# ENERGY CLUSTER

# CHAPTER I: MINISTRY OF COAL

## Coal India Limited

### *1.1 Avoidable payment towards hangar rent due to retention of inoperative helicopter and aircraft for over eight years*

**Coal India Limited procured a helicopter (1991) and an aircraft (1993), which remained inoperative from March 2009 and February 2012 respectively. Airworthiness of the helicopter and the aircraft was valid only till July 2010 and September 2013 respectively and was not renewed. Despite decision by Functional Directors (October 2012/ January 2013) to survey and dispose of the helicopter and aircraft, Coal India Limited failed to take timely action, which resulted in avoidable payment of hangar rent amounting to ₹9.02 crore from April 2014 to March 2021.**

Coal India Limited (CIL) purchased a helicopter (1991) and an aircraft (1993) from M/s Hindustan Aeronautics Limited (HAL) at a cost of ₹2.87 crore and ₹13 crore respectively, for use during exigencies/ emergencies. CIL hired hangar space at Netaji Subhas Chandra Bose International Airport, Kolkata, on monthly rental basis, for stationing them.



Audit noticed that the helicopter and aircraft were in operation only till March 2009 and February 2012 respectively. Also, air-worthiness of the helicopter and the aircraft expired in July 2010 and September 2013 respectively, which was not renewed thereafter. Both the helicopter and the aircraft remained inoperative in the airport hangar, for which CIL paid monthly rent ranging between ₹7.88 lakh and ₹13.39 lakh during the period from April 2014 to March 2021.

Functional Directors of the Company viewed (October 2012) that the helicopter needed to be surveyed for disposal as efforts to make it air worthy as per Directorate General of Civil Aviation (DGCA) norms, would entail expenditure which was not economical considering its operations. Subsequently, Functional Directors opined (January 2013) that since age of the aircraft was more than 20 years, the frequency of its repairs and consumption of spares was expected to be high. Functional Directors, therefore, recommended that the aircraft be

surveyed and eventually disposed off. Audit Committee of CIL also recommended (April 2016) that the aircraft and the helicopter needed to be disposed of latest by July 2016.

Audit observed that notwithstanding the views of Functional Directors and Audit Committee, several committees were constituted time and again, to explore the feasibility for making both aircrafts airworthy/ operational, and for identifying alternate open space for shifting these aircrafts from the airport hangar, which eventually did not fructify.

It was also noticed that a committee was again constituted (January 2019) for fixing the reserve value and method of disposal of these aircrafts. The committee noted that huge amount had already been paid towards hangar rent and recommended (August 2019) that these aircrafts be disposed of at the earliest, without further exploring any other options.

On being pointed out by audit for disposal of aircrafts, CIL appointed valuer only in March 2020, who fixed total reserve value for both aircrafts as ₹74 lakh[1]. The valuer also observed that useful life of both these aircrafts stood depreciated due to efflux of time without usage of these aircrafts for a prolonged period since 2012.

Thus, retaining aircrafts without their operations for over 8 years to 11 years, resulted in avoidable payment of ₹9.02 crore towards hangar rent for the period from April 2014 to March 2021, besides eroding the residual value of these aircrafts.

The Management replied (January 2021) that various steps had been taken for disposing of these aircrafts but those did not fructify. They had no option but to pay hanger rent. It also stated that they have initiated process for auction for disposal of both aircrafts as scrap through MSTC Limited and process of getting these aircrafts de-registered by DGCA also started simultaneously. The Ministry (May 2021) while endorsing the views of the Management, stated that there is no willful delay in disposing these aircrafts. It also stated that both the aircrafts have been finally disposed of[2] in an auction carried out in March 2021 and sale release order has been issued in April 2021 to the successful bidder.

The reply of the Ministry/ Management is to be viewed in light of the fact that the delay in disposal of these aircrafts on part of the Management is evident from the fact that CIL had not timely acted upon the suggestions of Functional Directors that were made as early as in October 2012. Further, it engaged a valuer only in March 2020 (after lapse of 88 months as suggested by the Functional Directors). Despite suggestions of Functional Directors and Audit Committee, CIL paid rent, for more than eight years, for occupying hanger space for the aircrafts which were inoperative and engaged themselves in exploring the feasibility for making both aircrafts airworthy/ operational, which eventually did not fructify.

