

## CHAPTER VII: MINISTRY OF STEEL

### MSTC Limited

#### 7.1 *Imprudent financing resulting in non-recovery of dues*

**Financing of procurements by MSTC Limited on behalf of a party having poor credit rating as well as unfavorable financial parameters resulted in non-recovery of dues amounting to ₹220.84 crore.**

MSTC Limited (MSTC) entered (April 2013) into an agreement w.e.f., 12 December 2012 with M/s Concast Steel & Power Limited (CSPL), a private party, for financing import/procurement of Low Ash Metallurgical (LAM) coke, coal and melting scrap under the facilitator mode. As per the agreement, the Company, at the request from CSPL, would open a Letter of Credit on the seller. Further, the material was to be pledged in the name of MSTC and stored at a designated warehouse located within the plant of CSPL under the custody of a custodian. The custodian would deliver the material to CSPL on cash and carry basis after receiving authorization from MSTC. As per the agreement, MSTC would secure from CSPL corporate guarantee, personal guarantee, security deposit and insurance for pledged material against theft, burglary etc., in which the beneficiary will be MSTC for safeguarding its financial interests. A tripartite agreement was also entered (July 2013) into among MSTC, CSPL and the custodian<sup>1</sup>. As per such agreement, CSPL was solely responsible for any shortage of the pledged materials and the value of such shortages, if any, would be payable by CSPL.

In this regard, Audit observed the following:

- The financing of CSPL<sup>2</sup> was in violation of the new Risk Management Policy (January 2013) of MSTC which stated that potential customer securing less than 25 points would not be selected. Further, Credit Analysis & Research Limited (CARE) in its rating (February 2013) degraded CSPL from BBB to BB in long term facilities and A3 (moderate risk) to A4 (high risk) in short term facilities.
- The credit limit exposure of CSPL was increased from ₹40 crore to ₹245 crore in four tranches within a short span from April 2013 to May 2014 despite high/ moderate credit rating calculated by MSTC itself coupled with irregular lifting pattern of pledged materials and piling up of outstanding dues. Furthermore, on enquiry from a leading bank regarding credit worthiness, MSTC was informed (January 2014) that CSPL was irregular in payment of its dues. The above facts indicate that the investment decision of MSTC was not prudent.

<sup>1</sup> *Ferro Scrap Nigam Limited (a subsidiary of MSTC)*

<sup>2</sup> *CSPL had 20 points*

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- The total outstanding dues of CSPL to MSTC till February 2021 was ₹220.84 crore (excluding interest of ₹104 crore and after adjusting security deposit) and no recovery could be made there against.
- All the volumetric assessments (from March 2016 to February 2020) revealed repeated shortages of pledged materials to which MSTC did not take any cognisance. MSTC not only continued financing CSPL but also did not take effective steps for safeguarding such pledged stock for securing its own financial interests.
- No penal provision for deficiency in service in the tripartite agreement precluded MSTC from compelling the custodian to make good such losses of pledged material. MSTC did not take any action for breach of agreement by the custodian and since shortages were due to unauthorised lifting by CSPL as stated by MSTC, it was also unable to avail benefit of insurance coverage.
- Since the National Company Law Tribunal (NCLT) recognised the Company as unsecured operational creditor, the chances of recovery are doubtful and the Company also made a provision for the entire outstanding dues of CSPL in the books of accounts for the year 2018-19.
- Though the Company had taken personal guarantees valuing ₹210.73 crore from the promoters of CSPL during the period from July 2017 to October 2017, it failed to invoke the same within 15 days in the event of any default of payment by CSPL. MSTC, ultimately, invoked the same only in July 2018, i.e., after eight months of CSPL being referred (November 2017) to NCLT. As personal guarantees were not paid, MSTC filed (March 2020) a civil suit.
- The Company could not also take the benefit of invoking corporate guarantee as CSPL was referred to NCLT.

Thus, the imprudent decision of the Company towards extending financial assistance to CSPL under facilitator mode resulted in non recovery of dues amounting to ₹220.84 crore.

Management/ Ministry in their replies stated (September 2019/ March 2020) that the Company continued financing CSPL from time to time by increasing the credit limit exposures with a view to liquidate the pledged materials and realise its outstanding dues and further stated that the irregular payment pattern of CSPL was mainly due to poor market conditions. They also stated that NCLT had ruled (October 2019) MSTC as secured creditor.

Replies of the Management/ Ministry were not tenable because the poor financial health of CSPL was well known to the Company as reflected in the poor financial parameters and credit rating given not only by CARE but also according to the Company's own Risk Management Policy even before entering into the contract. Further, irregular lifting of pledged materials and piling up of outstanding dues as also adverse report given by a leading bank in January 2014, were persistent red flags but those indicators were also ignored and

undue benefits were extended to CSPL by way of continuous increase in credit limit exposure. Regarding the reason cited by the Ministry/ Management for increasing the credit limit exposure to liquidate the pledged materials for releasing its outstanding dues, it was observed that no such reason or concern about poor market conditions were found documented in the records at the time of increasing credit exposure. Further, the ruling of NCLT for MSTC as secured creditor was challenged by the Liquidator and the same is sub-judice with the present position of MSTC being in the NCLT list of unsecured operational creditors (December 2019).

Thus, imprudent decision of the Company towards extending financial assistance to CSPL under facilitator mode resulted in non-recovery of dues amounting to ₹220.84 crore (excluding interest of ₹104 crore and after adjusting security deposit).

