Chapter III: Award of Contracts

Audit reviewed activities from in-principle approval to award of contract in 244 contracts and noted that tender finalisation and contract award process was inefficient, lacked sufficient competition, and was less credible as pointed out in subsequent paragraphs.

3.1 Delays in pre-ordering activities

The Company had fixed (May 2007) 39 weeks (9 months) for finalization of tender i.e. from in-principle approval to order placement for open/global tenders. These instructions were reiterated in July 2009. Audit reviewed 153 projects of ₹ 20 crore and above awarded during 2008-13 and noted that the Company took more than two years in 25 cases and more than three years in 87 cases, in completing the process. The average time taken was 37 months which was four times more than the stipulated time of 9 months. Audit noted that delay was largely on account of deficiencies in preparation of scope of work.

3.1.1 Inadequacies in estimation of scope of work

The Company could not reasonably estimate the scope of work for the MEP projects. DPRs were not prepared for MEP projects. Instead the Company had prepared Comprehensive Project Feasibility Reports (CPFR) which lacked in-depth analysis of scope of work and specifications. Consequently there was significant scope creep between In-principle approval and price opening bids. Audit analysed 29 main technological packages of the MEP across all the plants and found that scope creep was ₹ 4,182 crore (36.8 *per cent*) over initial estimates of ₹ 11,369 crore as given in Table 3. In the absence of detailed scope and specifications the entire tendering process was open to be influenced by vendors and was not conducive to fair and open competition.

Table 3: Scope creep between In-principle approval and price opening bids

Name of unit	No. of proje--cts	In-principle approved cost net of CENVAT (₹ in crore)	Revised Cost estimate Net of CENVAT (₹ in crore)	Increase in cost estimates (₹ in crore)	Reasons			Scope creep over in-principle approved cost (*per cent*)
					Physical		Monetary	
					Scope Addition (₹ in crore)	Change in volume (₹ in crore)	Escalation/ FE Component (₹ in crore)	
ISP*	8	4,377	6,220	1,843	650	828	365	33.77
BSP	8	2,225	3,412	1,186	741	171	274	40.99
BSL	1	1,971	2,524	553	188	266	99	23.03
DSP	1	360	650	290	0	42	248	11.67
RSP	11	2,436	3,980	1,545	777	519	249	53.20
Total	29	11,369	16,786	5,417	2,356	1,826	1,235	36.78

*before adjustment for CENVAT credit

3.1.2 Pre-bid conference and expression of interest (EOI)

Pre-bid conference and EOI are the tools used to minimize post bid discussions. Purchase Contract Manual of the Company also provides for EOI. However, the Company did not conduct pre-bid conferences in BSL, RSP and DSP. In ISP and BSP, out of 51 and 54 packages, pre-bid conference was conducted in 14 and 18 packages respectively. Consequently there was delay in finalization of tender process.

3.1.3 Prolonged technical discussion and evaluation

Inadequacies in pre-tendering activities led to prolonged technical discussions with the bidders after submission of bids. Against 10 weeks norm, average time taken for technical discussions and evaluation was 16 to 26 weeks in 111 contracts in five integrated steel plants. Technical discussion and approval in 16 main technological packages lasted up to nine months.

Ministry stated that technical specifications in most of cases were not accepted in totality by bidders because of latest technology available with them. During interaction with bidders, some changes which were beneficial to the plants were accepted. EOI was not resorted to as no new technology was involved and details of MEP projects were fully known. DPR of projects was not prepared to save time after implementation period was compressed by two years. Tenders of most of the packages were floated timely but delays in tender finalisation was not within management control viz. bidders requested more time for submission of bids; in case of multiple packages, technical data was required from the main technological contractors before tenders could be issued for civil, structural and other connecting works; insufficiency of suitable bidders; re-tendering of some tenders was resorted to; long time taken by bidders in giving techno-commercial clarifications; and some works were deliberately tendered late to synchronise with the main packages.

Ministry has acknowledged that DPR was not prepared by the Company. It is evident that in the absence of DPR, the Company could not assess the detailed scope and specification of the project which resulted in delayed finalisation of tender. Pre-bid conference/EOI was required to facilitate identification of the potential vendors, clarity/parity of technical and commercial terms before the bids are invited, and early conclusion of post bid technical discussion.

