

CHAPTER VII : MINISTRY OF LABOUR AND EMPLOYMENT

Employees' State Insurance Corporation

7.1 Undue benefit to the consultant firm

Employees' State Insurance Corporation released the amount of encashed bank guarantee of a firm, whose work contract had been withdrawn on account of poor performance, resulting in irregular payment of ` 65 lakh to the firm.

Employees' State Insurance Corporation (ESIC) entered (November 2008) into an agreement with a Mangalore based architect firm¹ for providing architectural and engineering services for establishment of Medical College and Hospital at Kollam, Kerala at a contract price of three *per cent* of the project cost². The firm submitted a performance guarantee of ` 65 lakh in January 2010 (valid up to September 2010) against this work contract. ESIC in February 2010 withdrew the entire contractual work from the firm.

Director General, ESIC issued the orders for forfeiture of the performance guarantee of the firm in February 2010 as the work of the college had suffered due to the unsatisfactory performance of the consultant. Accordingly, the bank guarantee of ` 65 lakh was encashed.

Audit observed that the payment of ` 3 crore had already been released to the firm against the due payment of ` 2.63 crore (excess payment of ` 36.67 lakh) till June 2009. However, while finalizing the payment of the firm in March 2010, the forfeited amount was refunded through an adjustment, and accordingly further payment of ` 28.33 lakh was released to the firm in June 2010, without the approval of competent authority that had ordered the forfeiture.

ESIC in its communication to Secretary, Ministry of Labour and Employment (December 2010) admitted the fact that the adjustment/refund of ` 65 lakh was irregular.

The Ministry stated (November 2011) that the matter was under the examination of the vigilance branch of ESIC. Further, it stated that the action

¹ M/s Ravi & Associates, Mangalore

² Project cost was ` 292.59 crore and contract price @ 3 *per cent* was ` 8.78 crore

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regarding recovery of the excess payment made to the consulting firm was being taken in consultation with the legal experts.

The fact remains that ESIC irregularly released the forfeited amount of the consulting firm instead of initiating any action against it for deficient service rendered by it. This resulted in undue benefit of ` 65 lakh to the firm.