**Recommendation No. 9**

*The Company should analyse lapses in decision making in the business proposition with Concast Steel & Power Limited to fix responsibility and take appropriate steps to prevent its recurrence.*

**NMDC Limited**

**7.2 Avoidable extra expenditure towards Operation and Maintenance of the Beneficiation and Pelletisation plants**

**Extension of Operation and Maintenance contract of the Beneficiation and Pelletisation plants at Donimalai on nomination basis by NMDC Limited, without considering condition of the plants and actual scale of operations, resulted in avoidable extra expenditure of ₹36.65 crore.**

NMDC Limited (NMDC/ Company) awarded (January 2015) a contract to M/s KIOCL Limited<sup>3</sup> (KIOCL) on nomination basis for providing operations and maintenance (O&M) services for its 1.89 million tonne per annum Beneficiation<sup>4</sup> and 1.2 million tonne per annum Pelletisation<sup>5</sup> Plant at Donimalai, Karnataka. As per terms of the O&M contract, besides providing O&M services for three years, KIOCL was also required to assist in pre-commissioning (trial run/ provisional acceptance tests) and integrated commissioning of both the plants. Load trial runs of both Beneficiation plant as well as Pelletisation plant were conducted in June/ July 2015 and it was mutually agreed between NMDC and KIOCL to consider 1 August 2015 as date of start for O&M services. This contract was awarded at

<sup>3</sup> Formerly known as Kudremukh Iron Ore Company Limited

<sup>4</sup> The process of conversion of slimes into high grade ore is called beneficiation.

<sup>5</sup> The process of converting the beneficiated ore into balls/ pellets is called pelletisation.

a value of ₹81.93 crore<sup>6</sup> plus taxes. Integrated commissioning of both the plants was done in June 2017.

On expiry of the O&M contract in July 2018, the Company extended this O&M contract for 1 year and 3 months in two spells. The first extension was given in December 2018 for one year i.e., from 1 August 2018 to 31 July 2019 (for ₹45.38 crore plus GST). The contract was further extended the second time in August 2019 for three months i.e., from 1 August 2019 to 31 October 2019 (for ₹11.34 crore plus GST). Thereafter, O&M works were awarded (October 2019) through Open Tender Enquiry for a period of one year from 1 November 2019 to 31 October 2020 for ₹5.75 crore and ₹7.53 crore plus GST in respect of Beneficiation Plant and Pelletisation Plant respectively to the lowest bidder. These contracts were extended for two months (November and December 2020) on the same terms. Subsequently, after Open Tender Enquiry, contract for one year was awarded to same contractors at ₹6.36 crore and ₹8.31 crore plus GST respectively.

Scrutiny of the records revealed the following:

i) Contract for O&M services was awarded to KIOCL initially on nomination basis in 2015. The Beneficiation Plant constantly encountered problems like failure of pressure filter and non-availability of slimes for producing the concentrate. The integrated Pellet Plant had not produced any pellets during 29 of the 36 months of the O&M contract period (August 2015 to July 2018) and during the remaining seven months, the production of pellets ranged between 0.56 and 29.70 per cent of the rated capacity (1 lakh tonne per month). However, despite actual scale of operations being minimal due to machinery breakdown and unavailability of raw material, the Company extended O&M contract with KIOCL on nomination basis twice for a total period of 15 months (in December 2018 for one year from 1 August 2018 to 31 July 2019 and in August 2019 for a period of three months from 1 August 2019 to 31 October 2019). Audit observed that both these extensions were given on the same terms as contained in contract of January 2015 at a cost of ₹56.72 crore<sup>7</sup> plus GST, which shows award of contract without having regard to actual scale of operations.

ii) The contract signed in January 2015 envisaged deployment of 53 executives and 124 non-executives by KIOCL for the services being rendered under the first year of the O&M contract. Contract also envisaged imparting training and induction of NMDC employees progressively so that after acquiring necessary expertise complete operation and maintenance activities may be taken over. However, as training could not be imparted as envisaged due to non-induction of manpower by the Company, KIOCL deployed manpower

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<sup>6</sup> Value of award included charges for Pre-commissioning Services (₹0.30 crore); Commissioning Services (₹1.62 crore); Services during 1<sup>st</sup> year of O&M (₹29.50 crore), Services during 2<sup>nd</sup> year of O&M (₹26.94 crore); Services during 3<sup>rd</sup> year of O&M (₹23.57 crore). Actual expenditure incurred was ₹72.95 crore excluding taxes.

<sup>7</sup> ₹45.38 crore for the period from 1 August 2018 to 31 July 2019 and ₹11.34 crore for the period from 1 August 2019 to 31 October 2019.

as per the contract terms even during second and third year of the O&M contract. This necessitated extension of contract and reliance on outsourcing of works.

iii) Subsequently, the Company analysed the current production levels and outsourced the O&M works through Open Tender Enquiry and awarded (October 2019) the same for a total value of only ₹13.28 crore *plus* GST to M/s Sri Saipriya Enterprises, Hospet (₹5.75 crore – O&M contract for Beneficiation Plant) and M/s Vishal Enterprises, Hospet (₹7.53 crore – O&M contract for Pelletisation Plant) for a period of one year from 1 November 2019.

Had the Company exhibited this due diligence on time and outsourced the works after competitive bidding from 1 August 2018 onwards i.e., immediately after end of three years period of O&M contract with KIOCL, the Company could have saved ₹36.65 crore<sup>8</sup> during 1 August 2018 to 31 October 2019.

The Management (August 2020) and Ministry (December 2020), while accepting the fact that manpower deployment by KIOCL remained constant due to non-induction of manpower by NMDC, stated that:

i) O&M contract was awarded to KIOCL as they were pioneers in Pellet Plant operation in India and had the expertise to carry out O&M in such Beneficiation and Pellet plants. Skilled and experienced manpower are generally not available on “On and Off” basis/ temporary need basis and hence, to operate any process plant like Pellet Plant, especially skilled manpower is required and hence they are to be deputed on continuous basis which were provided by KIOCL.

ii) As O&M contract for operating the plant by outsourcing was unique and was being done for the first time in NMDC, multiple reviews/ opinions were carried out and all due care and precautions were taken prior to floating the tender, so that the tender floating becomes successful. The process of floating tender and inviting competitive bids, seeking clarifications, etc., took around three months’ time, and accordingly, contract period with KIOCL had been extended for only three months i.e., from 1 August 2019 to 31 October 2019, so that the separate O&M contract of Pelletisation and Beneficiation Plant could be finalised. Hence, the Company could save ₹40.16 crore (₹4.46 crore<sup>9</sup> x 9) by not extending the KIOCL contract for another nine months.

