resources are regulated by the Offshore Areas Mineral (Development & Regulation) Act 2002.

Mining regulatory bodies

The Ministry of Mines is responsible for legislation, policy formulation and administration of mines and minerals in the country. It is principally composed of:

- the Geological Survey of India (GSI), which carries out regional exploration and mapping of mining resources;
- the Indian Bureau of Mines (IBM), which maintains the National Mineral Inventory, and is the national regulator for state governments, approving mining plans, closure operations and the conservation of minerals;
- the Controller of Mining Leases, which governs modification of mining leases granted before 1972; and
- the Directorate General of Mines Safety, which is the principal health and safety regulator for this sector.

Offshore Minerals

With the aim of promoting mining of Offshore Minerals, the central government has enacted the Offshore Areas Mineral (Development and Regulation) Amendment Act 2023 (2023 Offshore Amendment), which provides for:

- grant of composite licence (exploration licence-cum production lease) or production lease through competitively bid auction, to improve transparency in the allocation of Offshore Minerals;
- the composite licence to be granted as a two-stage operating right for the purpose of undertaking exploration operation followed by production operation. The holder of a composite licence is required to commence operation within one year, failing which, the operating rights will lapse;
- standardised period for the production lease and composite licence of 50 years (similar to onshore mining leases);
- penalties for unauthorised reconnaissance, exploration or production of Offshore Minerals;
-

establishment of a trust to ensure availability of funds for exploration, mitigation of adverse impact of offshore mining, disaster management, research, etc; and

- obligation of production lessees to pay International Seabed Organization all the amounts required to be made by the central government pursuant to its obligation under article 82 of the United Nations (UN) Convention on the Law of the Sea, 1982, for the offshore area falling in parts of continental shelf beyond 200 nautical miles from the baseline.

Pursuant to the 2023 Offshore Amendment, the central government has notified several rules including for:

- setting up an Offshore Areas Mineral Trust Fund (OAMT Fund) to which production lessees are required to make contributions equal to 10 per cent of the royalty. The OAMT Fund will be used to undertake exploration, research, studies and related expenditures in offshore areas and mitigate any adverse impact to the ecology of the offshore areas due to such operations;
- prescribing the eligibility criteria and procedure for auction of operating rights for Offshore Minerals;
- providing the terms and conditions for operating rights, average sale price and payment of royalty; and
- regulating offshore mining by mandating that the mining activities be undertaken in accordance with an exploration plan or a production plan, and setting out provisions related to mine closure activities, preparation of maps, safety measures and sustainable mining to minimise disruptions to the marine environment.

In November 2024, the central government notified 13 offshore mineral blocks of construction sand mineral, limemud mineral, polymetallic nodules and crust minerals, which will be available for grant of a composite licence.

Law stated - 1 April 2025

Classification system

What classification system does the mining industry use for reporting mineral resources and mineral reserves?

The National Mineral Inventory, under the IBM, has been following the UN Framework Classification for Fossil Energy and Mineral Resources (UNFC) since 2000. It is a globally recognised system that provides a method of standardisation for regulatory and statistical purposes.

The other international system for classification, the Committee for Mineral Reserves International Reporting Standards (CRIRSCO) (which includes the Canadian Institute of Mining, Metallurgy and Petroleum Definition Standards on Mineral Resources and Reserves, the Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves and the South African Code for the Reporting of Exploration Results, Mineral Resources and Mineral Reserves) is geared more for public reporting by companies to provide information to investors. UNFC classification, on the other hand, is more beneficial

for government reporting of mineral resource estimates and forecasts to attract investment and exploration activities. While Indian companies are required to report to the government in the UNFC format, as modified by the Minerals (Evidence of Mineral Contents) Amendment Rules 2021, there is no specific system that they need to follow for their memoranda or press releases.

Every holder of a mining lease is required to monitor its mining and allied activities as per the template of star rating to be specified on this behalf by the IBM from time to time and is required to submit online its yearly self-assessment report, along with the digital images of mining lease area in accordance with applicable law.

Key definitions and terminology used for reporting mineral resources under these two classification systems have been aligned. However, unlike the CRIRSCO system, where there must be reasonable prospects for eventual economic extraction of mineral resources, the UNFC classification reports on undiscovered or uneconomic minerals reserves as well.

Law stated - 1 April 2025

MINING RIGHTS AND TITLE

State control over mining rights

To what extent does the state control mining rights in your jurisdiction? Can those rights be granted to private parties and to what extent will they have title to minerals in the ground? Are there large areas where the mining rights are held privately or which belong to the owner of the surface rights? Is there a separate legal regime or process for third parties to obtain mining rights in those areas?

The central government regulates mining and mineral development and the state government grants concessions and collects royalty and other fees when the mineral is located in land vested in the state. While earlier concessionary rights were granted on a first come, first served basis, following the amendments in 2015, all major minerals are granted through an auction. A private party who has a mining lease for particular minerals has full title, albeit with permitted end-use stipulations as may be applicable over these minerals.

There are large areas where mining rights are held by private parties and in 2013, the Supreme Court conferred rights to mineral wealth on owners of surface rights rather than vesting them in the state, which has been upheld in recent judgments as well. However, the Supreme Court is yet to rule on certain aspects of ownership of minerals such as the liability of private owners to pay royalties to the state.

A landowner who wants to grant a prospecting licence or mining lease to a third party can do so only with state government authorisation. In cases of such private mining leases, the mining lessee must comply with the central government mining regulations and provide the state government with a security deposit for ensuring compliance with the mine closure plan.

Law stated - 1 April 2025

Publicly available information and data

What information and data are publicly available to private parties that wish to engage in exploration and other mining activities? Is there an agency, or securities commission regulating public companies, which collects mineral assessment reports from private parties? Must private parties file mineral assessment reports? Does the agency or the government conduct geoscience surveys, which become part of the database? Is the database available online?