3.2 Variance in cost estimates and awarded price

Cost estimates are prepared to establish reasonableness of the awarded price at which package could be executed. Therefore, it is essential that estimates are worked out in a realistic and objective manner. Audit observed that out of 104 contracts of ₹ 100 crore or more the awarded price was higher by 15 *per cent* than their cost estimates in 37 contracts valuing ₹ 17,277 crore. In 13 contracts the awarded price was higher by 33 - 75 *per cent* and 44 *per cent* overall (₹ 2,151 crore) as given in Table 4.

Ministry admitted that the cost estimates of consultants were the reflection of fair price but stated that bidders' prices were governed by many considerations including the prevailing competition in the particular package and excess of quoted price over cost estimates should be considered as normal. Re-tendering and negotiations were resorted to seek cost reduction in many cases. The fact remains that the awarded prices were 33-75 *per cent* more than the cost estimates which were updated up to the opening of price bids and therefore cannot be said as normal. 10 out of 13 cases listed were not re-tendered despite price bids being higher by 33 - 75 *per cent* than the cost estimates.

Table 4: Statement showing excess of cost estimates over the final price accepted for award

(Amount in ₹ crore)

	Name of the package	Plant	No. of price bid opened	Cost estimates[4]	Final accepted price	Excess of final price bid over cost estimate		Whether award after retender
						Amount	*per cent*	
1	New COB-VI proper	RSP	2	276	368	92	33.3	N
2	Blast Furnace	ISP	1	1,119	1,494	375	33.5	N
3	Coke Dry Cooling plant	ISP	1	228	307	79	34.6	Y
4	Turbo Blower Station	BSP	1	184	256	72	39.1	N
5	Secondary Refining Units	ISP	1	154	215	61	39.6	Y
6	BOF Shop	ISP	1	797	1,121	324	40.7	Y
7	Coke Dry Cooling Plant	BSP	1	252	355	103	40.9	N
8	By Product	ISP	2	159	231	72	45.3	N
9	Basic Oxygen Furnace	BSP	1	889	1,336	447	50.3	N
10	CDCP	RSP	1	220	344	124	56.4	N
11	Skin Pass Mill	BSL	2	67	107	40	59.7	N
12	Coke Oven Battery	ISP	2	315	538	223	70.8	N
13	Turbo Blower	RSP	1	184	323	139	75.5	N
	Total			4,844	6,995	2,151	44.0	N-10

3.3 Violation of CVC guidelines

The Central Vigilance Commission (CVC) considers 'post tender negotiations' could often be a source of corruption and should not be allowed to be misused as a tool for bargaining with L-1 with dubious intentions or lead to delays in decision making. It states that: there should not be any negotiations; negotiations if at all shall be an exception, and only in the case of propriety items or in the case of limited source of supply or where there is suspicion of a cartel making; and shall be held with L-1 only. CVC instructions also states that entire process of award of contracts including negotiations should not exceed one month (45 days if next higher level approval is required) from the date of submission of recommendations.

[4]Revised estimates after taking into account any scope increase and price escalation including Foreign Exchange fluctuations up- to opening of the price bids and therefore should be considered as reasonable.

Audit noted that in 20 contracts of ₹100 crore or more, there were 3 - 12 rounds of negotiations conducted with L-1 bidders over periods ranging from 5 months - 27 months (over nine months in 11 contracts) from the opening of price bids to award of contract.

Ministry stated that over-booked equipment suppliers and skilled manpower limitations in the ongoing booming market had provided an opportunity to the equipment suppliers to quote much higher prices than the estimates. In such situation, negotiations were inevitable and substantial reductions were obtained. The CVC and the internal procedures allow negotiations in such exceptional situations. Negotiations had to be resorted to at different levels, which took much longer time.

Reply is not tenable.Prices of equipment and auxiliary works had started falling from October 2008 onwards due to global economy slowdown. Nine contracts of the 20 contracts stated above were negotiated after October 2008. But SAIL management chose to conduct protracted negotiations instead of testing the prevailing market prices through re-tender. Thus negotiated prices obtained cannot be considered as market-driven and protracted multiple negotiations made the whole process less credible.