Reply of the Management/ Ministry needs to be seen in light of the following facts:

i) While awarding the contract to KIOCL on nomination basis in 2015, only due-diligence exercised by NMDC was to compare option of carrying out the work in-house by NMDC *vis-à-vis* outsourcing to KIOCL. No other alternatives were explored. Further,

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<sup>8</sup> *Difference between actual payment for 15 months made to KIOCL (₹53.41 crore) and rates at which contract was awarded to M/s Sri Saipriya Enterprises and M/s Vishal Enterprises for next 15 months (₹16.76 crore).*

<sup>9</sup> *This figure has been taken by the Ministry on the basis of price, inclusive of GST, for extended contract for the period of 3 months viz., 1 August 2019 to 31 October 2019. This amount was ₹13.39 crore.*

KIOCL had deployed the same contractors, M/s Sri Saipriya Enterprises and M/s Vishal Enterprises, for the supply of skilled, semi-skilled and unskilled workers, for mechanical, electrical, instrumentation and maintenance works at Pellet Plant, Donimalai during July 2017 to October 2019, who were awarded works directly through Open Tender Enquiry by the Company subsequently from 1 November 2019. Hence, the contention regarding non-availability of skilled and experienced manpower does not hold good.

ii) As per Clause 15.3 of the O&M contract with KIOCL, the Company was to induct 34 personnel annually and get them trained by KIOCL. For this, NMDC was to pay ₹4.69 crore to KIOCL as training and capacity building fee and in return it could get a discount of ₹12.73 crore from the O&M charges payable. As per this provision, by the end of three years, 102 personnel of the Company could have been trained. However, no manpower of NMDC was inducted during the second and third year. This led to award of O&M contract of the plant for extended period to KIOCL on the grounds of lack of skilled manpower to operate and supervise the plant and subsequently the contract was outsourced to other contractors as mentioned above.

iii) As the contract with KIOCL was concluding by 31 July 2018, the Company should have taken note of the capacity utilisation and constraints in operation of the plants and taken pro-active measures by the end of third year of O&M contract to bring economy in the O&M expenses. The Company in its note (November 2018) seeking extension of the O&M contract for fourth year, stated that an Open Tender Enquiry will be floated for fifth year for availing competitive rates linked to the scale of operations. The Company initiated the proposal for issue of Open Tender Enquiry in May 2019 stating that even recovery of O&M contract cost placed on KIOCL was not feasible at that point of time. Thereafter, Open Tender Enquiry was issued on 8 July 2019 and contracts for outsourcing of O&M services were awarded only in October 2019. Hence, the Company could not even award contract from start of the fifth year (1 August 2019) on competitive terms and O&M contract with KIOCL had to be extended by another three months (1 August to 31 October 2019) at ₹11.34 crore excluding GST. Regarding savings of ₹40.16 crore mentioned in the reply of Ministry/ Management, this has been worked out from November 2019 to July 2020 for not extending the KIOCL contract for another nine months, whereas the Company could have saved ₹36.65 crore for the period August 2018 to October 2019, had it acted timely and outsourced the works on competitive terms.

Thus, lack of due diligence on the part of the Company in extending O&M contract without reference to the actual scale of operations resulted in avoidable extra expenditure of ₹36.65 crore.

### 7.3 Payment of registration charges and stamp duty twice for Mining Lease

**Avoidable expenditure of ₹48.36 crore on account of failure of NMDC Limited in obtaining specific assurance from the Government of Chhattisgarh regarding waiver from payment of registration charges and stamp duty twice within a year, once by NMDC Limited and subsequently by its Joint Venture Company NMDC-CMDC Limited.**

NMDC Limited (NMDC) was sanctioned in 1991, prospecting license in respect of 631.34 hectares of land for Deposit 13 at Bailadila, Chhattisgarh. After conduct of prospecting activities (December 1991 to December 1993), NMDC applied for mining lease in 1994 and became the first applicant for 631.34 hectares. The mining lease area was later (June 2005) revised to 413.745 hectares. NMDC signed (July 2006) a Memorandum of Understanding (MoU) with Chhattisgarh Mineral Development Corporation Limited (CMDC), a State Public Sector Undertaking of Government of Chhattisgarh, to develop the Deposit 13 mines. The MoU provided for creation of a joint venture company (NMDC-CMDC Limited) by NMDC and Chhattisgarh Mineral Development Corporation Limited (equity holding in the ratio of 51 per cent and 49 per cent respectively). It also envisaged the transfer of the mining lease granted to NMDC to the joint venture company and that further required steps would be undertaken by the joint venture company. The Mineral Resources Department, Government of Chhattisgarh approached (10 November 2006) the Ministry of Mines, Government of India for prior approval for grant of mining lease in favour of NMDC in Deposit 13 mines. The proposal also cited the additional condition that the mining lease awarded to NMDC would be transferred to the joint venture between NMDC and Chhattisgarh Mineral Development Corporation Limited. The joint venture company NMDC-CMDC Limited was formed in June 2008.

NMDC meanwhile, applied (January 2003) for statutory clearances and permissions which got delayed<sup>10</sup>. The Stage II Forest Clearance was finally granted by Ministry of Environment, Forest and Climate Change (MOEF&CC) on 9 January 2017 and thereafter NMDC got the mining lease registered in its favour by payment of ₹44.26 crore towards registration charges (₹18.44 crore) and stamp duty (₹25.82 crore) in January 2017. After a period of only 10 months in December 2017, this mining lease was transferred in the name of the joint venture company NMDC-CMDC Limited, as per the terms of the MoU, and payment of ₹52.30 crore was made, towards registration charges (₹21.79 crore) and stamp duty (₹30.51 crore).