The National Mineral Inventory of the Indian Bureau of Mines (IBM) provides a comprehensive overview of exploration, development and mining activities carried out in India by central and state governments, public-sector utilities and private agencies. The inventory provides mineral-wise and state-wise information with regard to location, infrastructure, geology, exploration, physical and chemical properties, freehold or leasehold status.

The Mining and Mineral Statistics Division of IBM functions as the nodal agency for statistics on the mineral sector. All mine owners, and the mineral-based traders, exporters, etc., have to provide periodic reports on the extraction and disposal of mined minerals such as data on employment, production, stocks, dispatches, sale prices and details of materials consumed. The mining sector data is published as part of various IBM publications.

The Geological Survey of India (GSI) carries out geological mapping and acquires geoscience data for the entire country. It generates and disseminates this information to other exploration agencies for accelerating the mineral exploration process.

Under the National Mineral Exploration Policy 2016, GSI is required to provide all pre-competitive baseline geoscience data free of cost to parties. Other than GSI, the Directorates of Geology and Mines of certain state governments, the Mineral Exploration and Consultancy Limited and other government-owned companies also carry out detailed exploration of mining areas and maintain information databases.

The National Mineral Exploration Trust (NMET) also carries out regional and detailed exploration for minerals. In addition, IBM provides information on the number of mines in operation and their mineral quality either at a cost or on a restricted access basis at its offices.

As regards reporting, a mineral concession holder is required to provide geophysical data relating to prospecting, mining and engineering to the GSI and the state government.

Law stated - 1 April 2025

Acquisition of rights by private parties

What mining rights may private parties acquire? How are these acquired? What obligations does the rights holder have? If exploration or reconnaissance licences are granted, does such tenure give the holder an automatic or preferential right to acquire a mining licence or more senior tenure? What are the requirements to convert to a mining licence?

A private party can apply for a reconnaissance permit, a prospecting licence, an exploration licence (ie, a reconnaissance permit-cum-prospecting licence), a mining lease or a

composite licence (ie, a prospecting licence-cum-mining lease), which are granted by state government.

Currently, exploration licences, mining leases and composite licences are only granted through a competitive bidding process. The auctions for grant of mining lease or composite licence of critical mineral blocks are being conducted by the central government, with royalties, dead rent and other statutory payments accruing to the state government.

A composite licence holder has the right to move from prospecting to mining; however, a reconnaissance, prospecting or exploration licence holder is not entitled to a preferential claim for grant of a composite licence or mining lease.

The 2023 Mines and Mineral (Development and Regulation) Act Amendment Act (MMDRA Amendment) allows anyone to propose an area to the state government for grant of an exploration licence with geoscience data for specified minerals like gold, diamond and lithium. Post successful exploration, the state government can auction the mining lease for such explored block. The exploration licence holder can participate in the auction for the mining lease, however will not have any preferential right to the mining lease. If such auctions are successful, the exploration licence holder will be entitled to receive a share of the amount quoted in the auction of mining lease by the successful bidder and if the auction is unsuccessful, the state government will pay a maximum of one million rupees to such exploration licence holder.

Obligations of the rights holder include:

- obtaining all necessary permits and consents;
- operating the mine in accordance with the mining plan;
- commencing mining operations within two years of execution of the mining lease;
- payment of royalty, dead rent, surface rate or other fees;
- keeping accurate accounts of minerals mined, waste material excavated, employees and all mining plans;
- allowing inspections by the authority;
- restoring the land, to the extent possible, affected by prospecting or mining activity; and
- payment of compensation for all damages, injury or disturbances caused in the exercise of its rights.

Law stated - 1 April 2025

Renewal and transfer of mineral licences

What is the regime for the renewal and transfer of mineral licences?

A mining lease is granted for a period of 50 years and cannot be renewed.

The state government may renew a prospecting licence (which is usually granted for three years) subject to a maximum of five years, provided an application for the renewal is made 90 days before expiry.

The state government may extend the term of an exploration licence (which is granted for five years) subject to a maximum period of two years, provided an application for extension is made after a period of three years from the grant of such licence but before its expiry.

A mining lease, composite licence or exploration licence can be transferred to a third party with prior approval of the state government, in compliance with the MMDRA. Prior to the transfer, the parties are to jointly apply to the state government in the specified format. The state government is required to convey its decision within a period of 90 days of receipt of the application, failing which, the state government will be deemed to have no objection to such transfer. Following the transfer, the parties are to submit a duly registered transfer deed in the prescribed form to the state government. The transfer of a mining lease cannot change the status of a captive mine to a merchant mine or vice versa.

Law stated - 1 April 2025

Duration of mining rights

What is the typical duration of mining rights? Is there a requirement to relinquish a portion of the mining rights to the government after a certain number of years?

Mining leases are granted for 50 years, at the end of which, the mine is to be re-auctioned. A reconnaissance permit or prospecting licence may be granted for three years, and the latter may be extended subject to a maximum period of five years. An exploration licence may be granted for a period of five years and may be extended for a maximum period of two years.

The state or central government may terminate a lease or licence before its term on the following grounds:

- regulation of mines and mineral development;
- preservation of the natural environment;
- control of floods;
- prevention of pollution;
- to avoid danger to public health or communications;
- to ensure the safety of buildings, monuments or other structures;
- for conservation of mineral resources; and
- for maintaining safety in the mines.

No such order for premature termination can be made without giving the licence or lease holder a reasonable opportunity of being heard.

A mining lease lapses if an entity fails to start mining operations within two years of the date of execution of the lease or discontinues mining for a period of two years unless the state government is satisfied with the reasons for such delay and in which case an extension not exceeding one year may be granted. There is no requirement for relinquishment of any portion of the mining rights to the government after a specified period.

Law stated - 1 April 2025

Acquisition by domestic parties versus acquisition by foreign parties

Is there any distinction in law or practice between the mining rights that may be acquired by domestic parties and those that may be acquired by foreign parties?

