

CHAPTER VII : MINISTRY OF COMMERCE AND INDUSTRY

Agricultural and Processed Food Products Export Development Authority (APEDA)

7.1 Ineffective monitoring by APEDA

Ineffective monitoring by APEDA resulted in non-utilisation of grant for the intended purpose. APEDA sustained a loss of ₹ 1.77 crore towards interest payable on funds received from Ministry of Commerce & Industry, as an identical clause for levy of interest was not inserted in the MoU signed with Spices Board.

Agricultural and Processed Food Products Export Development Authority (APEDA) established in 1986 is engaged in development of industries relating to scheduled products for export, registration of persons as exporters, fixing of standards and specifications of scheduled products, improving packaging and its marketing apart from providing financial assistance to exporters under various schemes viz. transport assistance, market development, infrastructure development, quality development etc.

Ministry of Commerce & Industry (MoCI) approved a proposal (August 2010) submitted by Spices Board (SB) for setting up Spices Park¹ in Guna, Madhya Pradesh under the scheme 'Assistance to States for Developing Export Infrastructure and Allied Activities (ASIDE)'. The total cost of the project was ₹ 45.19 crore in which the contribution of Government of India was ₹ 19.00 crore. As per funding pattern issued by MoCI in May 2011, APEDA was to contribute ₹ 6.12 crore (₹ 3.06 crore in two phases) towards construction of cold storage of 3000 MT capacity. The project was to be completed by 31 March, 2013. In compliance with the above directions of MoCI, APEDA approved in its 71st meeting held on 24-06-2011, financial assistance of ₹ 6.12 crore to be released to Spices Board for setting up of cold storage of 3000 MT (six modules—three modules in each phase and each module of size 675 sqm having 500 MT capacity) at Spices Park, Guna, M.P. under the scheme for Infrastructure Development. The Memorandum of Understanding (MoU) was executed between APEDA and SB on 5 January 2012.

¹ Spices Parks are defined as industrial parks for processing and value addition of spices and spice products which offers the processing facilities at par with international standards.

Consequently, APEDA released total amount of ₹ 5.79 crore to Spices Board, i.e. first instalment of ₹ 3.06 crore in February 2012 and second instalment of ₹ 2.73 crore in March 2013 (including an amount of ₹ 0.29 crore towards processing fee). Spices Board informed APEDA (July, 2016) that a cold storage of 374 MT capacity has been created (instead of 3000 MT capacity envisaged as per approval). Considering pro-rata cost of the capacity so created as ₹ 0.80 crore only, APEDA requested (August and October 2016) Spices Board to refund the balance amount of ₹ 4.99 crore (i.e. total amount released by APEDA ₹ 5.79 crore less the pro-rata cost of ₹ 0.80 crore of cold storage constructed). Spices Board refunded (November 2016) the unutilised amount of ₹ 3.84 crore to APEDA.

Audit observed as under:

- (i) As per Para 2(b) of the MoU with SB, second installment was to be released by APEDA in the financial year 2012-13, only after obtaining utilisation certificate (UC) in the format GFR 19A, for 1st installment of ₹ 3.06 crore. However, APEDA released the second installment of ₹ 2.73 crore (31 March 2013) against a UC received from Spices Board which certified that the grant received earlier has been utilised for the purpose of establishment of warehouse/cold storage.

APEDA ignored the fact that the grant was approved only for cold storage and released second installment against the above mentioned UC, in contravention of the provisions of Para 4 of the MoU which stipulated that the funds or facility shall not be diverted or utilised for the purpose other than for which it was sanctioned. APEDA also did not monitor effectively the progress of the project on monthly /quarterly basis. Moreover, a clause for furnishing of such periodical progress reports by SB was also not included in the MoU. APEDA came to know only in August 2013, when it conducted physical verification of project, that the infrastructure created at project was not in accordance with the MoU as instead of constructing cold storage, warehouses were constructed at the project.

- (ii) A monitoring committee comprising representatives of Spices Board, APEDA, State Agriculture/Horticulture Department and APEDA Registered exporters was to be constituted in terms of Para 7 of MoU, to oversee the efficient functioning of the facility and to play advisory

role. Accordingly, Spices Board nominated their representative to the committee on 6 February 2012 itself, i.e. before release of 1st installment of ₹ 3.06 crore by APEDA and, subsequently, constituted the committee in January 2013 wherein name of representative of APEDA was also given. First meeting of the Committee was also held on 28 February, 2013, however, APEDA was unaware of these developments till May 2013.

- (iii) While releasing (September 2010) 1st installment of GoI contribution for the project, MoCI had directed to include necessary penal clause in the contract with the implementing agency, so that the project is not delayed. The same was, however, not included in MoU (January 2012) between APEDA and SB. APEDA, however did not insist for inclusion of such a clause in the MoU entered with SB, though, in some of MoUs entered by APEDA with other implementing agencies, during the same period, contained specific penalty clause. Thus in absence of a penal clause in MoU, there was no urgency on SB to get the project completed in a time bound manner.
- (iv) MoCI order for release of grant for creation of capital assets (February 2012 and January 2013) clearly stated at Clause (xvii) that 'in the event of APEDA failing to comply with terms and conditions of the sanction, it shall be liable to refund the whole or part of the grant with interest @ 10 per cent per annum thereon'. APEDA, however, did not include an identical clause in the MoU signed with Spices Board.

Thus, despite release of grant of ₹ 5.79 crore to Spices Board, the intended objective of constructing cold storage of 3000 MT capacity could not be achieved even after a delay of more than three years. Further, due to non-inclusion of a penal clause in MoU (so that project is not delayed), APEDA was unable to recover penalty of ₹ 0.87 crore (₹ 5.79 crore x 5 per cent x 3 years from April 2013) from SB.

Management in its reply (September 2014) stated that APEDA followed the directions of MoCI and released the financial assistance (Grant) amounting to ₹ 5.79 crore to Spices Board. Management admitted that there were communication gaps in correspondence with Spices Board on constitution of the Monitoring Committee. Management further informed (November, 2016) that Spices Board has refunded (November 2016) ₹ 3.84 crore.

Management's reply was not acceptable as APEDA did not adhere to Ministry's directions (May 2011) for inserting a clause for payment of penalty in MoU to incentivise timely completion of project. The grant was diverted by SB for other purposes and remained unutilised for intended purpose for more than four years and the cold storage of 3000 MT capacity could not be constructed till date (November 2016). Further, APEDA has to pay interest of ₹ 1.77² crore as per terms mentioned in the sanction of grant received from MoCI. However, in the absence of identical clause in the MoU with SB for levying interest @10 *per cent* on the unutilised grant, APEDA may not be able to recover the same from SB.

Thus, ineffective monitoring by APEDA resulted in non-utilisation of grant of ₹ 5.79 crore for intended purpose as the cold storage of reduced capacity was constructed after delay of more than three years. Moreover, APEDA sustained a loss of ₹ 1.77 crore due to non-inclusion of a clause in the MoU regarding levying of interest @ 10 *per cent per annum* on the unutilised grant refunded by Spices Board.

The matter was reported to the Ministry in December 2016; their reply was awaited as of January 2017.

² Interest @ 10 *per cent* p.a. of ₹ 3.06 crore paid in February 2012 remained unutilised for 4 years = ₹ 1.22 crore
Interest @ 10 *per cent* p.a. of ₹ 2.73 crore paid in March 2013 remained unutilized for 2 years = ₹ 0.55 crore
Total ₹ 1.77 crore