Thus, due to delay in disposal of inoperative Helicopter and Aircraft, CIL incurred an avoidable payment of hangar rent amounting to ₹9.02 crore.

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[1] ***Value for helicopter: ₹9 lakh and aircraft ₹65 lakh***

[2] ***Disposed of at a value of ₹2.19 crore***

## Central Coalfields Limited, South Eastern Coalfields Limited and Western Coalfields Limited

### *1.2 Avoidable payment of penal interest due to delayed payment of deployment charges of CISF*

**Central Coalfields Limited, Western Coalfields Limited and South Eastern Coalfields Limited failed to pay deployment charges of Central Industrial Security Force in time and consequently incurred avoidable payment of penal interest of ₹6.19 crore during March 2005 to December 2019.**

Central Coalfields Limited (CCL), Western Coalfields Limited (WCL) and South Eastern Coalfields Limited (SECL) deploy Central Industrial Security Force (CISF) to meet security requirements of various coal mining projects, on payment of deployment charges which include salary, allowances and other expenses. The deployment of CISF is governed by the guidelines of Ministry of Home Affairs (MHA), CISF Induction and Policy Manual, 2000 and Memorandum of Understanding (MOU) signed between the companies and CISF from time to time.

MHA issued guidelines (May 2005) underlining the need for timely payment and recovery of cost of induction of CISF in Public Sector Undertakings (PSUs). As per the guidelines, penal interest would be levied if a PSU defaulted in payment of monthly dues by more than one month at the rate of two *per cent* above the prime lending rate as decided by Reserve Bank of India from time to time.

Audit observed repeated default by CCL[3], WCL[4] and SECL[5] in making timely payment of monthly dues of CISF which ranged between 1 day and 366 days after the due date. Consequently, CISF demanded penal interest from CCL (₹4.26 crore), WCL (₹1.10 crore) and SECL (₹0.83 crore) for delayed payment of monthly dues.

Representations were made by CCL and SECL to MHA/ CISF (May 2014 and January 2020) for waiver of penal interest but were turned down (August 2014 and August 2020). CCL, SECL and WCL finally paid penal interest of ₹4.26 crore, ₹0.83 crore and ₹1.10 crore to CISF in June 2019, December 2020 and April 2021 respectively.

Thus, CCL, SECL and WCL incurred avoidable payment of penal interest of ₹6.19 crore during March 2005 to December 2019 due to delayed payment of deployement charges of CISF.

While accepting the facts, CCL stated (December 2020) that it had started (March 2019) making centralised payment to CISF and regular follow up was being done to ensure timely payments. SECL while accepting the facts stated (December 2020) that the major delay occurred in the initial years due to procedural delays, implementation of GST and subsequent clarifications from CISF. However, at present there was no case of delayed

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[3] ***March 2005 to November 2018***
[4] ***June 2010 to December 2019***
[5] ***October 2010 to July 2018***

payment. WCL while accepting the facts made the payment towards penal interest in April 2021.

Ministry endorsed (February 2021) the views of the Management.

Audit noted that SECL is regularly defaulting in timely payment to CISF which resulted in payment of penal interest. SECL contention of GST implementation for delayed payment is also not tenable due to the fact that GST came into existence only in 2017 whereas SECL has been defaulting since 2010. The reasons stated above were also furnished to CISF for seeking waiver/ exemption in payment of penal interest, but were not accepted by CISF stating that SECL delayed payment many times during every financial year since 2010-11 and the procedural delay would not be considered to waive off the penal interest**.**

Thus, due to delayed payment of CISF dues without adhering to the MHA guidelines, CCL, SECL and WCL had incurred an avoidable payment of penal interest of ₹6.19 crore (₹4.26 crore, ₹0.83 crore and ₹1.10 crore).