3.4 Inadequacies in finalization of contract

The Company did not have a clear and transparent policy for dealing with cases which could be re-tendered or to be negotiated, threshold for acceptance of quoted prices which were higher than cost estimates, and split of main package into number of sub-packages to obtain more competition, and took these decisions in random manner. Depicted in Table 4 are some examples, when Company went ahead without re-rendering (10 cases), while in some cases (three cases) re-tendering was done, which showed pure adhocism. Important audit findings with respect to inadequacies in finalization of contracts are as under:

3.4.1 Award of Raw Material Handling Plant in ISP

The Company invited and received three bids from vendors namely, M/s. McNally Bharat Co. (MBE) Ltd., M/s. L&T, and M/s. Elecon Engg Limited in November 2006 for installation of Raw Material Handling System (RMHS) in ISP. Bids of M/s MBE and M/s. L&T were found technically compliant. M/s L&T, however, did not submit the final price bid because of disagreement in completion time. Since the single price bid of ₹ 1,574 crore from M/s MBE was higher than the MECON's cost estimate of ₹ 1,054 crore, it was decided to re-tender the work after splitting into four packages. As given in Table 5 below, all three bidders who had earlier submitted bids for un-split work, submitted their bids when this work was re-tendered with 26 months completion time and relaxed eligibility criteria.

Table 5: Quoted Price bids of technically compliant bidders

(₹ in crore)

Bidder	Ore Handling Plant	Coke Handling Plant	Base Mix Preparation Plant	Yard Machines		
				Group-I	Group-II	Group-III
M/s MBE	545.00	588.00	550.00	30.72	135.57	71.96
M/s L&T	662.49	514.54	466.50	33.37	164.62	84.95
M/s Elecon	688.80	600.23	552.95	26.40	77.71	63.60
M/s Takraf	-	-	-	-	126.06	-
M/s Shenyang	-	-	-	-	140.25	-
M/s HEC	631.79	-	505.43	-	-	-
Awarded bidder	MBE	L&T	L&T	Elecon	Elecon	Elecon

Audit noted that:

- M/s. Elecon Engg who was technically non-compliant in the initial tender, became compliant for each of four packages in re-tender. M/s L&T, who did not submit commercial bids for previous un-split work, was also allowed to participate in later bid.
- Table 5 shows that price bids of M/s Elecon was significantly less in all three groups under Yard machine than the price bids of M/s L&T and M/s MBE. Similar trends were seen in other three awarded packages where other two price bids were significantly higher than L-1 bid of awarded bidder. All three bidders who had earlier submitted bids for un-split work received the awards when this work was retendered.

- Total cost of four awarded packages was ₹ 1,661.58 crore, an increase of ₹ 87.58 crore over previous price bid of un-split work, and ₹ 362.04 crore higher than the MECON's revised cost estimates of ₹ 1,299.54 crore. Re-tendering with split packages (four) also resulted in delays in awarding the contract by 15 months.

Ministry stated that M/s Elecon became technically compliant after change in eligibility criteria in re-tender. SAIL guidelines did not prohibit participation of a bidder in re-tender who failed to submit price bid after being found technically compliant in the first tender. The reply may be viewed against the fact that the awarded prices was ₹ 362.04 crore higher (28 *per cent*) than the MECON's revised cost estimates and ₹ 87.58 crore more than the previous bid. Moreover, in the situations stated above, it was not possible to conclude in audit that the lowest prices obtained in open tender were the fair prices.

3.4.2 Award of contract for coke oven batteries and related plants

According to Company's own vendor database, there were 4-5 global technology suppliers in the field of battery. Table 6 shows that the Company placed orders for New Coke Oven Battery (COB-Proper), Oven Machines, and Coke Dry Cooling Plant in BSP on M/s BEC Ltd, Bhilai led consortium on the basis of single technically compliant bid received against global tender.

Table 6: Award of contracts in BSP on single bid basis

(Net of CENVAT - ₹ in crore)

Name of thePlant		COB (Proper)	Oven Machines	Coke Dry Cooling Plant (CDCP)	Total
BSP	Cost Estimates	331.86	82.54	252.25	666.65
	ContractPrice	400.19	105.24	355.06	860.49
	Excess over estimates	68.33	22.70	102.81	193.84
ISP	Cost Estimate	314.61		227.66	542.27
	Contract Price	537.33*		307.38	844.71
	Excess over estimates	222.72		79.72	302.44
RSP	Cost Estimate	276.34	95.96	220.49	592.79
	Contract Price	368.15*	88.05	344.42	800.62
	Excess over estimates	91.81	(-)7.91	123.93	207.83

*Two valid price bids whereas all other equipments were ordered based on a single bid.

