

## CHAPTER XIV: MINISTRY OF STEEL

### NMDC Limited

#### 14.1 Idle investment of ₹65.55 crore

**Failure to secure forest clearance led to idling of the entire investment of ₹ 65.55 crore made on wind energy farm for over 24 months and consequential non-realisation of revenue of ₹13.20 crore.**

NMDC Limited (the Company) decided (April 2006) for setting up of 10 Mega Watt (MW) wind mill so that the generated energy can be wheeled to the Karnataka electricity grid and banked as per the requirements of Donimalai Iron Ore Project. It engaged (March and September 2008) M/s Suzlon Energy Limited (Suzlon) to execute the project on a turnkey basis. Suzlon completed the work and commissioned the Wind Energy Generators in respect of six units (9 MW) in September 2008 and the balance one unit (1.5 MW) in March 2009 with total installed capacity of 10.5 MW at a total cost of ₹65.55 crore. All these units located at Anehalu village in Karnataka were connected to the Grid through 33 KV transmission lines. These lines passed through the Jogimatti Reserve Forest in Chitradurga District, Karnataka. Wheeling and banking agreement for wind and mini hydel projects was approved by Karnataka Electricity Regulatory Commission in July 2008. But, since NMDC had to take all the approvals afresh if it had to go for wheeling and banking agreement and as Suzlon declined to facilitate wheeling and banking arrangement for captive use, NMDC entered (July and November 2009) into two Power Purchase Agreements (PPAs) with Bangalore Electricity Supply Company Limited (BESCOM) for sale of power from the wind energy farm at a rate of ₹ 3.40 per kilowatt hour (kwh) unit of power. Accordingly, the Company earned ₹ 13.45 crore from September 2008 to September 2010 from the sale of power of 395.78 lakh units.

Meanwhile, the Range Forest Officer, Chitradurga Range, Chitradurga lodged a forest offence case, for want of forest clearance for the 33 KV transmission lines laid (without approval) in the forest land (from wind energy farm to Grid) in Jogimatti Reserve Forest, in August 2009 before the Judicial Magistrate First Class, Chitradurga. Subsequently the operations were stopped (October 2010) by the Forest Authorities as Suzlon continued its unauthorized 33 KV power supply activities without obtaining due permission from Government in the Forest area. Later, Suzlon filed (April 2011) a writ petition with the High Court of Karnataka for interim stay and the case is still pending (September 2012). Meanwhile, Suzlon is also making efforts to obtain the necessary approvals for re-routing the power evacuation from NMDC wind farm.

In this regard, audit observed that the project involved laying of HT lines in reserved forest which require the prior approval of the Ministry of Environment and Forest (MoEF) under Section 2 of the Forest Conservation Act, 1980. Further, as per Para 4.8 of the procedures laid under Forest (Conservation) Amendment Rules, 2004, if a project involves forest as well as non- forest land, work should not be started on non - forest land till the approval of the Central Government for release of forest land has been given.

Though a provision is made in the contract that Suzlon shall have to arrange for necessary statutory clearances/ approvals on behalf of NMDC, the Company did not satisfy itself that all statutory clearances were obtained before the start of work of wind energy farm. This shows that the Company had not exercised due diligence in ensuring that the required clearances are in place before the start of the work. The Company had taken up (January 2011) the issue of obtaining of the forest clearances with Suzlon only after the Forest Authorities had given orders not to energize the plant and lines.

The Ministry in its reply (November 2012) stated that strict due diligence required as per the scope of the work was done by NMDC before awarding the work for setting up of wind farm. Immediate emphasis was mainly on restoration of wind farm and necessary action will be taken by NMDC against Suzlon to recover the losses once the wind farm is started. Meanwhile, Suzlon has set up an alternative evacuation route and the approval of the Chief Electrical Inspector to Government (CEIG), Govt. of Karnataka had been obtained (August 2012). Subsequently, Suzlon has forwarded the draft supplemental PPA to be entered by NMDC with BESCO.

The fact remains that NMDC has not ensured whether Suzlon had obtained the necessary statutory approvals required from the Forest Authorities and thus, failed in exercising due diligence leading to idling of the entire investment of ₹ 65.55 crore leading to 338.35 lakh units of power not getting generated and consequential non-realisation of revenue of ₹ 13.20 crore<sup>✓</sup> due to stoppage of power generation during October 2010 to September 2012.