## Neyveli Uttar Pradesh Power Limited

### *1.3 Violation of CVC guidelines resulted in undue benefit to the private contractors*

**Extension of mobilization advance to contractors without time bound recovery, in violation of Central Vigilance Commission guidelines, resulted in loss of interest of ₹5.47 crore to Neyveli Uttar Pradesh Power Limited.**

Guidelines of Central Vigilance Commission (CVC) *inter-alia* stipulated (10 April 2007) that payment of interest free mobilization advance to the contractor should be discouraged and if the Management feels its necessity in specific cases, then recovery should be time bound and not linked with the progress of work. This was to ensure that even if the contractor was not executing the work or executing it at a slow pace, the recovery of advance could commence and scope for misuse of such advance could be reduced.

Neyveli Uttar Pradesh Power Limited awarded three major packages[6] at ₹7,378.10 crore during 2016-17 for setting up a coal based Supercritical Thermal Power Plant with a capacity of 1,980 MW (3x660 MW) at Ghatampur, Kanpur (Uttar Pradesh). These contracts *inter-alia* provided for release of interest free mobilization advance to the extent of 10 *per cent* of the total awarded cost.

Neyveli Uttar Pradesh Power Limited released interest free mobilization advances of ₹767.90 crore to the contractors between 09 September 2016 and 09 March 2018.

Audit noticed that no specific time schedule was stipulated for recovery of interest free mobilization advance. Instead, the recovery was linked to the progress payments (linked to the progress of work) in contravention of the CVC guidelines.

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[6] ***Steam Generator Package (GA1), Turbine Generator Package (GA2) and Balance of Plant Package (GA3) with M/s L&T-MHPS Boilers Private Limited, M/s Alstom Bharat Forge Power Private Limited (GE) and M/s BGR Energy Systems Limited, respectively***

Due to such lacunae in the contract, the first recovery of advance was made from the respective first running bills of the contractors presented for payment after a period of more than a year of advance payment i.e., in November 2017. Thus, in the absence of scheduled recovery timeline, interest of Neyveli Uttar Pradesh Power Limited could not be protected during this period and advance amount was allowed to be retained by the contractor without much progress of work, which resulted in extension of undue benefit of ₹5.47 crore[7] to the contractors. Moreover, since the recovery was linked with the progress of work, down payment has not yet been fully recovered (December 2020).

The Management stated (February 2021) that:

- If the contractor fails to adhere to the contractual delivery period of the contract, then interest will be levied and recovery of advance at scheduled manner may not be possible in absence of any sources for deducting/ adjusting the amount as per the contract conditions. Therefore, it was linked to progress of work and recovery of advance started from respective first running bills.

- The time bound recovery of mobilization advance will be reviewed for incorporation in the future tenders for which a committee is being constituted.

Ministry endorsed (March 2021) the reply of the Management.

Though Management/ Ministry agreed to review time bound recovery of mobilization advance, the reply is to be viewed against the fact that the CVC guidelines provided that bank guarantees against the mobilization advance should be taken in as many numbers in the proposed recovery instalments and should be equivalent to each instalment. This would ensure that at any point of time even if the contractor's money on account of work done is not available with the organisation, recovery of such advance is made by encashing the bank guarantee.

Thus, extension of mobilization advance to contractors without scheduled recovery timeline in violation of CVC guidelines resulted in loss of interest of ₹5.47 crore to Neyveli Uttar Pradesh Power Limited.

## NLC TamilNadu Power Limited

### *1.4 Avoidable payment of compensation charges*

**NLC TamilNadu Power Limited entered into a Coal Supply Agreement without finalising logistic contract for transportation of coal, which resulted in avoidable payment of compensation charges of ₹12.58 crore.**

NLC TamilNadu Power Limited (NTPL), a subsidiary of NLC India Limited, commissioned (June 2015 and August 2015) two units of coal based power plant with a capacity of 500 mega watt each at Tuticorin, Tamil Nadu. The plant was designed to use

[7] ***Half yearly installment recovery of advance (if schedule decided upfront as emphasised by CVC) X Rate of Interest (9.35 per cent) as charged by banks from Neyveli Uttar Pradesh Power Limited X (Time gap between release & start of recovery of advance minus 6 months for submission of first running bill)***

both indigenous and imported coal. For indigenous coal, NTPL had a long term agreement (25 years) with M/s Mahanadi Coalfields Limited (MCL), a subsidiary of Coal India Limited (CIL) for supply of 3.0 Million Tonnes (MT) of coal per annum. To supplement their remaining coal requirements, NTPL imported coal on need basis through separate agreements.