The awarded price was significantly higher than the cost estimates in all three packages. The Company, however, chose not to re-tender in BSP citing normalized cost of similar packages earlier ordered in ISP and RSP being comparable/higher than the awarded price of BSP machines. This comparison was not valid because the prices obtained for these machines in ISP and RSP also were not based on sufficient competition. As ordered price of machines in ISP and RSP could not be considered as being competitive, the same should not have been considered as reasonable for accepting single price bids in BSP.

Ministry stated that prices were obtained through global tender. The prices were higher than cost estimates due to buoyant market condition and considerable reduction was achieved from negotiations. Just because the Consultant's cost estimates were lower than the price obtained it cannot be concluded that the price so obtained was unreasonable.

Reply is not tenable as cost estimates prepared by the Consultants included all escalations and scope creep updated up to opening of price bids and therefore could be considered as valid estimation. Management also accepted that cost estimates reflect the fair price. Thus, the reasonableness of the cost of ₹ 2,505.82 crore for procurement without adequate competition is open to question.

3.4.3 Installation of blast furnaces

The Company awarded contracts for installation of three blast furnaces of 4060 M^3 capacity, one each at BSP, RSP and ISP. Audit noted that:

1. The Company invited and received three bids for installation of blast furnace in ISP. MCC China did not meet the eligibility criteria. Paul Wurth consortium who was techno-compliant sought more time to discuss some technical deviations and payment terms. The Company declined to give more time, and awarded the contract to POSCO. Thus the procurement of blast furnace in ISP was non-competitive. Moreover, it did not result in any time saving as the Company took more than 20 weeks from date of opening of price bid to award the contract, against six weeks prescribed.

Ministry stated that it was not right to conclude that award was non-competitive considering that price obtained for 4060 M^3 blast furnace in ISP was equivalent to price obtained by RINL for a smaller blast furnace of 3800 M^3. Reply is not tenable because prices of different capacity ordered by two different entities are not comparable. Decision to decline more time to Paul Wurth for discussion could not be considered as a prudent decision as only one bid of POSCO was left and awarded price obtained from POSCO was ₹ 373.82 crore higher than revised cost estimates.

2. Techno-commercial discussion and price negotiations took 24 months for installation of a blast furnace in BSP. The negotiated price offered by POSCO led consortium (L-1 vendor) selected amongst 4 technically compliant bids was ₹ 1,538.17 crore. The letter of award was issued by the Company on 15 August 2008 but contract was not signed till June 2009. Board rejected the offer of POSCO despite reduction in price, and decided (June 2009) to re-tender in expectation to obtain lower prices due to slowdown in global economy. In re-tender, the L-1 price bid of Paul Wurth after obtaining ₹ 3 crore reduction in negotiationwas ₹ 1,579.14 crore, which was ₹ 82.99 crore higher than the cost estimates of ₹ 1,496 crore. Management considered the re-tendered bid as competitive bid as the price obtained was ₹ 85 crore lower than the price finalized in first tender with POSCO (after due normalization) and was also lower than normalized price of this equipment earlier ordered in ISP and RSP.

Reply may be viewed against the fact that awarded price (August 2010) obtained in BSP after re-tender was ₹ 40.97 crore higher than previous L-1 bid. Obtaining a discount of ₹ 3 crore in negotiations held between opening of differential price bids on 4 December 2009 and award of contract on 30 August 2010 cannot be considered as market driven because this period coincides with the global economy slowdown in which the prices of goods and services were falling. Further, comparison with ISP and RSP was not valid because ISP bid was itself a non-competitive bid. In RSP, awarded bid of Tata/Danieli for blast furnace was ₹ 273 crore higher than the cost estimates. Blast furnace in ISP and RSP were not re-tendered. Thus there was no consistency as to when to/not to re-tender.

3.4.4 Contracts for setting up of Basic Oxygen Furnace (BOF), on single price bid

The Company had planned installation of BOFs (also called converters) in ISP, BSP, and RSP simultaneously in 2007. As per SAIL's vendor database, there were 10 global suppliers for BOF. Global tender, however, resulted in single qualified bid in each of three plants. In ISP and RSP, composite BOF work was split and repackaged into main technological package and auxiliary packages and the work was retendered to seek greater competition but it again resulted in single qualified bid for main package. The Company resorted to protracted negotiations before order price was finalized. Three converters each in ISP (₹ 1,120.83 crore) and BSP (₹ 1,335.92 crore) and one converter in RSP (₹ 328.91 crore) were thus ordered based on non-competitive bid.

