CHAPTER III: MINISTRY OF COAL

Mahanadi Coalfields Limited

3.1 Excess payment to the contractor under mining contract

Mahanadi Coalfields Limited, under mining contract, allowed excess payment to a contractor of ₹45.17 crore due to difference between the power cost included in the mining fees as per the contractual terms and the amount actually recovered from the contractor based on actual consumption of power, during the period from January 2013 to December 2018.

Mahanadi Coalfields Limited (MCL), a subsidiary of Coal India Limited, is engaged in the mining activities for production of coal. MCL constituted (February 2008) a committee to estimate the rate of mining fees payable to successful bidders for outsourcing the work relating to removal, extraction and transportation of overburden and coal and other associated activities in respect of Bhubaneswari opencast project of Jagannath Area. The Committee firmed up (May 2008) ₹132.97 per tonne as the estimated cost of the work, considering different components of cost (*viz*., plant & machinery spares, petrol, oil & lubricants, labour, explosive and power) involved in the work.

MCL issued (July 2010) work order to M/s. Essel Mining & Industries Limited and Consortium (Contractor), being L_1 bidder to the tender floated (December 2008) for the work, involving mining fees of ₹128.70 per tonne. The contract involved removal of 193.40 million cubic metre of overburden and extraction of 269.50 million tonne of coal over a period of 15 years (2011-12 to 2025-26). The value of the contract was ₹3,468.47 crore.

Audit observed that in the past, power component was not included in the mining fees in the mining contracts entered by the MCL. Power was provided to the contractor by MCL and its payment was recovered on actual consumption basis. However, in the instant contract, power component was included in the mining fees. MCL continued to settle the electricity bills raised by Central Electricity Supply Utility of Odisha (CESUO) for the power consumed by the contractor and eventually recovered it from the contractor. Thus, by inclusion of power as component in mining fees, there was huge difference between the amount of power component paid to the contractor and the amount recovered from the contractor based on actual consumption of power. Hence, during the period from January 2013 to December 2018, against ₹53.39 crore paid to the contractor for power cost component as part of the mining fees, MCL recovered only ₹8.22 crore from the mining fees for actual power consumption, and thus, ₹45.17 crore[1] ***(Annexure-I)*** was paid in excess to the contractor.

[1] ***Coal extracted during the period from December 2011 to December 2012 was not taken into account due to non-availability of separate figures for power cost component as included in mining fees***

Management stated (September 2019) that, in absence of electrical equipment for transportation of coal through two streams of belt conveyor due to various issues viz. land, formation of benches, etc; the contractor had to incur costs on the use of diesel-operated equipment in lieu of electrically operated conveyor belt. The extra expenditure incurred by the contractor for use of diesel-operated equipment in place of electrically operated equipment was not reimbursed to the contractor.

The reply of the Management is not acceptable, as the contractor was required to deliver coal at a mutually agreed place/ stockyard irrespective of eventualities without extra cost. Further, due to injudicious provisions under the contract, actual amount recovered from the contractor for consumption of power was significantly less than the amount paid to the contractor for power component under mining fees. The contractor should not have been allowed to derive extra benefit under the contract.

Ministry in its reply (May 2020) while endorsing views of the Management further stated that in the tender, the lowest cost offered on composite basis was accepted by the tender committee. The analysis on single input cost parameter i.e. power component of the estimate, excluding all other input cost parameters of the estimate is not correct as the contractor may be using different set of input resources.

The reply of the Ministry is not specific to audit observation as selection of contractor quoting lowest cost has not been challenged. Since as per the contractual provisions, MCL is responsible for arrangement of power including its payment on actual basis, inclusion of power cost component in the mining fees was not prudent. It only resulted in significant difference between the amount of power cost included in the mining fees and the amount actually recovered from the contractor based on actual consumption of power. The company should review the cost components to be included in the mining fees so that the contractor should not derive any extra benefit under the contract.

Thus, injudicious provisions under the mining contract resulted in the excess payment to contractor to the tune of ₹45.17 crore.