In this regard, Audit noted the following:

- i) NMDC incurred avoidable expenditure on account of payment made twice for registering the same mining area first in its own name and then subsequently transferring it to the joint venture company after a gap of only 10 months (January 2017 and December 2017).

<sup>10</sup> Highlighted in Para 3.3 of C&AG Report No. 5 of 2019

ii) NMDC failed to protect its financial interest while agreeing to incur expenditure twice for a mining lease that was finally meant to be transferred to its joint venture company. The State Government of Chhattisgarh, collected the charges of registration and stamp duty on two occasions for the same mining area although Chhattisgarh Mineral Development Corporation Limited was a public sector undertaking of Government of Chhattisgarh, and held 49 *per cent* shareholding in the joint venture company.

iii) NMDC, before agreeing to such a transaction, could have obtained specific assurance from the Government of Chhattisgarh, through CMDC, regarding waiver from payment of registration charges and stamp duty twice, once by NMDC Limited and subsequently by its joint venture company NMDC-CMDC Limited.

iv) It could have ensured inclusion of a specific clause granting protection from payment of Registration and Stamp Duty twice, in the Shareholders cum Joint Venture Agreement which included the obligations of both the parties to the Joint Venture.

The failure of NMDC to obtain such assurance, resulted in the payment of registration charges and stamp duty twice for registering the same mine (Deposit 13), first by NMDC and then for the second time by the joint venture company NMDC-CMDC Limited. NMDC incurred avoidable expenditure to the extent of ₹48.36 crore (49 *per cent* of ₹44.26 crore *plus* 51 *per cent* of ₹52.30 crore), assuming that the joint venture company would have borne the registration charges and stamp duty in the first instance itself.

Management stated (August 2021 and September 2021) that the Shareholders Agreement is between NMDC and CMDC and the State Government was not a party to the Agreement. Therefore, neither NMDC nor CMDC were in a position to make any such commitment on behalf of the State Government. It was also stated that NMDC-CMDC was pursuing with the Government of Chhattisgarh for adjustment/ refund of the amount.

Reply of the Management is to be viewed in light of the fact that CMDC is a public sector undertaking of the Government of Chhattisgarh and has Secretaries of the Finance Department, the Mineral Resources Department and other senior State Government officers of the Government of Chhattisgarh as members of its Board. Further, the Government of Chhattisgarh in a specific clarification obtained by Audit in this regard, stated (June 2021) that the stamp duty paid in the second instance was not refundable.

Thus, failure of NMDC to include a specific assurance from Government of Chhattisgarh, through CMDC, regarding waiver of registration charges and stamp duty in the Shareholders cum Joint Venture Agreement resulted in avoidable expenditure of ₹48.36 crore.

The Audit paragraph was issued to the Ministry in August 2021; their response was awaited.

**Rashtriya Ispat Nigam Limited****7.4 Avoidable expenditure due to delay in decision making**

**Inordinate delay in finalisation and signing of Long Term Agreement for procurement of Benga Thermal Coal by Rashtriya Ispat Nigam Limited resulted in avoidable expenditure of ₹12.39 crore.**

Rashtriya Ispat Nigam Limited (RINL) consumes boiler coal in its captive power plant for generation of power. RINL has a Fuel Supply Agreement (FSA) with Mahanadi Coalfields Limited (MCL) for supply of boiler coal. As the boiler coal supplies received from MCL were of inferior quality with low calorific value, RINL has to blend the same with boiler coal of higher calorific value to generate power at optimum levels.

RINL procured (August 2017) Benga thermal coal from M/s Minas De Benga Limitada, Mozambique (MBL), a subsidiary of International Coal Ventures Private Limited (ICVL)<sup>11</sup>, and consumed (September 2017) in its captive power plant on trial basis. As the trial was successful, RINL proposed (September 2017) to purchase three shipments of Benga thermal coal and to have a Long Term Agreement (LTA) with M/s MBL. M/s MBL agreed (October 2017) to supply three shipments of Benga thermal coal and offered a discount of USD 27.35 Per Metric Tonne (PMT).

RINL requested (16 November 2017) M/s MBL to supply the shipments in December 2017 and January 2018. Upon negotiation by RINL, pricing mechanism was revised (22 November 2017) by M/s MBL with discount offered being revised to USD 24.73 PMT from USD 27.35 PMT on base price<sup>12</sup> and an additional discount of USD 6 PMT was offered on FOB price<sup>13</sup>. Downward revision of discount was as per another competitive bid received by M/s MBL in their global tender of October 2017. RINL placed (14 December 2017) an order on M/s MBL for supply of two shipments of Benga thermal coal of 33,000 MT each with a discount of USD 24.73 PMT on the base price and additional discount of USD 6 PMT on FOB price. First shipment was received in the laycan<sup>14</sup> of 01-06 December 2017. For the second shipment, M/s MBL informed (12 December 2017) RINL that pricing mechanism will not remain the same as additional freight discount of USD 6 PMT would not be possible. RINL requested to continue the freight discount of USD 6 PMT for January shipment also. M/s MBL responded (23 December 2017) that discount of USD 6 PMT together with a lower cap of USD 60 per tonne could be accepted if RINL agreed for LTA at one shipment per month for a period of one year.

<sup>11</sup> ICVL was set up as a Joint Venture company with Steel Authority of India Limited, Coal India Limited, Rashtriya Ispat Nigam Limited, NMDC Limited and NTPC Limited as the promoter companies with one of the objective being to ensure supply of imported met coal.

<sup>12</sup> The Base Price is the API#4 price (as per Argus/ McCloskey's Coal Price Index Report) which shall be the average of two weeks' price immediate prior to the week in which Bill of Lading is issued.