Mineral concessions in India are granted to Indian nationals or entities incorporated in India only. However, foreign parties can invest up to 100 per cent in the equity of such companies through the automatic route under the Indian foreign direct investment policy.

Law stated - 1 April 2025

Protection of mining rights

How are mining rights protected? Are foreign arbitration awards in respect of domestic mining disputes freely enforceable in your jurisdiction?

There are no special courts or tribunals to adjudicate mining rights. However, the MMDRA Amendment Act 2015 provides for the establishment of special courts to deal with cases of illegal mining. Further, the National Green Tribunal may also adjudicate disputes regarding environmental non-compliance in any mining activity. India has an independent judicial system that consists of the Supreme Court as the apex judicial body under which are the high courts, subordinate courts as well as the various tribunals.

India is a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (the New York Convention) as well as the Geneva Convention on the Execution of Foreign Arbitral Awards 1927 (the Geneva Convention). If a party receives a binding award from a country that is a signatory to the New York Convention or the Geneva Convention and the award is made in a territory that has been notified as a convention country by India, the award would then be enforceable in India.

Law stated - 1 April 2025

Surface rights

What types of surface rights may mining rights holders request and acquire? How are these rights acquired? Can surface rights holders oppose these requests or does the holder of the mineral tenure have priority over surface rights use?

A mining rights holder is required to obtain surface rights over the area or obtain the consent of the owner to start prospecting or mining operations.

In relation to government-owned land, the selected bidder is granted surface rights by the government authorities. During prospecting, the approval of the government authority, such as the deputy collector, needs to be taken to clear vegetation to construct drains or use any underground water. The rights holder is liable to pay surface rent and water cess for the surface area used for the purposes of mining operations. The mining leaseholder must, prior to using any land for new surface operations, give written notice to the government authority, which has a right to raise objections and restrict the right holder's use of the surface.

When private landowners grant prospecting licences or mining leases, they may grant surface rights to such third parties according to the terms of their agreement.

Further, the government exercising the power of eminent domain can acquire land for public purposes (such as mining) under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013. However, this is subject to consent requirements from the surface rights holders and such acquisitions can be opposed.

Law stated - 1 April 2025

Participation of government and state agencies

Does the government or do state agencies have the right to participate in mining projects? Is there a local listing requirement for the project company?

Yes. The government and state agencies have a right to participate in mining projects and the public-sector companies have traditionally dominated the mining sector. All companies undertaking mining activity must be incorporated in India – there is no specific listing requirement.

Law stated - 1 April 2025

Government expropriation of licences

Are there provisions in law dealing with government expropriation of licences? What are the compensation provisions?

The government has the right to prematurely terminate a prospecting licence, exploration licence or a mining lease on grounds of preservation of environment, regulation of mines and mineral development, danger to public health or safety, conservation of mineral resources or maintenance of mine safety or other purposes that the government may deem fit.

Law stated - 1 April 2025

Protected areas

Are any areas designated as protected areas within your jurisdiction and which are off-limits to mineral exploration or mining, or specially regulated?

Under the Indian Constitution, the Indian President may notify certain lands as 'scheduled areas' that have a special governance mechanism. Scheduled areas are tribal-dominated areas that are underdeveloped and show marked economic disparity. Laws formulated in relation to scheduled areas typically have more restrictions on land acquisitions and transfers. Further, the central or state government may also reserve certain areas (that are not already held under lease or licence) with a view to conserving any mineral. Any mining activity in such reserved areas is only done by government companies.

DUTIES, ROYALTIES AND TAXES**Duties, royalties and taxes payable by private parties**

What duties, royalties and taxes are payable by private parties carrying on mining activities? Are these revenue-based or profit-based?

Royalty

The central government specifies the royalty payments for each mineral and the state government collects the royalty on mining. Royalty in most cases is charged on an ad valorem basis as a percentage of the price notified by the government. Any enhancement to the royalty can only be made once every three years.

Dead rent

A mining leaseholder is liable to pay either royalty or dead rent in respect of a mining area, whichever is higher. Dead rent is, therefore, meant to be paid when the mine is closed or is being underexploited. Dead rent is fixed by the central government and is collected by the state government. Any enhancement to the dead rent can only be done once in three years.

NMET and DMF contributions

A rights holder has to pay a sum equal to 2 per cent of the royalty as a contribution to the National Mineral Exploration Trust (NMET). Contributions to the district mineral foundations (DMFs) are to be fixed by the central government but cannot exceed one-third of the royalty specified.

Other payments

The rights holder may also have to pay, where applicable, surface rent to the surface rights owners or application fees for the licence or lease that are fixed by the central government and collected by the state.

Taxes

The taxes or levies differ in quantum and nature depending on the states. Principal taxes and duties applicable to the mining industry are:

- direct taxes, such as corporate tax or minimum alternative tax;
- indirect taxes, such as goods and services tax (GST) and customs duty;
- stamp duty;
- water tax;
- forest-related taxes, such as forest tax (levied on forest produce removed from forest areas), compensatory afforestation charges (levied to promote afforestation and

compensate for deforestation), net present value payments of forest land diverted for mining;

- taxes on mineral rights and mineral bearing land; and
- cess is also levied on mineral ores under various legislation.

Law stated - 1 April 2025

Tax advantages and incentives

What tax advantages, tax credits and incentives are available to private parties carrying on exploration and mining activities?