In BSP, decision of Company not to re-tender for three converters was not prudent. Deviations in scope of work like, non-carrying out of integrated commissioning test, no performance guarantee for the specific energy consumption of 850 KW/ton of steel, and increasing the commissioning time from 2.5 months to 3 month for converters were accepted after submission of technical bid. After opening of price bid, scope of work valued at ₹ 50.81 crore was reduced which was in contravention of Purchase/ Contract Procedure of the Company.

Bid for one converter in RSP was received in November 2008 and price bid was opened in January 2009. After eight rounds of negotiations, price reduction of ₹ 83.57 crore was obtained and order was placed in January 2010 at ₹ 328.91 crore but it was still ₹ 13.71 crore higher than cost estimates of ₹ 315.20 crore.

Ministry stated that global tenders were issued in all three cases. Increasing trend on price of equipment and services were noticed in all other packages too. There was approval of competent authority for opening single bids. In RSP, the price obtained after re-tendering was only marginally higher than the estimate. In BSP, some items were excluded as suggested by the vendor to reduce the cost without affecting the performance of plant and re-tendering would have resulted in loss of time and probability of getting higher price was more.

Reply is not tenable. Negotiated price obtained from vendors for three converters in ISP, and three converters in BSP were respectively ₹ 323.66 crore (41 *per cent*), and ₹ 446.62 crore (50 *per cent*) higher than consultant's cost estimates updated for price and scope escalation up to opening of price bid. Further, bid for one converter in RSP was submitted in November 2008, and the price bid was opened in January 2009, but price reduction of ₹ 83.57 crore obtained through negotiation concluded in December 2009 cannot be considered as market driven because due to global economic slowdown, prices of equipment which were at their peak in 2008 had started falling thereafter, and price should have been re-discovered instead of going for long negotiations. Further, cost estimates of July 2009 were not updated after conclusion of negotiations to assess whether negotiated price was a fair price or not.

Thus, contracts of total ₹ 2,785.66 crore awarded on a single bid basis lacked sufficient competition, and protracted negotiations and scope reduction after opening of price bid in BSP made the tender finalization process less credible.

3.4.5 Installation of Sinter Plants in BSP, RSP and ISP

As per SAIL's vendor database, there were eight global suppliers for sinter plants but only 2-3 vendors submitted technically compliant bids in global tenders issued during August 2006-July 2007 in BSP, RSP and ISP. L-1 price bids in all three tenders was higher by ₹ 108 crore to ₹ 212 crore than the cost estimates. In BSP, the Company re-tendered and obtained lesser price. But they chose not to re-tender in ISP and RSP. Sinter plants were awarded in all three places to consortium of Outotech and L&T.

Audit noted that in BSP, Sinter plant was re-tendered and L-1 price of ₹ 672.30 crore was also ₹ 120.96 crore higher than cost estimates of ₹ 551.34 crore. There was a gap of 20 months between opening of re-tendered price bid (December 2008) and award of contract (August 2010). Even negotiated price of ₹ 639.30 crore, after five rounds of negotiations up to June 2010, was ₹ 88 crore higher than the original cost estimates.

Ministry stated that re-tender in ISP and RSP would not have fetched a better price, delayed finalization of contract and affected the project schedule. In BSP, negotiations were conducted to bring down the L-1 price.

The reply may be viewed against the fact that MECON had updated the cost estimates up to date of opening of price bids in RSP and ISP and therefore should be considered as a fair market price. But awarded prices were ₹ 186 and ₹ 108 crore higher than the cost estimates. This means the price obtained was not fair. In BSP, the negotiation period of 18 months coincided with the global economic slowdown which started from October 2008, and prices of equipments were falling. Cost estimates of second quarter of 2009 were not updated to reflect the prevailing prices of August 2010 for meaningful comparison with the negotiated price. Therefore, price reduction of ₹ 33 crore obtained in 18 months negotiation could not be considered as market driven.

Thus, negotiated L-1 price bids for contracts of total ₹ 2,031 crore[5] awarded for installation of sinter plants could not be considered as reasonable, and protracted negotiations rendered the process of tender finalization less credible.

