

## CHAPTER-III

### COMPLIANCE AUDIT OBSERVATIONS RELATING TO POWER SECTOR UNDERTAKINGS

#### Beas Valley Power Corporation Limited

#### 3.1 *Extra payment of differential cost*

**Failure of the Company to include the royalty charges in the analysed cost of aggregate and sand at quarry site, for working out the differential cost of aggregate and sand procured from open market resulted in extra payment of differential cost of ₹ 75.02 lakh.**

Beas Valley Power Corporation Limited (Company) awarded (October 2010) the complete package for construction of balance work of Head Race Tunnel (HRT) of Uhl-III Hydro Electric Project (HEP) to M/s Abir Infrastructure Pvt, Ltd (Contractor) for ₹ 55.39 crore. As per terms and conditions of the contract agreement<sup>1</sup> all taxes including royalty on all material, that contractor has to purchase for construction of HRT, was payable by the Contractor and the Company was not to entertain any claim for compensation what so ever, in this regard. The rates quoted by the Contractor, were be deemed to be inclusive of all such taxes, duties, levies and any increase thereon. Further, it was also provided<sup>2</sup> in the contract, that in pursuance to any law, rule, notification or order, royalty payable by the Company to the State government / local authorities in respect of any material used by the Contractor, in the work shall be recovered by the Company to recover the amount paid, from the dues of the Contractor.

The Contractor, due to restriction imposed by the Hon'ble High Court, Shimla, could not operate two<sup>3</sup> allocated quarries for production of crushed aggregate & sand and, therefore, had to procure sand and aggregate from open market. The Company (Board of Directors) decided (December 2012) to reimburse the additional / differential cost on purchase of aggregate and sand by the Contractor from open market on Free on Rail basis, which included royalty charges. For arriving at differential cost of aggregate and sand, the Company analysed the cost of aggregate at quarry site and reimbursed the differential cost in respect of quantity procured from open market.

Audit noticed (December 2017) that to work out the differential cost, the Uhl Construction Division-I of the Company, while analysing the cost of aggregate and sand at quarry site, failed to include the royalty charges, which were payable by the Contractor to State government on quantity of aggregate and sand excavated from the quarry. Thus, incorrect analysis of rates at quarry site resulted in extra payment of differential cost of ₹ 75.02 lakh, on 1,04,546 MT of aggregate and sand, to the Contractor between January 2013 and December 2017.

<sup>1</sup> Clause 35(i).

<sup>2</sup> Clause 35(ii).

<sup>3</sup> One at Balh and another at Chulla & Kothi.

The Government stated (October 2018) that the amount has been placed in the Personal Ledger Account (PLA) of the Contractor and the recovery will be made from the final bill / other claims due for payment to the Contractor.

The point is based on test check, Management should consider fixing of responsibility for the lapse and streamline its rate analysis System to avoid such lapse in future and scrutinise other similar cases across the Company.

## Himachal Pradesh State Electricity Board Limited

### 3.2 Undue favour to consumers

**Failure to charge the Contract Demand from three consumers as per the limit prescribed by the Himachal Pradesh Electricity Regulatory Commission in its tariff orders issued in April 2013 resulted in short recovery of CD of ₹ 1.97 crore during the period from April 2013 to December 2018. This loss would increase further as short recovery is continuing till the suitable action as per tariff order is taken by the Company.**

Tariff order issued (April 2013) by the Himachal Pradesh Electricity Regulatory Commission (HPERC) specifies that the consumers to whom two part tariff<sup>4</sup> is applicable shall be entitled to revise the Contract Demand (CD) twice in a financial year without surrendering their *lien* of total sanctioned CD subject to the condition: (a) the CD shall not be reduced to less than 50 *per cent* of the total sanctioned contract demand. (b) the provision under (a) shall come into force from 1<sup>st</sup> July 2013 in cases where any consumer has got his CD reduced to less than 50 *per cent* of the total CD under the existing mechanism. In such cases, the financial year shall be construed from 1<sup>st</sup> July 2013 for the purpose of number of revision in a financial year. In the meanwhile, the Himachal Pradesh State Electricity Board Limited (Company) and the consumers shall take suitable action during the interim period. Further, in case the consumer gets his CD reduced permanently, the limit under clause (a) and (b) shall be considered to such reduced CD.

Scrutiny of records of three<sup>5</sup> consumers having four power connections showed (August 2016) that the consumers had reduced their CD, much below the 50 *per cent* limit of their original sanctioned CD, before the implementation of HPERC orders, *ibid*, with the prior approval of the Company. However, neither the Company insisted nor the consumer applied for increase in CD as required under revised Tariff Order (April 2013) in order to bring it up to the minimum prescribed limit of 50 *per cent* of sanctioned CD and the Company continued to levy demand charges from these consumers on the basis of their reduced CD (as per provision of tariff order 90 *per cent* of CD or recorded demand whichever is higher) in violation of the HPERC

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<sup>4</sup> Two part tariff consists fixed charges based on contract demand and variable charges based on consumption of electricity.