The Income Tax Act 1961 (ITA) provides for certain special deductions to businesses engaged in exploration and mining, which are as follows:

- An Indian resident engaged in any operations relating to prospecting, extraction or production of any mineral is allowed a deduction in the relevant financial years of an amount equivalent to one-tenth of the prescribed expenditure incurred at any time during the year of commercial production and any one or more of the four years immediately preceding that year. The expenditure incurred should be wholly and exclusively on any operations relating to prospecting for the prescribed mineral or group of associated minerals.
- Any person engaged in the business of prospecting, extraction or production of mineral oils in relation to which the central government has entered into an agreement for participation or any person authorised by the central government in such business is allowed a deduction as specified in the agreement in relation to prescribed expenses (such as expenditure in relation to infructuous or abortive exploration expenses in respect of any area surrendered prior to beginning commercial production, expenditure in respect of drilling or exploration activities or services or in respect of physical assets used in that connection subject to prescribed conditions, depletion of mineral oil in the mining area) for a prescribed period and computed in the manner specified in the agreement.
- A deduction of one-sixth of the amount paid as lump sum consideration for acquiring know-how (defined to mean any industrial information or technique likely to assist in the manufacture or processing of goods or in the working of a mine, oil well or other sources of mineral deposits including the searching for, discovery or testing of deposits or the winning of access thereto) is available and the balance amount is available as a deduction in equal instalments for each of the five immediately succeeding years. If the know-how is developed by a prescribed laboratory, university, or institution, one-third of the lump sum consideration paid in that financial year is allowed as a deduction and the balance amount is allowed as a deduction in equal instalments in the two immediately succeeding financial years.

There are also a few concessional GST and basic customs duty rates available for certain goods required for specified petroleum operations or coal bed methane operations, which include rigs, marine vessels and pipes.

Law stated - 1 April 2025

Tax stabilisation

Does any legislation provide for tax stabilisation or are there tax stabilisation agreements in force?

No. There is no legislation providing for tax stabilisation in India. In other words, the tax treatment is subject to change with a change in law. Certain tax laws, however, do provide for an advance ruling mechanism that allows the person to obtain certainty from the authorities on the tax treatment (such as classification, tax rates, availability of exemptions) of the proposed transaction. The advance ruling is binding on the person seeking the ruling and the jurisdictional tax authorities, unless there is a change in the structure of the transaction or a change in law.

Law stated - 1 April 2025

Carried interest

Is the government entitled to a carried interest, or a free carried interest in mining projects?

No, however, it collects royalty, dead rent, tax and other fees from the licence holder.

Law stated - 1 April 2025

Transfer taxes and capital gains

Are there any transfer taxes or capital gains imposed regarding the transfer of licences?

Under the ITA, licences should qualify as a 'capital asset'. Accordingly, the transfer of a capital asset (ie, a licence) would be subject to capital gains tax under the ITA. The transfer of licences may also be treated as 'supply of service' and may be subject to GST.

Law stated - 1 April 2025

Distinction between domestic parties and foreign parties

Is there any distinction between the duties, royalties and taxes payable by domestic parties and those payable by foreign parties?

Under the ITA, the taxability of income (scope of taxation as well as tax rate) may vary depending on the residential status of a person. However, since mines can be owned and controlled only by an Indian entity, the distinction between domestic and foreign parties is not relevant.

Law stated - 1 April 2025

BUSINESS STRUCTURES

Principal business structures

What are the principal business structures used by private parties carrying on mining activities?

The principal business structure is usually a limited liability company. Private parties, when working together, may opt for a joint venture company or a special purpose vehicle.

Law stated - 1 April 2025

Local entity requirement

Is there a requirement that a local entity be a party to the transaction?

Mineral concessions in India are granted to Indian nationals or entities incorporated in India only.

Law stated - 1 April 2025

Bilateral investment and tax treaties

Are there jurisdictions with favourable bilateral investment treaties or tax treaties with your jurisdiction through which foreign entities will commonly structure their operations in your jurisdiction?

The double tax avoidance agreements (DTAA) entered into between India and several jurisdictions (such as Mauritius, Singapore, Netherlands, United Kingdom, United States, United Arab Emirates, France) provide for a narrower scope of taxability and/or beneficial tax rates for income in the nature of royalty, fees for technical services, dividend, interest or other income. The availability of the beneficial provisions of the DTAA's would need to be evaluated on a case-to-case basis depending on the precise facts.

Law stated - 1 April 2025

FINANCING

Principal sources of financing

What are the principal sources of financing available to private parties carrying on mining activities? What role does the domestic public securities market play in financing the mining industry?

Private parties typically finance mining activities through domestic and foreign debt or equity. India has a mature domestic equity capital market, and large mining companies such as the National Mineral Development Corporation, Rohit Ferrotec, Vedanta Limited, Lloyds Metals and Energy Limited and KIOCL Limited are listed on major stock exchanges in India. Privately owned companies also rely on issuing foreign currency bonds or listing equity on foreign exchanges.

Law stated - 1 April 2025

Direct financing from government or major pension funds

Does the government, its agencies or major pension funds provide direct financing to mining projects?

No. However, public-sector banks, in addition to private commercial banks and non-banking financial companies, provide debt financing for mining projects in India.

Law stated - 1 April 2025

Security regime

Please describe the regime for taking security over mining interests.

A concession holder is free to create encumbrances over the concession obtained through the auction process. The mineral concession is also assignable to a transferee that meets the eligibility conditions.

Law stated - 1 April 2025

RESTRICTIONS

Importation restrictions

What restrictions are imposed on the importation of machinery and equipment or services required in connection with exploration and extraction?

There are no restrictions on the importation of machinery and equipment required for mining activities. However, customs duty and other duties or cess may be applicable on imports. The government, however, is keen to promote mining and exploration and, therefore, provides certain incentives. For example, capital goods imported for mining under the Export Promotion Capital Goods Scheme qualify for concessionary customs duty subject to certain export obligations.

Law stated - 1 April 2025

Standard conditions and agreements

Which standard conditions and agreements covering equipment supplies are used in your jurisdiction?

The International Federation of Consulting Engineers' standard agreements have been commonly used for equipment supply agreements in India.

Law stated - 1 April 2025

Mineral restrictions

What restrictions are imposed on the processing, export or sale of minerals? Are there any export quotas, licensing or other mechanisms that prevent producers from freely exporting their production?

Certain forms of manganese, iron ore, uranium, thorium and zirconium (set out in Schedule 2 of the Indian Trade Classification Harmonised System) can only be exported through identified government-owned entities.

