

## CHAPTER VI: MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

### Food Corporation of India

#### 6.1 Non recovery of society commission paid to State Government and their Agencies

**FCI paid society commission amounting to ₹ 23.44 crore to State Government and their agencies for procurement of wheat/paddy without ascertaining whether Societies were actually engaged by these agencies during 2010-11.**

FCI makes direct procurement of wheat and paddy for the Central Pool and also through the State Governments and their Agencies. In turn, the State Government and their agencies can engage societies, Self Help Groups, and cooperative Societies for procurement of wheat & paddy. For this purpose, commission to Societies was payable maximum @ two and 2.5 per cent of Minimum Support Price (MSP) for wheat and paddy during Rabi and Kharif Marketing Seasons of 2010-11 as per GoI instructions (March 2010). Further, payment of commission to Societies/sub-agents shall be admissible only wherever they are entrusted with the task of procurement in terms of GoI instructions issued in March 2005.

A test check of records of 19 district offices of FCI Uttar Pradesh (UP) region revealed that ₹ 23.44 crore was released under 'Commission to Societies' to various State Government Agencies (SGAs)\* during 2010-11 without verifying whether societies were entrusted with the task of procurement. While releasing the amount of society commission to SGAs, FCI did not exercise any check whether SGAs actually engaged any society for procurement. Thus, payment of ₹ 23.44 crore as society commission without confirmation of engagement of such societies by SGAs was in violation of GoI instructions.

While accepting that payment of society commission to SGAs was released without confirming the actual engagement of such societies, the Management stated (March 2013) that no pre-condition for payment of society commission was mentioned for paddy either in the cost sheet or Government instructions regarding principles for fixation of incidentals/economic cost of wheat/rice. The Management, pursuant to the audit observation, has effected a recovery of ₹ 16.12 crore out of total amount of ₹ 23.44 crore and stated that no commission was paid to the SGAs of UP from KMS/RMS 2011-12 onwards.

Though, the Management intimated recovery of ₹ 16.12 crore but release of payment of society commission without confirming the actual engagement indicated lack of internal checks which exposed the FCI to risk of such payments being made in other States for which they had not initiated any action to establish mechanism to prevent recurrence of such instances.

\* State Food Deptt., UP Cooperative Federation, UP Agro, U.P.S.S., S.F.C, UP State Warehousing Corp., Nafed, Karamchari Kalyan Nigam.

While FCI stated to have discontinued with the practice of releasing payments to SGAs in case of non engagement of societies, to protect the interest of the Government, FCI may review all payments of this nature across the country during the past five years and effect necessary recovery in cases where payments were released in violation of GOI instructions.

The matter was reported to the Ministry in August 2012; their reply was awaited (March 2013).

## 6.2 Excess expenditure on handling of foodgrains

**FCI (UP) Region paid handling charges of foodgrains to Handling and Transport contractors/DPS labour under incorrect clauses of tender rates, which resulted in excess expenditure of ₹ 6.48 crore during RMS/KMS 2010-11 and 2011-12.**

Wheat/rice procured by State Government of Uttar Pradesh (UP) and its agencies for the Central Pool for the Kharif Marketing Season/Rabi Marketing season (KMS/RMS) 2010-11 and 2011-12 was to be delivered at a designated storage platform of Food Corporation of India (FCI) for subsequent storage in godowns. The costs of transportation and handling charges for delivery of wheat/rice from mandi/ mills to the designated platform of FCI storage point were to be paid based on the rates prescribed in the cost sheet issued by Government of India (GOI) for RMS/KMS 2010-11 and 2011-12. Thereafter, handling of foodgrain bags from the designated platform to the FCI godowns for storage was performed by Handling and Transport (H&T) labour and Direct Payment System (DPS) labour for which the payments were regulated by H&T contract agreement entered into by FCI<sup>1</sup> and the schedule of rates applicable for DPS labour laid down by FCI<sup>2</sup> respectively.

Scrutiny of records of 12 district offices<sup>3</sup> out of 19 district offices of UP region revealed that FCI wrongly paid higher rate of handling charges to H&T contractors under clause for 'unloading from transport vehicles and stacking the foodgrain bags in godown' @ ₹ 45 per hundred bags<sup>4</sup> instead of ₹ 27 per hundred bags<sup>5</sup> for the work actually carried out for 'removing/collecting scattered bags of foodgrain from platform and stacking them inside godowns.' Thus, application of wrong clause under the agreement and payment at higher rates was not in accordance with the work actually performed by H&T contractor which resulted in excess payment of ₹ 4.98 crore during RMS/KMS 2010-11 and 2011-12.

Similarly, for handling of the foodgrains, FCI UP region also wrongly paid DPS labourers under clause for 'unloading from transport vehicles and stacking them inside the godowns' @ ₹ 226 per hundred bags<sup>6</sup> instead of ₹ 137 per hundred bags<sup>7</sup> for actually

<sup>1</sup> Model Tender Form Part II (20) a,b,c.

<sup>2</sup> Part II (20) a,b,c of Direct Payment System (DPS) schedule of rates.