In order to reduce the import of coal, as directed by Government of India, NTPL approached CIL to supply additional quantity of coal. As MCL was not in a position to supply additional quantity of coal, CIL directed (September 2016) Eastern Coalfields Limited (ECL) to supply 0.3 MT of higher grade coal, which was to be adjusted against 3.0 MT of coal to be supplied by MCL and to supply additional quantity of 1.0 MT of coal as per the side agreement.

Accordingly, ECL signed (14 September 2016) a Coal Supply Agreement with NTPL for an annual contracted quantity of 0.3 MT which contained a penalty clause for non-lifting of agreed quantity of coal. The Board of Directors of NTPL accorded (October 2016) post facto approval for the agreement with a direction to ensure lifting of committed quantity of coal to avoid levy of penalty. However, NTPL did not have logistic contract for transportation of coal from ECL at the time of entering into agreement in September 2016. NTPL awarded the logistic contract only in June 2017 and started lifting of coal from July 2017.

As per the agreement, the coal was to be lifted immediately i.e., from the date of entering into agreement, however, in the absence of logistical support, NTPL could not lift the agreed quantity of coal. Hence, by invoking the penalty clause, ECL levied (December 2017) compensation charges of ₹12.58 crore for the period from September 2016 to March 2017.

Audit observed that NTPL entered into the Coal Supply Agreement even though it was aware that logistical support was not available. Moreover, NTPL did not persuade ECL to amend the contractual provision to protect its interest at the time of signing the agreement, which resulted in avoidable payment of compensation charges of ₹12.58 crore.

Management replied (February 2020) that in a high level meeting at CIL Headquarters on 14 September 2016, NTPL was informed to stop import of coal and as an import substitute, ECL would supply higher grade of coal. On the same day, CIL directed ECL to sign the Fuel Supply Agreement (FSA) with NTPL, accordingly, ECL signed the FSA with NTPL on 14 September 2016. All these things happened on the same day whereas NTPL did not have any logistic support in place to move the coal from ECL mines and as per the FSA the timeline for lifting of coal started immediately i.e., as on 14 September 2016. Normal procedure of signing the FSA was not followed in the instant case, since the FSA was signed as import substitute. The matter has been taken-up with CIL for getting back the amount.

Ministry while endorsing the views of the Management stated (February 2021) that the penalty clause is applicable for all the FSA holders and coal from ECL was import substitute and there was saving of foreign exchange.

The reply of the Management confirms that NTPL had entered into the agreement hastily without analysing the agreement clauses, its impact and the time required for finalising

logistic contract. Moreover, in the absence of any response from CIL, NTPL charged the entire amount of compensation paid as expenditure in the financial statements for the year ended 31 March 2018. The reply of the Ministry is to be viewed against the fact that in other FSAs, sufficient time is provided to arrange for logistics. Penal clause would be attracted only when there was short lifting of coal in spite of availability of logistic support. In the instant case, though NTPL was well aware of the fact that logistic support was not available, it neither insisted for any lead time to arrange for logistic support nor persuaded to amend the contractual provision. Further, the reply of Ministry is not acceptable, as the supply of 0.3 MT of coal from ECL was not an import substitute rather it was adjusted against the 3.0 MT of coal to be supplied by MCL. Import substitute was another 1.0 MT of additional quantity of coal to be supplied by ECL as per a side agreement.

Thus, NTPL failed to safeguard its interest while entering into the agreement, which resulted in avoidable payment of compensation charges of ₹12.58 crore.