Further, to ensure that the minerals are available domestically and to reduce exports, the government may impose high export taxes, which can be revised annually during its annual budget sessions.

Law stated - 1 April 2025

Import of funds restrictions

What restrictions are imposed on the import of funds for exploration and extraction or the use of the proceeds from the export or sale of minerals?

Indian fiscal policy provides for capital control restrictions, which prevent free convertibility between the rupee and foreign currencies. However, there have been several steps taken to liberalise both foreign equity and debt recently. While previously, investments in the mining sector beyond 74 per cent required prior government approval, the government now allows up to 100 per cent foreign direct investment in Indian companies engaged in the mining business (exploration and extraction). Indian mining companies can also use up to US\$750 million in foreign debt from recognised lenders or shareholders without Reserve Bank of India (RBI) approval subject to certain end-use restrictions.

There are typically no requirements to use proceeds domestically and Indian companies can repatriate monies by declaring them as profits, dividends or royalty income. However, in certain cases of repatriation, such as acceleration of loans, or repatriation of amounts awarded pursuant to court awards, prior RBI approval may be required. There are also no export performance parameters for access to foreign exchange.

Law stated - 1 April 2025

ENVIRONMENT

Principal applicable environmental laws

What are the principal environmental laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

The principal environmental laws applicable to the mining industry include:

- the Environment (Protection) Act 1986 (EPA);
- the Van (Sanrakshan Evam Samvardhan) Adhnniyam 1980;
- the Water (Prevention and Control of Pollution) Act 1974; and
- the Air (Prevention and Control of Pollution) Act 1981.

Further, the Mines and Mineral (Development and Regulation) Act 1957 (MMDRA) empowers the central government to frame rules for the conservation and sustainable development of minerals and the protection of the environment by preventing or controlling pollution that may be caused by prospecting or mining operations. The Mineral Conservation and Development Rules 2017 (MCDR) regulate environmental aspects of mining and provide for sustainable mining.

The principal regulatory bodies are the Ministry of Environment, Forest and Climate Change (MoEF) and the Central and State Pollution Control Board. Specifically, the Indian Bureau of Mines (IBM) and the state government regulate mining activities and their environmental impact.

Law stated - 1 April 2025

Environmental review and permitting process

What is the environmental review and permitting process for a mining project? How long does it normally take to obtain the necessary permits?

The Environment Impact Assessment (EIA) Notification 2006 notified by the MoEF under the EPA regulates the grant of environment clearances. The impact on the environment resulting from a mining project is assessed by an EIA study. Consequently, an environmental management plan is prepared, and the environment clearance is granted stipulating conditions to minimise the impact on the environment from the project.

Further, in the case of mining projects on forest land, the central government may stipulate mitigative measures for the diversion of forest land, such as the creation and maintenance of compensatory afforestation.

The EIA process for mining takes a year, if not longer, as the EIA study has to be conducted along with public consultations, followed by a review by the appraisal committee. If forest land is involved, then the clearance for diverting the forest land also needs to be obtained in parallel. While previously the process of getting environmental clearance was known to stretch for two years or more, under the present policy to encourage industry and development, clearances are granted in less time. The government has launched a single-window integrated environmental management system called Pro-Active and Responsive facilitation by Interactive, Virtuous and Environmental Single-window Hub (PARIVESH), where a project developer can apply for environmental clearances.

Following the Mines and Mineral (Development and Regulation) Amendment Act 2021, the environment and forest clearance, along with other statutory clearances, will continue to be valid even after the expiry or termination of the earlier lease and will be transferred to and vested, subject to applicable law, in the new lessee. A corresponding amendment in the EIA Notification 2006 was also made in July 2021, which provides that the prior environmental clearance vested with the previous lessee will be deemed to have been transferred to the successful bidder from the date of commencement of the new lease for the remaining validity period (calculated from the date from which said environment clearance was initially granted) subject to the successful bidder registering with the PARIVESH portal with an undertaking to comply with the conditions pursuant to which the environmental clearance had been granted to the previous lessee.

Law stated - 1 April 2025

Sustainability

Do government agencies or other institutions in your jurisdiction provide incentives or publish environmental and social governance (ESG) guidelines for green projects?

The Ministry of Corporate Affairs has issued the National Guidelines on Responsible Business Conduct, which has a core principle that businesses should make efforts to protect and restore the environment. There are several mechanisms to promote environmentally sustainable mining in India, which include a mandatory EIA, forest clearance provisions, air and water-pollution prevention acts and adherence to the sustainable development framework under the MMDRA. In addition, the MMDRA and associated rules prescribe detailed mining standards (specifically with regard to carrying out scientific and environmentally friendly mining) by mining companies. Accordingly, the Ministry of Mines has launched a star rating system through the Indian Bureau of Mines, which awards a star rating to mining companies for their efforts and the initiatives taken for the implementation of the sustainable development framework in mining.

Law stated - 1 April 2025

Closure and remediation process

**What is the closure and remediation process for a mining project?
What performance bonds, guarantees and other financial assurances are required?**

A mining lease holder has to prepare two mine closure plans: a progressive mine closure plan and a final mine closure plan. The progressive mine closure plan is submitted with the mining plan while the final closure plan is submitted for approval two years prior to the proposed closure. The mining lease holder has to ensure that the protective measures including reclamation and rehabilitation works are carried out according to the approved mine closure plan. The government authority must certify that all protective works in accordance with the final mine closure plan have been carried out.

Further, a financial assurance in the form of a bank guarantee has to be furnished for proper implementation of the mine closure plan, failing which the state government may realise this bank guarantee.

Law stated - 1 April 2025

Restrictions on building tailings or waste dams

What are the restrictions for building tailings or waste dams?