3.4.6 Installation of Coke Dry Cooling Plant in ISP

Table 7 shows that three attempts were made before the contract was finalised on single bid basis for award of Coke Dry Cooling Plant in ISP. The total awarded price obtained in single bid was ₹ 79.69 crore (35 *per cent*) higher than the MECON's revised estimated cost and ₹ 26.43 crore higher than price bids received in the first tender.

Table7: Details of tenders for coke Dry Cooling plant in ISP

(Price bids net of CENVAT - ₹ in crore)

		MECON Estimates	Bid of GIPROKOKS with BEC and MBE	GIPROKO-KS with BEC	MBE with ACRE China	BEC
First Tender (14.09.2006)		134.62	304.15	-	-	-
Retender (17.09.2007)		231.94	-	359.88	350.57	
Retender (EOI) after split of work into two packages	Main Technological Package (EOI dated 14.04.2008)	227.66	-	307.38	$	-
	Civil And Structural Package (Retender dated 13.08.2008)	23.23	-	-	-	23.20
	Total	250.89	-	307.38		23.20

$ A technically compliant bid but MBE did not submit price bid.

[5] BSP: ₹ 639 crore, RSP: ₹ 688 crore, ISP: ₹ 704 crore

Ministry stated that despite three global attempts, there was only one bid. Ministry reply may be viewed in the light of the fact that as per the Company's vendor database, there were four international vendors. There was split in sole consortium who applied in first tender and MBE and BEC submitted bids separately for main technological package and civil and structural work respectively. MBE did not furnish the price bid leaving single price bid from GIPROKOKS for main technological package making the bid finalisation process less credible. Therefore, it could not be concluded in audit that the single bid price obtained in open tender was the fair market price.

3.4.7 Power and Blowing Station

Power and Blowing Stations were to be set up to support new Blast Furnaces under construction in ISP, RSP and BSP. Turbo blowers for BSP and RSP, and full package of power and blowing station for ISP were awarded to BHEL on a single price bid basis and awarded price was respectively ₹ 71.50 crore (38.8 *per cent*), ₹139.21 crore (76.6 *per cent*), and ₹153.41 crore (29.5 *per cent*) higher than the cost estimates of MECON. There was reduction in the scope of work by ₹ 32.43 crore in ISP after opening of the price bid which is not permitted under the SAIL's Purchase/Contract Procedure and CVC instructions. Ministry attributed higher prices to buoyancy in global market and stated that maximum possible price reduction was achieved through negotiation with BHEL. Re-tendering might not have yielded any result and delays in finalising these contracts could have adversely affected other projects.

Ministry's reply is not acceptable as MECON updated the cost estimates up to date of opening of price bids, and should be considered as fair reflection of market prices. Thus, excess of prices by 29 - 76 *per cent* over the cost estimates could not be termed as market driven. In BSP, the Company conducted 10 rounds of negotiation with BHEL for 24 months from August 2008 to August 2010. This period was sufficient for re-tendering for obtaining market driven price, instead of awarding the contract at a negotiated price, which was still higher than the cost estimates by ₹ 71.50 crore.

Thus, accepting single price bids of BHEL in three contracts totalling ₹ 1,251.19 crore[6] as reasonable was not valid and the Company should have resorted to re-tendering to seek sufficient competition and market driven prices.

3.4.8 Eligible bidder was not awarded the contracts

Civil and structural works in following cases were not awarded to eligible bidder resulting in avoidable extra expenditure of ₹ 85.88 crore, and three years time overrun in Medium Structural Mill (MSM) of DSP. Besides, the management actions lacked transparency and justification in these cases.

[6] BSP: ₹ 255.60 crore, RSP: ₹ 322.93 crore, ISP: ₹ 672.66 crore

1. In a competitive bidding, M/s Era Infrastructure Engg Ltd. (EIEL) was L-1 bidder for a civil work in Bar & Rod Mill in BSP with quoted price of ₹ 54.68 crore who extended validity of their price up to June 2010 at the instance of the Company. However, order was not placed on them and the same work was re-tendered and awarded (December 2010) at L-1 price of ₹ 66.61 crore. There was no reason to allow a technically compliant L-1 bid to expire and to re-tender the work within two months (i.e. in August 2010). Ministry stated that main package was under consideration of Board and EIEL expressed its inability to extend the validity further. Reply is not tenable. Civil work was to precede the main package which was already placed for Board's approval in May 2010. Delay on the Company's part in approving the civil work in first round of tendering not only delayed award of civil work by six months but also resulted in extra expenditure of ₹11.93 crore.