<sup>13</sup> FOB Price = (Base Price PMT less USD 24.73 PMT) x (Actual Calorific Value on Net as Received (NAR) basis/ 5500).

<sup>14</sup> Laycan is the period of specified days during which owners must present the vessel for loading.

On seeking further confirmation, M/s MBL agreed (26 December 2017) to the RINL proposal of continuing additional discount of USD 6 PMT and also to remove the lower cap of USD 60 PMT provided the shipments were treated as a part of LTA and proposed pricing terms were treated as provisional which would be finally settled as per LTA terms and conditions. This was agreed to in-principle by RINL and M/s MBL was intimated (27 December 2017) that draft terms would be forwarded after taking internal approvals. Accordingly, RINL placed (13 January 2018) an order on M/s MBL for supply of Benga thermal coal from January 2018 as part of LTA pending finalisation of terms and conditions.

RINL constituted (2 March 2018) a committee to negotiate with M/s MBL and to recommend detailed terms and conditions for LTA. The committee prepared the draft terms and conditions of LTA in June 2018. Meanwhile, M/s MBL reduced (14 May 2018) the discount from USD 24.73 PMT to USD 22.74 PMT and also reduced (31 May 2018) the additional discount from USD 6 to USD 3 PMT on FOB price citing that cargoes were priced provisionally with the understanding that RINL would enter into an LTA which did not happen so far. Subsequently, RINL concluded (31 January 2020) an LTA with M/s MBL, after holding negotiations on 25 September 2018, 14 November 2018 and 13 August 2019, for a period from January 2018 to March 2021 with an option to extend the duration of agreement by two more years up to 31 March 2023 at the sole discretion of RINL. As per pricing mechanism agreed upon under this LTA, for shipments up to 12 August 2019, the provisional price was considered as final price and for subsequent shipments, M/s MBL offered a discount of 23 *per cent* on Published Market Price (PMP)<sup>15</sup> and an additional discount of USD 6 PMT on FOB Price for shipments up to 31 March 2020. RINL imported 7,22,048 MT of Benga thermal coal during January 2018 to December 2019.

Audit scrutiny of records revealed that RINL envisaged the necessity for continued and ensured supply of imported boiler coal and to have a long term tie-up with M/s ICVL as early as September 2017. M/s MBL proposed (26 December 2017) to continue the discount of USD 24.73 PMT on the base price and additional discount of USD 6 PMT on FOB price, for second shipment, provided the shipments were treated as part of LTA (one shipment per month for a period of one year). This was agreed in-principle by RINL and communicated to M/s MBL vide mail dated 27 December 2017.

However, though the Committee of Management (COM)<sup>16</sup> accorded (13 January 2018) in-principle approval for entering into LTA with M/s MBL, the Committee to negotiate and recommend terms of the LTA was constituted only on 2 March 2018. Further, the Committee constituted could not conclude the terms within a reasonable time, and the LTA

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<sup>15</sup> *Published Market Price (PMP) means the average of the two weeks API#4 Index Price, in US\$ per metric ton, immediate prior to the week in which the Bill of Lading is issued. Monday will be counted as the first day of the week. The API#4 Index means the Argus/ McCloskey's Coal Price Index Report.*

<sup>16</sup> *Committee of Management is an empowered committee constituted by Board of Directors. This committee consists of all the functional directors as its members and is headed by Chairman-cum-Managing Director.*

was concluded on 31 January 2020 i.e., more than two years after according in-principle approval for the same. This resulted in M/s MBL reducing the discounts in May 2018. As a result, subsequent to May 2018, RINL incurred avoidable expenditure of ₹12.39 crore towards the discount forgone for the nine shipments procured at a cost of ₹186.04 crore.

Management in November 2020 and Ministry in March 2021 stated that a cross-functional Committee comprising members from different departments was constituted for finalisation of the terms and conditions of the LTA and terms of LTA were finalised after several discussions and reaching mutual agreement on some of the terms and conditions especially the final pricing mechanism, payment terms, rebate/ diminution clauses took some time. The provisional price was envisaged only for operational convenience to operate the agreement and take delivery of the material and it may not be appropriate to treat the difference in the provisional price as avoidable additional expenditure due to time taken in finalisation of terms and conditions of the LTA. The reply also stated that whereas M/s MBL was referring to LTA as one shipment per month for a period of one year, requirement of RINL was to have an agreement on long term basis for a period of five years and for further renewal with mutual consent.

The reply of Management/ Ministry needs to be seen in light of following facts:

- The need for long term agreement of Benga thermal coal for operation of captive power plant was being discussed in RINL since September 2017. The fact that prices offered by M/s MBL would keep fluctuating depending on their global tenders was also clear to RINL since November 2017. M/s MBL had also made it clear in its correspondences of December 2017 that they would be able to continue with freight discount of USD 6 PMT only if these shipments are made a part of LTA. Despite this, RINL failed to conclude the terms of LTA within a reasonable time and took 748 days to finalise and sign the LTA.
- While reducing the discount, M/s MBL categorically mentioned (14 May 2018) that the earlier cargos were based on a provisional price with the understanding that RINL would enter into an LTA which did not materialise and hence, they cannot extend additional discount of USD 6 PMT any further.
- As per the terms of the Global Tender issued by M/s MBL for a similar sale of thermal coal in November 2018, the discount quoted was to remain firm during the performance of the Agreement. Accordingly, RINL could have considered the option of finalising LTA initially for a period of one year and in the intermittent period negotiated for a long term LTA.
- Even if intention of RINL was to enter into LTA for five years or more, taking time of more than two years in finalising the terms is not justified.

Thus, inordinate delay in concluding the terms of LTA with M/s MBL resulted in RINL incurring an additional expenditure to the tune of ₹12.39 crore (6.65 *per cent* of procurement cost) towards the discount foregone.