Under the MCDR, the rights holder must ensure that:

- overburden, waste rock, tailings and slimes are stored in separate dumps;

- the waste dumps are properly secured to prevent floods and escape of material in quantities that may cause degradation of the environment;
- the site for waste dumps, tailings or slimes is as far as possible on impervious ground to ensure minimum leaching; and
- the waste dumps are to be suitably terraced and stabilised through vegetation or otherwise.

Inspection of mines is carried out by the IBM in an order of priority based on the following criteria:

- all mechanised mines;
- all underground mines;
- other A-category mines; and
- all mines whose leases are expiring within two years.

While no specific qualifications are detailed for persons in charge of the operation and management of waste dumps, qualified and experienced mining engineers and geologists need to be employed by mining companies for conducting prospecting and mining works. There are no requirements for mandatory alarm systems or emergency drills with local communities. The government has the primary responsibility for the rescue of people in event of a dam failure; however, under the doctrine of absolute liability in India, the mining companies would be liable for the dam failure or loss of life or injury caused by the dam failure.

Law stated - 1 April 2025

HEALTH AND SAFETY, AND LABOUR ISSUES

Principal health and safety, and labour laws

What are the principal health and safety, and labour laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

The Mines Act 1952 sets out provisions regulating mining, health and safety of labour, employment terms, inspection of mines, etc. The Mines Rules 1955 set out the framework for medical examination of labour, basic health and sanitation provisions and welfare amenities for the miners and their families. The Directorate General of Mines Safety is the central government agency regulating safety, health and welfare of persons employed in mines.

Law stated - 1 April 2025

Management and recycling of mining waste

What are the rules related to management and recycling of mining waste products? Who has title and the right to explore and exploit mining waste products in tailings ponds and waste piles?

The Hazardous and Other Wastes (Management and Transboundary Movement) Rules 2016 (Hazardous Waste Rules 2016) is the primary legislation relating to the management and recycling of mining waste products. The Ministry of Environment, Forest and Climate Change, in granting environmental clearance for mining operations, specifies conditions and restrictions for the management and recycling of waste. The State Pollution Control Board in issuing consent to operate also specifies conditions. The mining lease holder has the right to explore and exploit mining waste products in tailing ponds and waste piles subject to any restrictions under Hazardous Waste Rules 2016.

Law stated - 1 April 2025

Use of domestic and foreign employees

What restrictions and limitations are imposed on the use of domestic and foreign employees in connection with mining activities?

Earlier, under the Mines Act 1952, the employment of women in above-ground mines during night hours and in underground mines was restricted. However, women can now be employed subject to conditions and with the prior consent of the woman, between the hours of:

- 6am and 7pm in underground mines, in technical, supervisory and managerial work where a continuous presence may not be required; and
- in any above-ground mine.

Further restrictions can also be imposed by the central government.

The Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules 2016, specify that the rights holder cannot employ a foreign national in the mining operations without the prior approval of the central government. There is also standalone legislation that governs the employment of foreign persons. A foreign employee must have a valid employment visa and be registered under the Registration of Foreigners Act 1939 if the visa duration is for more than 180 days.

Law stated - 1 April 2025

SOCIAL AND COMMUNITY ISSUES

Community engagement and CSR

What are the principal community engagement or corporate and social responsibility (CSR) laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

The Companies Act 2013 and the Companies (Corporate Social Responsibility Policy) Rules 2014 contain the primary CSR obligations of companies in India. The CSR provisions are applicable to companies with an annual turnover of 10 billion rupees and more, a net worth of five billion rupees and more, or a net profit of 50 million rupees. These companies must spend 2 per cent of their average net profit in the past three years on CSR activities. The Companies Act 2013 lists an indicative set of CSR activities such as environmental sustainability,

education, sanitation, enhancing vocational skills, etc. Companies may implement these activities, taking into account the local conditions after seeking board approval. A report on the CSR policy must be published by the company on its website and if the company fails to spend the prescribed amount, the report should specify the reasons. The Ministry of Corporate Affairs is the principal regulatory body for the Companies Act 2013.

Specifically, in relation to mining, the Mines and Mineral (Development and Regulation) Amendment Act 2015 provides for setting up of district mineral foundations (DMFs) in all districts affected by mining-related operations. A rights holder is required to contribute to the DMF at rates specified by the central government that cannot exceed one-third of the royalty. The state governments have administrative jurisdiction over the DMFs in their region, provided that the central government may give directions regarding the composition and utilisation of funds from DMFs. In 2015, a scheme was also launched to provide for the welfare of areas and people affected by mining-related operations, using the funds generated by DMFs. This scheme was further superseded by a revised scheme, which was implemented in January 2024 for effective utilisation of DMF funds. The revised scheme provides for constitution of a State Level Monitoring Committee for supervising the performance of DMFs in the state and compliance with norms prescribed under the scheme.

Law stated - 1 April 2025

Rights of aboriginal, indigenous or disadvantaged peoples

How do the rights of aboriginal, indigenous or currently or previously disadvantaged peoples affect the acquisition or exercise of mining rights?

Much of India's mining resources are largely based in underdeveloped tribal areas. One of the major sources of conflict is land acquisition in such tribal areas for mining. The governor of the state is vested with the power to make regulations pertaining to scheduled areas, including the power to 'prohibit or restrict the transfer of land by or among scheduled tribes in such areas'.

Various states have enacted their own legislation to deal with issues of land acquisition specific to certain tribal regions. These pieces of legislation govern the land rights of the tribes, including the transfer and utilisation of scheduled areas in the states, and the incidence of a tenancy. The major thrust is to define various categories of landholdings among the tribal classes, protect the land rights of the tribes against high rents or transfer of land, regulate the transfer of such lands and make provisions for the restoration of illegally alienated land.