#### **Steel Authority of India Limited**

#### **14.2 Excess payment in Performance Related Pay scheme**

#### **SAIL management did not adhere to the DPE guidelines with respect to payment of 'performance related pay' and made an irregular payment of ₹ 319.61 crore during the period from 2007-08 to 2010-11**

In pursuance of the DPE guidelines contained in OM No. 2(70)/08-DPE (WC)-GL-XVI/08 dated 26 November 2008 and OM No. 2(70)/08-DPE (WC)-GL-IV/09 dated 9 February 2009 Steel Authority of India Limited (the company) introduced PRP scheme for its executives. A Remuneration Committee headed by an Independent Director of the company was to decide the PRP and policy for its distribution within the prescribed limit.

The Audit noted the following irregularities in implementation of the DPE guidelines which resulted in excess payment of PRP to the company's executives from 2007-08 onwards totaling ₹ 319.61 crore up to the financial year 2010-11. PRP for the year 2011-12 was not paid (March 2013).

1. The above DPE guidelines required that the company should have a robust and transparent performance management system (PMS). It should adopt a 'Bell Curve Approach' in grading the executives so that not more than 10 to 15 *per cent* are graded as 'Outstanding/Excellent' and 10 *per cent* of executives should be graded as 'Below Par'. No PRP was to be paid to those achieving 'below par' rating. The company however did

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<sup>✓</sup> *Non realisation of revenue = 388.35 lakh units (calculated based on average generation of the seven units in a month during September 2008 to September 2010) X ₹3.40 per unit as per the PPA*

not adopt 'Bell Curve Approach' in grading and paid PRP to all its executives in violation of the DPE guidelines resulting in avoidable payment of ₹ 87.45 crore<sup>1</sup> for the years 2007-08 to 2010-11.

Management stated (June 2012) that the Remuneration Committee had finalised the PRP scheme; grading the performance of 10 per cent of its executives as 'below par' should not be insisted for a 'Maharatana' company like SAIL and actual distribution of performance grading was almost 'Bell Curve Shaped'.

Management reply is not acceptable as (a) while finalizing PRP for the year 2007-08 and 2008-09 in its 5<sup>th</sup> meeting held on 8 July 2010, the Remuneration Committee headed by an Independent Director of the company established a five tier executive performance rating system including rating 'Minus C' for non-performers with no entitlement of PRP and (b) there was no relaxation for the 'Maharatana' companies and DPE vide OM No. (21)/11-DPE (WC) –GL-XIII/2011 dated 6 July 2011 reiterated its previous guidelines as "it should be ensured that 10 per cent of the executives and non-unionised supervisors in a CPSE have to be graded as 'below par' and not paid any PRP".

2. The DPE guidelines prescribe the basic formula for PRP payable to an executive. The Remuneration Committee however adopted a PRP formula wherein the multiplier for the weightage of Executive Performance Rating (EPR) exceeded the DPE prescribed limit which was irregular. As a result an excess payment of PRP was made to the company's executives from 2007-08 onwards totaling ₹ 232.16 crore up to the financial year 2010-11 as shown in Table.

**Irregular payment of PRP by SAIL**

(a)EPR rating categories	2007-08			2008-09			2009-10			2010-11		
	A	B	C	A	B	C	A	B	C	A	B	C
(b)Corresponding DPE prescribed PRP multiplier for EPR (per cent)	80	60	40	80	60	40	80	60	40	80	60	40
(c) PRP multiplier for EPR adopted by SAIL (per cent)	98.5	97.0	95.5	98.5	97.0	95.5	98.0	96.0	94.0	97.5	95.0	92.5
(d) Excess of (c) over (b) (per cent)	18.5	37.00	55.5	18.5	37	55.5	18	36	54	17.5	35	52.5
(e)PRP payment made <sup>2</sup>	48.93	98.88	27.41	77.83	84.97	12.50	109.49	130.16	9.20	59.78	76.09	3.64
(e) Irregular Payment (₹ in crore)	9.19	37.71	15.92	14.62	32.41	7.27	20.11	48.81	5.29	10.73	28.03	2.07
<b>Total</b>	<b>₹ 232.16 crore</b>											

Management stated (June 2012) that: (a) the scheme was finalized by the Remuneration Committee which considered the physical and financial performance of the company and its plants/Units and performance of the executives as an individual and as a member of the team; (b) appropriate weightage was assigned in accordance with the peculiarity of

<sup>1</sup> Calculated on basis of percentage of total PRP payment

<sup>2</sup> Calculated on basis of 90 per cent (10 per cent commented in point 1) of total PRP distributed among A,B, and C category of executives in proportion to their number in total employees

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the working of the Steel Industry and (c) the PRP payment was made within the amount available from the PBT and within the ceiling prescribed by DPE.