## Steel Authority of India Limited

## 7.5 Loss on account of rejection of medical claims

**Loss of ₹22.30 crore due to rejection of claims under SAIL Mediclaim Scheme by the insurance companies during 2017-18 to 2019-20 on account of non-submission of requisite documents/ information.**

Steel Authority of India Limited (SAIL/ Company) has been operating a Mediclaim scheme which extends medical benefits to the families of the retired employees of the Company. The scheme covers reimbursement of hospitalization (IPD) and Outpatient Department (OPD) expenses within the prescribed limits<sup>17</sup>. The scheme is operated by an insurance company and as determined by SAIL, the premium is shared between the Company and the Mediclaim member. Third Party Administrator is appointed by the insurance company to extend help for submission of claims to members seeking treatment at seven hospitals<sup>18</sup> of SAIL and private hospitals.

**Table 7.1: Details of Mediclaim Insurance scheme from 2017-18 to 2019-20**

Year	Insurance Company	Third Party Administrator	Number of mediclaim members	Premium amount (₹ in crore)	Premium share of member (₹ in crore)	Premium share of SAIL (₹ in crore)
2017-18	United India	MD India Health Insurance TPA Private Limited	1,19,436	155.90	39.19	116.71
2018-19	United India		1,24,300	158.60	39.85	118.75
2019-20	The New India Assurance		1,17,049	206.62	50.71	155.91

Analysis of data in respect of seven hospitals of SAIL for the period from 2017-18 to 2019-20 revealed that out of 3,01,080 claims (₹118.35 crore), 21,726 claims (₹22.30 crore) were rejected by the insurance companies due to non-submission of requisite documents/ information by the SAIL hospitals. The proportion of rejected claims amount-wise was approximately 19 per cent of the asserted claims, which is significant.

**Table 7.2: Details of claims rejected for the period 2017-18 to 2019-20**

Sl. No.	No. of claims rejected	Amount of claims rejected (₹ in crore)	Reason for rejection
1.	13,419	20.06	Requested claim documents were not submitted
2.	1,251	0.77	Documents did not show that active line of treatment was provided
3.	1,836	0.43	Prescription of medicine bill was not available

<sup>17</sup> IPD (Hospitalization) benefits: ₹2 lakh per member per policy period with clubbing facility under hospitalization with his/her spouse (maximum clubbed limit is ₹4 lakh per policy period). OutPatient Department Benefit: ₹4,000 per member (for members below 70 years) and ₹8,000 per member (for members 70 years and above).

<sup>18</sup> IGH, Rourkela; BGH, Bokaro; DSP Hospital, Durgapur; ISP Hospital, Burnpur; JLN Hospital, Bhilai; Steel Plant Hospital, VISL, Bhadravati and SSP Hospital, Salem

Sl. No.	No. of claims rejected	Amount of claims rejected (₹ in crore)	Reason for rejection
4.	5,078	1.01	Date/ MIN no./ Name of patient not mentioned on bill/ prescription
5.	126	0.03	Investigation report not available
6.	16	0.004	Authentic bill not available
<b>Total</b>	<b>21,726</b>	<b>22.30</b>	

In this regard, Audit observed the following:

SAIL formulated (May 2017), a procedure for smooth implementation of Mediclaim scheme, in view of increase in the number of members and claims being lodged and to ensure satisfactory performance of insurance company/ Third Party Administrator. The procedure defined the roles and responsibilities of officials from Personnel Department and Hospitals/ units/ Corporate Office clearly. However, the prescribed procedures like appointment of nodal officer, non-submission of prescribed reports to concerned officials etc., were not strictly adhered to as cited below:

- As per the stipulated procedure, Head of Medical of SAIL hospitals was required to designate a Nodal Officer-Medical from the concerned SAIL hospital. Such Nodal Officer-Medical was responsible to ensure that the doctors complied with the documentation requirement so that the claims were settled by the insurance company without delay. Nodal Officer-Medical was not appointed at Bokaro Steel Plant; at Rourkela Steel Plant was appointed after a delay of 20 months in January 2019 and was not appointed at IISCO Steel Plant during 2017-18.
- Nodal Officers-Medical also had to ensure that all documents required by the insurance company/ Third Party Administrator pertaining to IPD cases were submitted weekly to the Third Party Administrator. They also had to prepare report on the claims submitted and settled pertaining to SAIL hospitals for perusal of the Head of Medical. Besides the above, Nodal Officer-Medical had to forward a quarterly report on the above to the Corporate Nodal Officer. It was seen that neither did the Nodal Officer-Medical ensure timely submission of required claim documents to Third Party Administrator, nor did he prepare the requisite reports regularly for perusal of Head of Medical of SAIL. The quarterly report as prescribed was also not submitted to Corporate Nodal Officer on a regular basis.

Thus, 19 *per cent* of the asserted claims (21,726 claims) valuing ₹22.30 crore were rejected by the insurance companies due to non-submission of requisite documents/ information by the SAIL hospitals.

Management replied (January 2021) that amount of documentation and sequencing required for proper submission of claims was difficult for SAIL hospitals due to lack of infrastructure and manpower. SAIL Plant Hospitals were initially not equipped to undertake processes to lodge claims with the insurance agencies. System is being revamped and the changes which have been brought about, have started to yield positive results.

Reply of the Management is not acceptable as SAIL Mediclaim scheme has been in operation for last 30 years and specific roles and responsibilities of officials involved in implementation of the scheme were defined, but Management was unable to create sufficient infrastructure and deploy adequate manpower for successful implementation of the scheme. Also, despite revamping of the system by Management, rejection of claims continued in 2019-20.

If requisite documents/ information had been ensured by SAIL, rejection of 19 *per cent* of amount claimed (₹22.30 crore) from the insurance companies during 2017-18 to 2019-20 could have been avoided. The lapses in implementation of SAIL Mediclaim Scheme resulted in loss to SAIL and unless concrete measures are taken the Company would continue to incur significant losses even in the future.

The Audit paragraph was issued to the Ministry in February 2021; their response was awaited (July 2021).