The state government is also required to ensure that the panchayats, at the appropriate level, and the gram sabha have the power to prevent alienation of land in the scheduled areas and to take appropriate action to restore any unlawfully alienated land of a scheduled tribe. Tribal rights must be settled, and the tribes must agree through the gram sabha before industry or mining companies can get clearance to use tribal land.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (the LARR Act) is the overarching legislation that governs land acquisition in the country. The LARR Act recognises the special status of tribal lands in the scheduled areas. It provides that acquisition of land must not be made in scheduled areas as far as possible and when the acquisition does take place, it must be done as a demonstrable

last resort. The state government can impose rehabilitation and settlement obligations on the sale and purchase of land acquired through private negotiations and prescribe the limits and ceilings for this purpose.

The Supreme Court has also upheld the cultural and religious rights of tribes over tribal areas.

Law stated - 1 April 2025

International law

What international treaties, conventions or protocols relating to CSR issues are applicable in your jurisdiction?

India is a party to many international treaties, conventions or protocols that relate to CSR issues in a general manner. However, there is no mandatory application of these in India in relation to CSR issues. Various global guidelines such as the UN Global Compact, the UN Guiding Principles on Business and Human Rights, the International Labour Organization's Indigenous and Tribal Peoples Convention and the Tripartite Declaration of Principles on Multinational Enterprises and Social Policy can be voluntarily applied in India.

Law stated - 1 April 2025

ANTI-BRIBERY AND CORRUPT PRACTICES

Local legislation

Describe any local legislation governing anti-bribery and corrupt practices.

The Prevention of Corruption Act 1988 (PCA) is the principal legislation for the prevention of corruption and bribery in India. The PCA criminalises receipt of illegal gratification by public servants and its payment. Such illegal gratification can be pecuniary or non-pecuniary in nature. It is not necessary for there to be an actual payment of bribes; even an attempt to bribe attracts liability under the PCA.

The Central Bureau of Investigation is the central agency that undertakes the investigation and prosecution of offences pertaining to bribery and corruption and the states have their own anti-corruption wings. The Central Vigilance Commission, established by the Central Vigilance Act 2003, is the primary agency for monitoring all vigilance activity under the central government. It exercises superintendence over inquiries into offences under the PCA. The central government has also enacted the Whistle Blowers Protection Act 2011 to protect anyone who exposes wrongdoing in government bodies or projects.

Public officials are further governed by specific service rules that prohibit such officials from receiving gifts, lavish hospitality and other perks beyond certain threshold levels. It also prevents public officials from engaging in other trade or business and employment. The Foreign Contribution Regulation Act 2010 restricts acceptance of foreign contributions or hospitality by government servants, legislature members, political party candidates and government corporation employees without the permission of the central government. The Lokpal and Lokayuktas Act 2013 provides for an ombudsman body called the Lokpal at the

central level, and the Lokayukta, at the state level, to inquire into allegations of corruption against public functionaries.

Law stated - 1 April 2025

Foreign legislation

Do companies in your country pay particular attention to any foreign legislation governing anti-bribery and foreign corrupt practices in your jurisdiction?

Companies are vigilant of the US Foreign Corrupt Practices Act 1977, which prohibits the bribing of foreign officials for the purpose of business. It is important because it applies not only to US entities and persons in the United States but also to persons abroad working for US entities. This could affect Indian companies that are in partnership with US-based companies or have an international footprint in the United States. The UK Bribery Act 2010 is also relevant to Indian companies because it imposes corporate criminal liability on UK-based and non-UK based companies having business in the United Kingdom, equally, irrespective of whether any part of the offence of giving bribes took place in the United Kingdom or not. Companies with ties to France are also likely to pay attention to the French anti-bribery law, the Sapin II Law, which came into force in 2017.

Law stated - 1 April 2025

Disclosure of payments by resource companies

Has your jurisdiction enacted legislation or adopted international best practices regarding disclosure of payments by resource companies to government entities in accordance with the Extractive Industries Transparency Initiative (EITI) Standard?

No. India has not adopted the EITI Standard.

Law stated - 1 April 2025

FOREIGN INVESTMENT

Foreign ownership restrictions

Are there any foreign ownership restrictions in your jurisdiction relevant to the mining industry?

Mineral concessions are granted to Indian nationals or entities incorporated in India only. However, 100 per cent foreign direct investment is allowed in the exploration and mining of all metallic minerals, as well as diamonds and precious stones through the automatic route, by way of equity participation in a company incorporated in India. With prior central government approval, 100 per cent foreign direct investment is allowed in connection with mining and mineral separation of titanium-bearing minerals, subject to certain restrictions.

Law stated - 1 April 2025

INTERNATIONAL TREATIES

Applicable international treaties

What international treaties apply to the mining industry or an investment in the mining industry?

While there is no comprehensive international law on mining, a number of treaties, conventions and declarations have provisions for protecting the environment and sustainable development that are relevant to the mining industry in India. These include:

- the Stockholm Declaration 1972, which declares that nations have the right to exploit their own resources pursuant to their own environmental policies but they also have the responsibility to ensure that such activities do not cause damage to the environment of other states or areas beyond the limits of national jurisdiction;
- the UN Convention on the Law of the Sea 1982, which regulates deep seabed exploration and mining;
- the Convention on Biological Diversity 1992, which calls on states to promote environmentally sound and sustainable development in areas adjacent to protected areas;
- the UN Framework Convention on Climate Change 1992 and the Kyoto Protocol 1997 in relation to the decrease of emission of greenhouse gases;
- the Rio Declaration 1992 and the Johannesburg Declaration 2002 concerning sustainable development; and
- the Minamata Convention 2013 for protection of human beings from harmful mercury emissions.

India is also a signatory to the New York Convention and the Geneva Convention, which relate to foreign arbitration.

Law stated - 1 April 2025

UPDATE AND TRENDS

Recent developments

What were the biggest mining news events over the past year in your jurisdiction and what were the implications? What are the current trends and developments in your jurisdiction's mining industry (legislation, major cases, significant transactions)?

In the past year, the central government has actively taken steps to bolster investments in the mining sector and incentivise mining activities, with an aim to harness the full potential of the country's mineral resources. In 2024, 88 mineral blocks have been successfully auctioned by state governments and central government, of which 51 mineral blocks were auctioned for mining lease and the remaining 37 were auctioned as a composite licence.