The management reply is not acceptable as DPE OM dated 26 November 2008 required the Remuneration Committee to decide the PRP and policy for its distribution *within the prescribed limit*. In its reply DPE has confirmed (April 8, 2013) that the powers delegated to Maharatna CPSEs do not cover the matters relating to Pay/PRP.

The IFD of Ministry of Steel agreed (March 2013) that the company should have adopted a 'Bell Curve Approach' in grading the executives so that 10 to 15 *per cent* are graded Outstanding/Excellent and 10 *per cent* of executives should be graded 'Below Par'. It also stated that the Remuneration committee adopted a PRP formula in which the multiplier for weightage of EPR exceeded the DPE prescribed limit which was irregular.

Thus, SAIL management did not adhere to the DPE guidelines applicable to it with respect to payment of 'performance related pay' and made an irregular payment amounting to ₹ 319.61 crore for the years 2007-08 to 2010-11.

### 14.3 Excess payment of allowances and perks

**SAIL undervalued the monetized value of recurring expenditure on infrastructural facilities attributable to the company's executives resulting in excess payment of perks and allowances amounting to ₹ 98.61 crore up to 31 March 2012**

Steel Authority of India (the company) implemented the revised pay scale for its Board Level and below Board Level Executives in accordance with the guidelines contained in Department of Public Enterprises (DPE) Office Memorandum (OM) No.2/70/2008-DPE (WC) dated 26 November 2008 and No.2/70/2008-DPE (WC)-GL-VII/09 dated 2 April 2009. The Board of Directors also approved the revised perks and allowances for executives with effect from 5 October 2009.

According to DPE guidelines (a) the Board of Directors would decide on the allowances and perks admissible to the different categories of executives subject to a maximum ceiling of 50 *per cent* of the basic pay; (b) Instead of having a fixed set of allowances, the CPSE may follow 'Cafeteria Approach' allowing the executives to choose from a set of perks and allowances; (c) Where CPSE has created infrastructure such as hospital, colleges, schools, clubs etc. these facilities should be monetized for the purpose of computing the perks and allowances; (d) For the purpose of reckoning the value of infrastructure facilities, the recurring expenditure on maintaining and running the infrastructure facilities alone would be taken into account and the said amount shall be restricted to 10 *per cent* of the basic pay of all executives and non-unionised supervisors within the overall limit of 50 *per cent* of basic pay; and (e) This recurring expenditure attributable to the executives should be computed based on the proportion of total basic pay of executives and the total basic pay of workmen.

Audit observed that the monetized value of the recurring expenditure of the company attributable to the executives on the infrastructure facilities consisting of education, medical and clubs etc. was greater than 10 *per cent* of their total basic pay during the years 2009-10, 2010-11 and 2011-12. Therefore, according to the DPE formula, the perks and allowances under the 'Cafeteria Approach' should have been restricted to 40 *per cent* of executives' total basic pay. However, the company paid the perks and allowances to its

executives to the extent of 44 to 46 *per cent* of their basic pay resulting in total excess payment of ₹98.61 crore for the period from 5 October 2009 to 31 March 2012.

Management stated (November 2012) that the payment of salaries and wages should not be considered as recurring expenditure for reckoning the value of the infrastructural facilities like hospital and schools and only recurring expenditures like consumption of medicines, stores & spares, repair & maintenance, power & fuel, miscellaneous expenditure and depreciation were reckoned which was 3.8 *per cent* of executives' total basic pay.

While agreeing with the Audit observations, Ministry stated (March 2013) that employee remuneration and benefits on medical and education are absolutely fixed cost for the Company.

The reply of the Management/Ministry is not acceptable as expenditure on salaries and wages being essential to provide the services and exclusion of such expenditure from reckoning the value of infrastructure such as hospitals etc. was against the DPE guidelines.

Thus, by undervaluing the monetized value of recurring expenditure on infrastructural facilities attributable to the company's executives the company has paid excess payment of perks and allowances amounting to ₹ 98.61 crore up to 31 March 2012 and may further increase.