***Recommendation No. 10***

*SAIL may ensure availability and submission of requisite documents/ information in respect of insurance claims under the SAIL Mediclaim Scheme to avoid incurring such losses in future.*

**The Bisra Stone Lime Company Limited**

**7.6 Avoidable expenditure towards payment of stamp duty and registration charges**

**Unrealistic projection of production in Mining Plan led to avoidable expenditure of ₹6.97 crore towards payment of stamp duty and registration charges by the Bisra Stone Lime Company Limited.**

The Bisra Stone Lime Company Limited (BSLC or Company) operates one limestone and one dolomite mine in Odisha and had a mining lease area of 793.96 hectare. The mining lease was extended<sup>19</sup> (May 2015) by the Government of Odisha for the period from March 2000 to March 2020. Supplementary lease deed was executed by BSLC in December 2015 over an area of 793.04 hectare excluding forest land of 0.92 hectare. Subsequently, the validity of the mining lease was extended (March 2020) upto March 2040.

As per gazette notification issued (January 2012) by the Government of Odisha, highest annual production planned in the Mining Plan should form the basis for assessment of stamp duty. The Government of Odisha's notification also provided that in case, the production level is enhanced through the modification of Mining Plan in future, the stamp duty would be reassessed on the differential production and the lessee should deposit the differential stamp duty before such enhancement is actually carried out.

<sup>19</sup> *Company had filed for renewal of the mining lease in a timely manner in 1999, but renewal was granted in 2015. During this period the Company was operating under deemed extension as per provisions of Rule 24A-(6) of Mineral Concession Rule 1994.*

BSLC modified (September 2010) its Mining Plan for 2008-13 to increase its annual production projection of limestone and dolomite to 52.61 lakh tonne per annum during 2010-11 to 2012-13, which was a six-fold increase from existing 8.66 lakh tonne per annum. The enhanced production estimate was continued in its Mining Plan for the period 2013-14 to 2017-18 (approved in August 2014), subsequently extended (April 2018) upto March 2020, projecting production of 28.31 lakh tonne per annum limestone and 24.30 lakh tonne per annum dolomite. Based on the highest annual production projections in the Mining Plan of 2013-18 which was in force at the time of extension (May 2015) of the mining lease by Government of Odisha, the Company paid (March 2016) stamp duty and registration fee of ₹8.60 crore for the period 2000-01 to 2019-20.

Audit analysis of six-fold increase in annual production projected by the Company (from 8.66 lakh tonne per annum to 52.61 lakh tonne per annum) revealed that it was not justified for the reasons cited below:

- i) The Company could produce 8.30 lakh tonne of limestone and dolomite annually during preceding five years from 2008-09 to 2012-13. Annual production target for limestone and dolomite fixed by the Board of Directors for the years 2013-14 to 2017-18 was between 7.20 lakh tonne and 9.60 lakh tonne only. Notably, even when the payment of stamp duty and registration charges was made in May 2015, the actual production during previous year (2014-15) was 1.05 lakh tonnes and the annual production target for the year 2015-16, was fixed at 9.60 lakh tonnes.
- ii) SAIL and RINL were the main customers of limestone and dolomite. There were no orders from the customers beyond 9.60 lakh tonne. BSLC expected increase in market demand of dolomite in view of enhanced production/ requirement of SAIL after modernisation of SAIL plants. Expectation of enhanced demand was, however, not backed by commitment from the customer. Further, SAIL in the past had lifted even lesser quantity of dolomite than committed in the MoU due to quality issues. The Company was also not able to find any customer having long-term requirement for limestone.
- iii) The Company had problems like low profit margin, high labour cost, non-availability of mining equipment, lack of skilled operators and inability to install departmental crushers for want of fund. All three crusher plants owned by the Company were old and worn out and could annually generate only about 3.60 lakh tonne of dolomite.
- iv) BSLC had not enhanced its infrastructural capacity in line with the enhancement in production estimates considering the debt burden and huge investment required for mining machinery, workshops, buildings, inventory etc.

Thus, the estimation for six-fold increase in production in the Mining Plan was not based on facts as it was not based on its ability to produce as well as demand for its products in

market. This resulted in avoidable payment of ₹6.97 crore<sup>20</sup> on stamp duty and registration charges.

Management replied (January 2021) that:

- BSLC modified the Mining Plan for production of 52.61 lakh tonne per annum after receipt of Terms of Reference for compliance of environmental clearance from Ministry of Environment, Forest and Climate Change. As the environmental clearance was under process, BSLC continued to show the same production capacity i.e., 52.61 lakh tonne per annum in the subsequent Mining Plan to match the environmental clearance quantity and expecting increase in market demand of dolomite and limestone also.

The projected level of production could not materialise since BSLC had no lease beyond 31 March 2020. Demand for dolomite was so high that environmental clearance quantity may have to be enhanced in near future. If the demand went up, Company would address the infrastructure required through outsourcing agencies,

- Keeping in view the long term progressive goals of the Company, the decision of 52.61 lakh tonne per annum was right and stamp duty and registration fees had to be paid to keep the prospects of the Company in hand.

Ministry reiterated (March 2021) the reply of the Management and added that initially applying for a smaller quantity and later extending it by paying the differential stamp duty would not have proved to be practicable as it took long time to get the statutory clearances.

Reply of Management/ Ministry is not acceptable in view of the following:

- There was no requirement in the Terms of Reference to revise the highest production level in the Mining Plan to match it with the projected production level indicated in the application for environmental clearance. It only required the documents to be compatible with each other without conflict. Thus, production level in Mining Plan could be less than that of environmental clearance but not more. Other mining companies like Odisha Mining Company and Tata Steel also had higher quantity prescribed in their environmental clearance as compared to their Mining Plans.
- Moreover, at the time of submission of application (November 2013) for Mining Plan for 2013-18, the Company had environment clearance to produce 9.60 lakh tonne per annum for both limestone and dolomite<sup>21</sup>.
- During 2013-14 to 2019-20, average annual production of limestone and dolomite was 4.49 lakh tonne per annum and the Company incurred continuous losses. Therefore, enhancing of annual production projection was not based on actual production or realistic estimation.