<sup>5</sup> Indira Gandhi Medical College Shimla (two meters), Mashobra Resort Limited and Hotel Peter Hoff, Shimla (one meter each).

orders. Thus, failure to levy and recover demand charges on 50 per cent of their original sanctioned CD resulted in revenue loss of ₹ 1.97 crore (as detailed in *Appendix 3.1* to the Company during April 2013 to December 2018. Non-levy / non-recovery of demand charges were mainly due to non-review of consumer cases in the light of HPERC's orders of April 2013. Further the Company continued to incur the loss as no corrective action has been taken, so far (September 2019).

The Government stated (February 2019) that the two consumers had reduced their CD as per their requirement and recovery from the third consumer has been made.

The reply was not acceptable as the consumers have reduced their CD prior to April 2013 temporarily, without surrendering their lien and the recovery was made from one consumer whereas, the amount was not recovered from other two consumers showing the arbitrariness of the Company. The Company and the consumers were required to take suitable action where CD was less than 50 per cent of sanctioned contract demand during the interim period (April 2013 to June 2013). Moreover, the Chief Engineer (Commercial) had also clarified (August 2015) that for permanent reduction of CD, the consumer has to furnish an undertaking to that effect, which was not furnished by the consumers in the above mentioned cases.

The point is based on test check, Management should ensure that after any change in the tariff order, effecting the billing, all consumer cases should be reviewed so as to avoid any revenue loss in future and check all other such cases across the Company.

### **3.3 Payment of excise duty without documentary proof**

**Failure to deduct the component of Excise Duty, from the bills of the Contractor, in absence of documentary proof, as per the terms and conditions of the contract agreement, resulting in extra payment of Excise Duty of ₹ 42.77 lakh to the contractor.**

In terms of notification of Government of India, issued in June 2003 and subsequent amendments, industrial units in Himachal Pradesh and Utrakhnad, established up to March 2010, were exempted from Excise Duty (ED).

The work for design, manufacturing, supply of equipment / material, erection, testing and commissioning of 11 KV HT / LT lines, re-conductoring / augmentation of existing Distribution Transformers / providing single and three phase energy meters in Baddi town was awarded to M/s Shyam Indus Power Solution Pvt. Ltd (Contractor) for ₹ 26.97 crore (supply part) by Himachal Pradesh State Electricity Board Limited (Company) during May 2012. The rates for supply of material were inclusive of all taxes and duties, etc. Further, as per terms and conditions of the contract agreement executed with the Contractor, ED which was included in the total unit price was payable as per actual, against documentary proof only. Further, the

accounting manual<sup>6</sup> of the Company provides that supplier's bill shall be passed as per the terms and conditions of the purchase order / contract agreement.

Audit noticed (December 2016) that as per documents supplied by the Contractor and inspections carried out by the officers of the Company, the Contractor had procured major items such as Steel Tubular Poles, RCC muff and CTPT unit from the manufacturers in Himachal Pradesh and Uttrakhand, as such, were exempt from the payment of ED. The Contractor while submitting the bills did not furnish the breakup of cost of each item and applicable taxes and duties thereon. Further, various invoices furnished along with his claims, showed that detailed break up on invoices were either erased or covered with fluid mark due to which the details of ED, if any, paid by the Contractor could not be confirmed. The Baddi Division of the Company, before passing the bills failed to ask the Contractor for supplying the documents regarding actual payment of ED, as per terms and conditions of the contract and Accounts Wing of the Company while releasing the payments to the Contractor failed to note this and did not ask for documentary proof of ED. In absence of documentary evidence, the Company instead of deducting the component of ED till the production of documentary proof of deposit of ED with the Government authorities, passed and paid the total amount of bills for payment. During the period between April 2013 and November 2016, the Company released total payment of ED of ₹ 42.77 lakh on supply of Steel Tubular Poles, RCC Muffs and CT / PT to the Contractor without insisting for documentary proof of deposit of it with the Government authorities as detailed below:

**Table 3.1: Details of released payment to Contractor**

Particulars	Size	Quantity in number	ED rate	Amount
			(in ₹)	
Steel tubular poles	9 meter	1,595	685.29	10,93,037
	11 meter	1,899	1,061.51	20,15,807
	8 meter	357	493.91	1,76,325
RCC muff	1.8 meter	3,775	52.11	1,96,715
CTPT	10/5 ampere to 100/5 ampere	266	2,674.03	7,11,292
Add: Sales tax @ 2 per cent				83,863.52
<b>Total</b>				<b>42,77,039.52</b>

The payment of ED on items manufactured in Himachal Pradesh / Uttrakhand was exempt, as per the Government of India notification *ibid*, and the Contractor has also concealed the details of taxes and duties on the invoices. Moreover, as per the terms and condition of the agreement, the payment of ED was payable as per actual, against documentary proof only. Thus, failure of the Company to deduct the component of Excise Duty, from the bills of the contractor, in absence of documentary proof, as per the terms and conditions of the contract agreement, resulted in extra payment of Excise Duty of ₹ 42.77 lakh to the Contractor.