NLC India Limited

3.2 Avoidable expenditure on excavation outsourcing in South West Area of Mine II

Outsourcing contract for lignite excavation in South West Area of Mine II without properly assessing the requirement resulted in avoidable expenditure of ₹28.74 crore.

The lignite requirement for two Thermal Power Stations (TPSs) of NLC India Limited (Company) namely TPS-II and TPS-II Expansion was met from two mines viz. Mine-II and Mine-II Expansion. As per the Annual Action Plan (AAP) prepared by both the TPSs, the total lignite requirement for the year 2015-16 was 13.24 MT. The Mine II & Expansion Division (MIIED) estimated 13.3 Million Tonne (MT) of lignite production from both the mines for the said year. Further, the opening stock of lignite available at Mine II was

0.83 MT. As such, the total estimated quantity of lignite available for operating both TPSs during 2015-16 was 14.13 MT.

During March 2015, MIIED estimated that the lignite requirement would be 14.7 MT and proposed to outsource lignite excavation in South-West area of the Mine II to meet the shortfall. However, the Industrial Engineering (IE) wing of the Company rejected (July 2015) the said proposal stating that the estimated requirement of both the TPSs would only be 13.91 MT and not 14.7 MT as projected by MIIED. IE wing also suggested that the shortfall could be met out using departmental machinery instead of outsourcing.

MIIED re-submitted (29 July 2015) the outsourcing proposal requiring the same quantity and obtained approval from the Director (Mines) on 08 September 2015 as existing equipment were to be diverted to other mines. Accordingly, the Company invited open tender (October 2015) and awarded (December 2015) the outsourcing contract to M/s Mahalakshmi Infracontract Private Limited at a cost of ₹26.29 crore for excavation of 1.5 MT lignite at the South-West Area of Mine II and its transportation to the dump sites. The contract was completed in March 2017 with an actual expenditure of ₹28.74 crore.

Audit observed that for the year 2015-16, opening stock of lignite (0.83 MT), actual quantity of lignite excavated from Mine II (12.15 MT) and transported from Mine IA (0.9 MT[2]) was summed up to 13.88 MT which was sufficient to meet the requirement (13.24 MT as per AAP) of lignite of both the TPSs. It was noticed that the actual quantity of lignite used by these two TPSs during 2015-16 was 12.52 MT only. Further, the lignite available through own excavation and transportation from Mine IA was sufficient to meet the requirement of both TPSs for the year[3] 2016-17 also. Thus, adequate quantities of lignite were available to operate both the TPSs without going into for excavation outsourcing. Despite knowing the above facts, outsourcing contract for lignite excavation was entered into, which was avoidable. Further, the quantity excavated through outsourcing contract resulted in overstocking of inventory and ultimately deterioration in the quality of lignite.

Management replied (December 2018) that non-availability of departmental machines had impact on lignite exposure, performance of some of the departmental machines got deteriorated and to avoid further investment, outsourcing was initiated. Further, the lignite production at Mine IA had to be maintained to achieve the production targets as the lesser production may lead to increase in the cost. Also, the available lignite stock at Mine IA had to be utilised in other Mines. Further, award of outsourcing contract generated substantial revenue which resulted in increase in the profit of Mine II.

Reply of Management is not acceptable as the required production could be achieved with departmental machines. The audit observation was about avoidable outsourcing in respect of Mine II and not about the production in Mine IA. However, in case, the Company was required to maintain the lignite production at Mine IA, it should have considered the targets

[2] ***In September 2015, the Company decided to award a contract to transport 0.7 MT of lignite from Mine IA to Mine II which was renewed in subsequent year. Another contract was awarded in July 2015 for transportation of 0.2 MT of lignite from Mine IA to Mine II***

[3] ***2016-17- Lignite requirement as per AAP – 13.87 MT; Lignite actually used – 13.63 MT, Lignite available- 14.93 MT***

and requirements of lignite across the Company and could have avoided outsourcing excavation of lignite in another mine. Reply on revenue generation and increase in profit, is also not acceptable, as it is the indicative position of Mine II only. Excess production of lignite through outsourcing, in Mine-II resulted in better financial highlights of Mine-II but at the cost of natural resources. Besides this, longer period of storage resulted in deterioration in the quality of lignite as recorded in internal note of the Company. Natural resources need to be exploited on the basis of the need of the time and utilisation capacity of TPSs. Also, Ministry of Coal in its 'Guidelines on Fixation of Transfer Price for NLC Mines', stipulates that for calculation of Working Capital, the inventory of lignite in mines be restricted to 20 days' production to meet the exigency requirements. This has also been overlooked by the Company.