2. M/s EIEL emerged (November 2009) as L-1 in two separate global tenders for the civil work and structural work of new plate mill in RSP. Both were competitive bids as there were nine technically compliant bidders for civil work and seven for structural work. Proposals of Plant level tender committee was forwarded to Project Directorate, Corporate office, New Delhi to obtain the approval of awards for both works to M/s EIEL. The approval for award of contract was not given even within the extended price validity date of 30 June 2010 agreed to by M/s EIEL. After refusal by the contractor to further extend the price validity, the Company re-tendered the work within a month (July 2010) at an extra cost of ₹ 31 crore. M/s EIEL who was technically compliant in first tender was evaluated as technically non-compliant in re-tendering. Ministry stated that civil work was deferred because main package was not finalised and M/s EIEL's work was not good in the sister plants.

Ministry's statement that civil package was deferred due to non-finalisation of main package is not justified because the same work was re-tendered within 23 days from the expiry of validity extended by M/s EIEL. Regarding the performance of M/s EIEL, BSL management shared that there were five reasons for delays in structural work executed by M/s EIEL in BSL, and none of those could be attributed to poor performance of M/s EIEL. Thus, not approving the lowest bid within the price validity period could not be considered as a fair decision which also resulted in extra cost of ₹ 31 crore to the Company.

3. M/s EIEL was evaluated (May 2008) as L-1 bidder at ₹ 178.20 crore for civil and structural works (combined package) for Medium Structural Mill (MSM) in DSP. The Company, however, did not award the contract to M/s EIEL within the validity date of 31 August 2008 despite being the lowest bidder among six technically qualified price bids. Ministry stated that MSM main package was not finalised. But it shows their poor planning particularly when the package was re-tendered within less than two months on 13 October 2008. Audit noted that M/s EIEL was ignored in subsequent re-tenders. In re-tender of the same work, M/s EIEL was again evaluated (February 2009) as L-1 bidder amongst seven technically qualified bidders and negotiated price of ₹ 176.46 crore was less than MECON's estimate of ₹ 184.29 crore. The Company again did not award the work to M/s EIEL. The

work was split (July 2009) to seek rates for the civil work and structural work separately. Even in third tender, M/s EIEL had emerged as L-1 bidder for civil package which was cancelled later as L-1 bid was 9.9 *per cent* higher than estimates. The civil package was re-tendered (fourth time) in July 2010 but the offer of M/s EIEL was not considered. Ministry in their reply stated that due to poor performance of M/s EIEL in other SAIL plants, their offer was not considered. Reply is contestable. M/s EIEL executed structural work of Cold Rolling Mill in BSL and none of five reasons listed by BSL for delays could be attributed to poor performance of M/s EIEL. Moreover, if M/s EIEL's performance was poor, they should have been excluded from the tendering process from the beginning by invoking the extant guidelines of the Company for banning of business dealings.

After exclusion of bids of M/s EIEL from the civil work of MSM in DSP as commented in above paragraph, the L-1 bidder M/s Jain Infraprojects Ltd (JIL) was awarded the civil works contract in October 2010.Thus award of civil work which precede the main technological package and structural work took three years (November 2007-October 2010). Audit noted that M/s JIL failed to complete the civil work after receiving the progress payment of ₹ 45.65 crore. Besides the above work, M/s JIL was also awarded the civil work for Bloom cum Round Caster (BRC), an upstream project for MSM, and two other civil works which they failed to execute and works had to be awarded to other contractors through fresh bidding.

The total cost of civil and structural works of ₹178.20 crore obtained in first tender from M/s EIEL in May 2008 thus increased to ₹ 221.15 crore. Besides, time over run of three years in finalisation of tender for civil work and structural work of MSM adversely impacted the execution of MSM technological package which was to be completed by September 2012. Audit noted that 92 *per cent* of equipment valued at about ₹ 447.81 crore were received, but due to delays in civil and structural work, the erection work started in November 2013 which is now scheduled to be completed by May 2015. Ministry stated that increase in cost was recoverable from M/s JIL as risk purchase amount. Reply is not acceptable because the Company failed to realise risk purchase amount since July 2013, and due to delays in completion of civil and structural work, the MSM project has also got delayed by three years.