<sup>6</sup> Instruction No. 5.6 (4.02).

The Chief Engineer (Operation) South, stated (July 2017) that notices have been issued in March 2017 and June 2017 to the Contractor for submitting documentary evidence for payment of Excise Duty failing which the amount of ₹ 42.77 lakh ED paid would be recovered / deducted from the retention money lying with the Company.

The reply was not acceptable as neither any documentary proof of payment of ED has been furnished by the Contractor nor any recovery has been affected though more than two years period had elapsed from the issue of first notice.

The point is based on test check, Management should consider taking appropriate action against the defaulters as per extant rules for the lapse and streamline financial scrutiny to avoid such lapse in the future by scrutiny of all similar cases across the Company.

The matter was reported to the Government / Management (June 2018); their reply was awaited (September 2019).

### Himachal Pradesh Power Corporation Limited

#### 3.4 Loss due to non-signing of Power Purchase Agreement

**Before applying for Long Term Access, failure of the Company to sign PPAs, which was a pre-requisite for signing of Long Term Access agreement, resulted in avoidable loss of ₹ 37.41 lakh due to forfeiture of fee and security by Power Grid Corporation of India Limited after revocation of approval in absence of Power Purchase Agreements.**

Central Electricity Regulatory Commission (CERC) issued Regulations on “Grant of connectivity, long-term access and medium-term open access in inter-state transmission and related matters” in August 2009. The regulations provides<sup>7</sup> that exact destination of off-take shall have to be firmed up, which is firmed up only after signing of Power Purchase Agreement (PPA), and notified to the nodal agency, which, in this case was Power Grid Corporation of India Limited (PGCIL) at least three years prior to the intended date of availing Long Term Access (LTA). Prescribed time<sup>8</sup> for processing of application was 120 days where augmentation of transmission system was not required and 180 days, where augmentation of transmission system was required.

Himachal Pradesh Power Corporation Ltd. (Company) without signing the PPAs for its three<sup>9</sup> upcoming Hydro Electric Projects (HEPs) applied (September 2010) for connectivity and LTA with PGCIL’s transmission network and deposited prescribed fee of ₹ 16 lakh along with Bank Guarantees (BGs) of ₹ 40.60 lakh with PGCIL. The PGCIL approved

<sup>7</sup> Sub-regulation -12 (I).

<sup>8</sup> Sub-regulation- 7.

<sup>9</sup> Kashang, Sawra-Kuddu, and Sainj.

connectivity for its two<sup>10</sup> HEPs during May 2011 and for other<sup>11</sup> HEP in December 2013 subject to signing of LTA agreement.

Audit noticed (March 2017) that the Company had not signed the PPAs for the three HEPs, before applying for LTA although it was a prerequisite for signing of LTA agreement as stated above. In absence of PPA, the Company could not sign the LTA with PGCIL within the prescribed time. Consequently, PGCIL revoked the connectivity, it had approved for its transmission network, Kashang (May 2016) and for Sainj and Sawra-Kuddu (February 2017) and forfeited ₹ 16 lakh non-refundable fee besides encashing the BGs of ₹ 21.10 lakh on 10 January 2017. Subsequently, the Company applied to Himachal Pradesh Power Transmission Corporation Limited (State Transmission Undertaking) for connectivity as per the directions (2 September 2011) of Himachal Pradesh Electricity Regulatory Commission. Thus, before applying for LTA, failure of the Company to sign PPAs, which was a pre-requisite for signing of LTA, resulted into loss of ₹ 37.41 lakh<sup>12</sup>.

The Management stated (August 2018) that power purchase through power exchange / competitive bidding became cheaper than long term PPAs. Accordingly, all the buyers as well as utilities have started purchasing from power exchange as well as through competitive bidding. Further, after 2015 Solar power has boosted the energy availability in the market and this power is also obligatory to utilities.

Reply of the Company is not tenable, as the Company should not have applied for LTA, without signing the PPAs, which was a pre-requisite for signing of LTA.

The case is based on test check, Management should ensure proper planning to avoid such lapse in future and scrutinise other similar cases across the Company.

The matter was reported to the Government (June 2018); their reply was awaited (September 2019).

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<sup>10</sup> Sawra-Kuddu, and Sainj.

<sup>11</sup> Kashang.

<sup>12</sup> ₹ 16.00 lakh non-refundable fee, B.Gs of ₹ 21.10 lakh and bank charges of ₹ 0.31 lakh paid on BG.