Thus, the total quantity available was adequate to meet lignite requirement of both the TPSs during 2015-16 and 2016-17. Therefore, outsourcing excavation contract was inappropriate and unjustified. This resulted in expenditure of ₹28.74 crore which was avoidable.

The para was issued to the Ministry in December 2019; their response was awaited (June 2020).

NLC Tamil Nadu Power Limited

3.3 Avoidable payment of demurrage charges

Avoidable payment of demurrage charges of ₹8.97 crore to M/s SICAL Logistic Limited in contravention of agreement.

NLC Tamil Nadu Power Limited (NTPL), a subsidiary of NLC India Limited commissioned (June 2015 and August 2015) two units of coal based 500 MW power plant at Tuticorin, Tamil Nadu. NTPL decided to meet fuel requirement of the power plants through indigenous and imported coal. Accordingly, NTPL signed (July 2013) an agreement with M/s SICAL Logistic Limited (SICAL) for transportation of indigenous coal from Bhubaneshwari Coal Mines, Orissa to Tuticorin Port (Port) which was valid upto October 2018.

Clause 2.30 of the agreement stipulated that SICAL shall be responsible for delivery of indigenous coal at Port. Further, clause 2.43 of the agreement envisaged that no claim for any damage/ demurrage/ detention/ idle charges for transportation/ equipment, labour and other enabling facilities organised by the contractor in connection with stevedoring, handling and transportation operation shall be payable to the contractor under any circumstances whatsoever. As per terms of the agreement (Clause 8.1), SICAL had to prepare quarter-wise scheduled loading programme in advance on behalf of NTPL. Further, NTPL had option to revise the schedule by prior intimation of 15 days.

Audit observed that non-preparation of scheduled programme by SICAL and supply of excess quantity of coal by the other contractors importing coal, against the schedule, resulted in bunching of vessels at Port and consequent pre-berthing of vessels during December 2016 to February 2017. SICAL paid the demurrage charges to the Port for pre-berthing of vessels and claimed (July 2017) the same from NTPL. NTPL reimbursed (January 2018) ₹8.97 crore to SICAL, for these charges, contrary to the agreement clause.

Management replied (September 2018) that the supply of coal to power companies is controlled by coal companies depending upon their production level, availability of coal and not on the schedule given by consumers. Moreover, every power generating company tries to maximise stock of coal during the period January to April to maintain the maximum generation level for the upcoming rainy season. Further, agreement clause was amended (December 2015) and a new clause[4] was added for payment of demurrage charges relating to delay in unloading of vessels at Tuticorin Port and hence, there was no excess payment.

The reply of Management is to be viewed against the facts that:

- As per original clause 2.43 of the agreement, no claim for any demurrage was to be paid to contractor by NTPL. Newly added clause as indicated above was applicable only to post berthing delay and not for pre-berthing delay/ detention of the vessels. As such, payment of demurrage for pre-berthing delay i.e. before discharge procedure was in contravention of the agreement.

- The coal supply was regulated by the Coal Supply Agreement entered between M/s Mahanadi Coal Limited (MCL) and NTPL. As such, MCL could not exclusively change the quantity to be supplied.

- NTPL had not made any request for supply of excess/ additional quantity of coal during December 2016 to February 2017 to SICAL as well as MCL.

- Non-preparation of schedule by SICAL and supply of excess quantity of coal by the other contractors importing coal resulted in bunching of vessels at Port and consequently resulted in payment of demurrage charges.

Thus, NTPL made an avoidable payment of demurrage charges of ₹8.97 crore to SICAL in contravention of the agreement.

The para was issued to the Ministry in May 2019; their response was awaited (June 2020).

[4] ***Amendment No. 1 dated 14 December 2015 clause no. 1.0 xxxi in Section IV of agreement***