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<sup>20</sup> *Calculated considering total 9.60 lakh tonne per annum production of limestone and dolomite at higher rate of royalty applicable for limestone.*

<sup>21</sup> *Environmental Clearance for 52.61 lakh tonne was granted in March 2016.*

- The contention of Management that in view of the long term progressive goals, the decision of enhancing annual production projection to 52.61 lakh tonne per annum was correct may be seen in the light of the fact that enhanced demand of 52.61 lakh tonne per annum projected by the Management was not justified by the annual production of 7.20 lakh tonne to 9.60 lakh tonne per annum planned during the period (2013-14 to 2017-18). Besides, Management had the option to enhance the production level in the Mining Plan subsequently with payment of differential stamp duty according to the Government of Odisha's notification issued in January, 2012.
- The contention of Ministry that it took long time to obtain statutory clearance in respect of Mining Plan may be seen in light of the fact that Indian Bureau of Mines stipulated a maximum time of 90 days for approval/ rejection of Mining Plan submitted by a lessee.

Thus, unrealistic projection of production of 52.61 lakh tonne per annum of limestone and dolomite in the Mining Plans for 2008-13 and 2013-20 resulted in avoidable expenditure of ₹6.97 crore towards stamp duty and registration fees.

#### **The Orissa Mineral Development Company Limited**

##### **7.7 Avoidable expenditure on account of penal interest**

**The Orissa Minerals Development Company Limited incurred avoidable expenditure of ₹174.04 crore on account of penal interest on delayed payment of compensation to the Government of Odisha towards illegal mining.**

The Orissa Minerals Development Company Limited (OMDC or Company) operates six<sup>22</sup> iron ore and manganese ore mining leases located in Odisha.

Hon'ble Supreme Court of India ruled (August 2017) that penalty be levied on lessees for illegal mining activities like production without/ in excess of environment clearance and forest clearance. Accordingly, Government of Odisha demanded (September/ October 2017) penalty of ₹643.27 crore from OMDC<sup>23</sup> for violation of environment clearance and ₹58.91 crore towards penalty for production of excess minerals beyond the approved limits prescribed in the Mining Plan and Consent to Operate. The penalty was to be paid before 31 December 2017. OMDC paid only ₹14.80 crore (28 December 2017).

Hon'ble Supreme Court of India further directed (30 January 2018) Government of Odisha to take coercive action to recover the unpaid dues from the defaulting mining leaseholders. Government of Odisha initiated (June 2018) action against OMDC under Odisha Public Debt Recovery Act, 1962 for recovery of balance amount with interest. OMDC paid

<sup>22</sup> *Three leases (Bagiaburu, Bhadrashahi and Belkundi) were in the name of OMDC and three (Kolha-Roida, Dalki and Thakurani) were operated by OMDC through a power of attorney from Bharat Process and Mechanical Engineers Limited.*

<sup>23</sup> *The fact of non-adherence to mining statutes leading to penalty was brought out in the CAG Audit Report-Union Government (Commercial) No. 13 of 2019.*

₹876.22 crore in phases (upto 3 October 2019) as full and final payment of penalty including penal interest of ₹174.04 crore.

Audit analysis of the payment of penal interest of ₹174.04 crore by OMDC revealed the following:

- i) Central Empowered Committee constituted by Hon'ble Supreme Court of India (Empowered Committee) had conveyed (4 December 2017) that compensation recoverable against its order had no scope for deduction of rent, royalty, taxes. OMDC however, deducted such expenditure while calculating the penalty payable.
- ii) Besides, OMDC could claim deduction for undisposed stock, only if steps had been taken for handing over of the same to Government of Odisha before 28 February 2018. Without handing over the undisposed stock, OMDC deducted the cost of production of raised minerals and paid an amount of ₹14.80 crore only till the stipulated deadline of 31 December 2017.
- iii) Company also overlooked the legal opinion obtained (December 2017) which had also advised payment of the admitted amount to establish its bona fide intention. Instead it filed (December 2017) a revision petition against demand of Government of Odisha, which was dismissed (January 2018) by the Revisional Authority, Government of India on the ground that the issue was already dealt by the Empowered Committee.

Thus, despite clear directions for payment by Empowered Committee, Government of Odisha, Hon'ble Supreme Court of India, Government of India and legal advices obtained by the Company (December 2017/ May 2018/ December 2018), the Company did not make full payment of compensation within the stipulated timeline and the delay in payment resulted in avoidable penal interest of ₹174.04 crore.

Management in its reply (March 2021) stated that

- Adequate funds were not available and for taking decision about such a huge amount, there was considered process for intimation/ approval of higher management and OMDC Board which led to payment of interest for delay,
- Insolvency Resolution Professional was appointed by National Company Law Tribunal in February 2018 and OMDC was released from the proceedings and allowed to function independently through its Board of Directors since 7 August 2018.

The reply of Management is not acceptable in view of the following:

- The Company had unencumbered bank balance of ₹807.84 crore as on 31 December 2017 whereas balance penalty payable was only ₹687.39 crore.
- The Insolvency Resolution Professional was appointed in February 2018, whereas the payment of penalty was to be made before December 2017. Besides, even after release from the insolvency proceedings (7 August 2018), the Company took 14 months (3 October 2019) for payment of dues which attracted penal interest.

Thus, delay by the Management in payment of compensation, ignoring the directions of Empowered Committee, Government of Odisha, Hon'ble Supreme Court of India, Government of India and legal advices obtained in this regard resulted in avoidable payment of penal interest amounting to ₹174.04 crore.

The Audit paragraph was issued to the Ministry in April 2021; their response was awaited (July 2021).