In October 2024, the central government decided to conduct auctions for grant of exploration licences for mineral blocks that are notified by the central government. Upon successful

auction of exploration licences, the central government will intimate the details of the successful bidder to the state government, which shall grant the exploration licences to such bidders.

In December 2024, the central government had proposed amendments to the Mines and Mineral (Development and Regulation) Act 1957 (MMDRA) to:

- allow inclusion in the mining lease of other minerals that may be found in the lease area, on payment of additional amount by the mining lease holder to the state government;
- allow lessees to expand their lease area, up to 10 per cent, if such lessee is mining a deep-seated mineral (ie, found below 300 metres and extractable only through underground mining). The lessee will be required to make an additional payment for minerals produced from the extended area; and
- broaden the scope of the National Mineral Exploration Trust (NMET) to use funds for offshore areas within India and for exploration, acquisition and development of overseas critical minerals.

These amendments are not yet notified.

Critical minerals

Pursuant to the 2023 MMDR Amendment, the government has provided for auction of mining rights to eligible bidders (including private players) for certain critical and strategic minerals that are crucial to India's economic development and national security. Such minerals include lithium, cobalt, beryl, phosphates, graphite, glauconite, zirconium and rare earth minerals. Mining rights for such minerals were previously granted only to government entities.

Since November 2023, the central government has conducted four tranches of e-auction of critical and strategic minerals for grant of mining lease and composite licence for mineral blocks.

The Ministry of Mines has successfully auctioned 24 mineral blocks for critical and strategic minerals, which include graphite, vanadium, cobalt, manganese, phosphorite, lithium and rare earth elements, tungsten and associated minerals across Andhra Pradesh, Arunachal Pradesh, Chhattisgarh, Karnataka, Odisha, Tamil Nadu and Uttar Pradesh. To bolster the nation's critical mineral resources, the GSI has undertaken 195 projects for exploration of critical mineral in 2024. The maximum area for grant of a prospecting licence and mining lease for a particular mineral in a state is limited to 25 square kilometres and 10 square kilometres respectively. However, with a view to boosting the participation of bidders in the auction of critical mineral blocks, in February 2024, the central government increased the maximum area for prospecting licence and mining lease for any critical mineral in a state to 100 square kilometres and 50 square kilometres respectively.

The central government has put in place schemes for partial reimbursement of exploration expenses for holders of exploration licences and composite licences granted through auction. Under these schemes, NMET will reimburse up to 50 per cent of direct exploration costs, with caps on reimbursement for different exploration activities like geological mapping and drilling. Thereafter, for exploration licence holders, the state governments are required to pay a percentage of the auction premium from future mining lease holders, based on the

share quoted by such exploration licence holder during the auction of the exploration licence. Any reimbursement received under such schemes from NMET must be repaid within a fixed period by the respective licence holder.

In July 2024, the central government removed customs duty on 25 critical minerals like selenium, silicon, tellurium and ores and concentrates of copper, cobalt, tin, tungsten, molybdenum, zirconium and antimony. In February 2025, the central government removed customs duty on waste and scraps of certain critical minerals such as cobalt, tin, antimony, cadmium and lithium-ion batteries.

In January 2025, the central government set up the National Critical Mineral Mission with a budgetary allocation of 163 billion rupees for the period of 2024–31. The mission will focus on:

- increasing domestic critical mineral production – with government agencies undertaking 1,200 exploration projects, auction of more than 100 blocks of critical minerals by 2031 and exploration and auction of offshore critical mineral blocks;
- acquisition of critical mineral assets abroad – through public sector undertakings in collaboration with private companies contributing capital and sharing revenue;
- recycling of critical minerals – for setting up a scheme for recycling of critical minerals like lithium, nickel, cobalt etc., with an aim to recycle at least 10 per cent of the nation's annual critical mineral consumption; and
- trade and markets – with the government entering into critical mineral partnership agreements with resource rich countries.

It is expected that pursuant to this mission, public sector undertakings will invest around 180 billion rupees in exploration, acquisition and production of critical minerals.

In February 2025, the central government reclassified barytes, feldspar, mica and quartz as major minerals, removing them from the minor minerals category. This move aims to enhance exploration and scientific mining of these minerals. These minerals often occur with critical minerals, but mining lease holders were not declaring the existence of the associated critical minerals. While existing mining leases for these minerals will remain valid, they will now be subject to central regulations, requiring compliance with monthly and annual reporting and the approval of mining plans by IBM.

Tax on mineral rights and mineral bearing lands

In July 2024, the Supreme Court in *Mineral Area Development Authority v Steel Authority of India* (2024 INSC 554) held that the royalty and dead rent payable under mining leases are contractual charges for the mining lease and do not amount to taxes. The Supreme Court upheld the legislative competency of states to impose taxes on mineral rights, including right to impose taxes on lands comprising mines, which may be measured by the mineral value or mineral produced from that land. Pursuant to this order of the Supreme Court, Karnataka has proposed the Karnataka (Mineral Rights and Mineral Bearing Lands) Tax Bill 2024, which would levy mineral rights tax and tax on mineral bearing land on certain minerals.

With respect to implementation of the judgement, in August 2024, the Supreme Court in *Mineral Area Development Authority v Steel Authority of India* (2024 INSC 607) clarified that its earlier order of July 2024 would have a retrospective application and: (1) the states may

levy or renew demands of tax, except on transactions made prior to 1 April 2005; (2) the time for payment of such taxes shall be staggered in instalments over a period of 12 years commencing from 1 April 2026; and (3) interest or penalty on demands made for the period before 25 July 2024 will stand waived for all assesses. Certain states such as Gujarat already had laws in place for levy of mineral rights, however, there is no public information of state governments raising retrospective demands on mining lease holders for levy of such taxes.

Law stated - 1 April 2025