<sup>3</sup> Gorakhpur, Moradabad, Kanpur, Gonda, Varanasi, Bareilly, Lucknow, Faizabad, Sitapur, Shahjanpur, Allahabad and Azamgarh.

<sup>4</sup> Clause Part I(3) a,b,c of HTC model tender form.

<sup>5</sup> Clause Part II (20) a,b,c of the HTC model tender form.

<sup>6</sup> Clause Part I (3) (a),(b),(c) of Schedule of rates and services for DPS labour (Rates includes Above Schedule of Rate @2180 per cent).

<sup>7</sup> Clause Part II (20) (a),(b),(c) of Schedule of rates and services for DPS labour (Rates includes Above Schedule of Rate @ 2180 per cent).

‘removing/collecting scattered bags of foodgrains and stacking them inside the godowns.’ This resulted in excess payment of ₹ 1.50 crore to DPS labourers during RMS 2010-11 and 2011-12.

Audit further observed that such wrong payments of handling charges were made in violation of relevant clauses of the aforesaid contract and despite issue of instructions in this regard by Regional Office, Lucknow in September 2006 which indicates weak internal check.

The Management in its reply stated (September 2012) that observation was noted for future compliance and the field offices were instructed to ensure the payment of handling charges under the correct clause of Part II (20) for the handling work done in future.

The reply of the Management is not acceptable as it neither furnished reasons for violation of the existing instructions issued in September 2006 nor intimated action taken to fix responsibility for applying wrong clause under the H&T contract/Schedule of rates applicable to DPS labour. The Management remained silent on the issue of recovery of excess payment from the contractors/labourers.

Thus, due to irregular payment of handling charges against the wrong clause of the H&T contract and schedule of rates, FCI incurred excess expenditure of ₹ 6.48 crore on payment to H&T contractors and DPS labourers during KMS/RMS 2010-11 and 2011-12 which was yet to be recovered from the parties concerned.

The matter was reported to the Ministry in October 2012; their reply was awaited (March 2013).

### **6.3 Misappropriation of the amount of Service Tax by the Contractor**

**FCI's failure to ensure compliance with the statutory/contractual provisions resulted in misappropriation of service tax amounting to ₹ 5.37 crore by the contractor appointed for handling and transportation of imported wheat during 2006-07 and 2007-08.**

Food Corporation of India (FCI), RO Ahmedabad appointed (August 2006) M/s. Kailash Enterprises as Stevedoring, Clearing, Handling and Transportation/Cargo Handling Contractor (Contractor) for handling the imported wheat during 2006-07 and 2007-08 at Kandla Port. As per clause XIII of the tender document for the SCH&T contract, the contractor was to produce records such as vouchers, receipts including statutory returns, etc., relating to execution of contract for verification by FCI. Further, as per Service Tax Rule 4A (1)(i), every person providing taxable service shall issue invoice or bills containing *inter alia* name, address and registration number of such person.

Scrutiny of records revealed that FCI admitted the bills of the Contractor which did not bear service tax registration number though mandatory under the Service Tax Rules. After noticing that the Contractor did not produce any documentary evidence of remittance of service tax to the department concerned, FCI advised (December 2006) the Contractor to make immediate payment and furnish challans within three days. The Contractor failed to furnish the required documentary evidence/proof of remittance to FCI. Despite such failure on the part of the Contractor, FCI continued to entertain the claims submitted by the Contractor and released the payments subsequently.

Further, FCI released ₹ 5.37 crore to the Contractor towards service tax during the years 2006 to 2008 through 109 bills<sup>1</sup> without verifying proof of remittance of service tax<sup>2</sup> into Government account by the Contractor though enabling clause for verification of any document/record was stipulated in the tender document.

The Management stated (January 2012) that although the onus of remittance of service tax was on the SCH&T contractor, but in view of audit observations, they persuaded them to remit the tax and submit challans as proof of payment. In the meanwhile, the Management encashed the bank guarantee of ₹ 2.35 crore of the contractor and referred the matter of non remittance of service tax to the Commissioner, Central Excise and Service Tax.

The contention of the Management is not acceptable as encashment of the Contractors' bank guarantee of ₹ 2.35 crore was meant for adjustment towards loss of gunnies, grab charges, shortages, demurrages, etc., amounting to ₹ 3.29 crore and was not for making good the amount of service tax not remitted. Tax authorities confirmed (January 2012) that though the Contractor had charged and collected service tax from their clients, but failed to deposit the same to Government accounts and also failed to declare such facts to the department at the relevant time. An offence case was booked against the contractor and was under investigation (January 2012) by the Commissioner, Central Excise and Customs.

Thus, FCI's failure to ensure compliance with the statutory/contractual terms resulted in misappropriation of ₹ 5.37 crore by the H&T Contractor.

The matter was reported to the Ministry in November 2012; their reply was awaited (March 2013).

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<sup>1</sup> 2006-07 : 98 bills amounting to ₹3.70 crore; 2007-08: 11 bills amounting to ₹1.67 crore.

<sup>2</sup> Service tax for 2006-07 was 12.24 per cent (service tax 12per cent and education cess 2 per cent) and for 2007-08 :12.36 per cent (service tax 12 per cent and education cess 3 per cent).