3.4.9 Deficiency in tender finalization for Rotary Polishing Line (RPL) in SSP

In SSP, tender specifications and tender finalisation was found to be deficient in respect of the polishing line facility created for quality improvement of cold rolled stainless steel sheets at a cost of ₹ 7.54 crore[7]. The work was awarded (Nov 2007) to M/s IMEAS, Italy on sole quote basis.

After opening the technical bid of M/s IMEAS (the bidder), the scope of work and performance conditions given in the tender were substantially changed at the instance of sole bidder. As per the tender document, only one rotary polisher was needed to produce 1000 tonne/year of mirror finish quality and bright annealed (BA) finish was input material to be

[7] Capitalisation cost of the project including award cost of Rs. 6.55 crore and finance cost

processed in the RPL. The bidder accordingly quoted ₹ 3.86 crore for one polishing head that used BA finish, as the input material. The bidder indicated that mirror finish could be achieved with input material of 2B finish instead of BA finish, and two independent rotary polishing heads instead of one polisher would be required to produce 1000 tonne/year of mirror finish saleable product. The bidder also insisted to modify the standard defect liability clause. Due to change in scope of work their original price bid of ₹ 3.86 crore was increased to ₹ 6.55 crore. SSP, however, did not re-tender the work and accepted the suggestions of M/s IMEAS which resulted in ordering a vendor specific machine.

Ministry stated that accepted changes were the basic technical requirements to meet the original specification of 1000 tonne/year production capacity. SSP is regularly operating this machine based on market demand. Reply is not acceptable because changes in technical specifications after opening of bids showed that same were deficient. Such changes warranted re-tendering for level playing field for all probable bidders. M/s IMEAS left the work in April 2009 without establishing the performance guarantee parameters, and as output from the machine was not of desired quality (mirror finish),only 23 tonne was produced during five years (2009-14) against capacity of 1000 tonne per annum and 18 tonne could be sold.

3.4.10 Delay in award process for Beneficiation and Pelletisation Plant

This project was a priority project to gainfully utilise dumped iron ore fines and slimes available at Gua ore mines to make pellet. Pellet was to be used as substitute for part of lump ore used in blast furnace burden. Mountain of 38.66 million tonne dumped iron ore fines was also causing environmental damage to the rivers, agriculture land etc. The CAG Report no. AR(C) 11 of 2007 on the Company had reported accumulation and non-disposal of iron ore fines at Gua mines causing environmental hazards. As noted below, this project was initiated in May 2008 but it took more than three years to decide whether beneficiation and pelletisation plants should be tendered as composite work or two separate works.

1. Management decided to set up the beneficiation and pelletisation facility as a composite project and called Expression of Interest (EOI) in July 2008. Two parties were short listed but EOI was cancelled. It was decided to split the project into two separate works, i.e. Beneficiation Plant and Pellet Plant to seek more response from the bidders and speedy execution.

2. Based on response from separate EOIs, the Company issued notice inviting tender on 25 May 2010 for pellet plant in Gua mines. Two bidders were short listed after technical discussion for eight months and were asked to submit price bids. The dates for bid opening were changed twice. Thereafter the tender was cancelled (12 September 2011) and the Company reverted to its July 2008 decision to seek bids for the composite beneficiation and pelletisation facilities. Reasons given included seeking larger participation from the bidders, however audit noted that same reason formed the basis for Company's earlier decision to tender both works separately. Ministry stated that there were technology issues and composite work facilitated integration. The fact remains that failure on the part of the Company to take firm decision regarding floating of composite or separate bids resulted in

loss of 39 months (July 2008 - September 2011) in a project which was supposed to be a priority project.

3. A global tender for composite work for Gua mines (October 2011) resulted in three technically compliant bids. Technical evaluation and discussions took 11 months and only two bidders submitted revised price bid on 18 January 2013[8]. One bidder wanted more time for submission of price bid which was not allowed by the Company on the plea that his e-mail was received after the office hours of 16 January 2013, which reduced competition. L-1 Bid of M/s L& T led consortium at ₹ 2,742.84 crore was accepted. One year later, the letter of award was issued (April 2014) to the L-1 bidder. The Company, however, did not assess whether the price quoted in January 2013 remained competitive in April 2014, after lapse of 15 months.

Thus, delays in tender finalisation adversely affected mining operations at Gua mines. Lease of Gua mines which expired in February 2009, could not be renewed due to non-fulfillment of environmental conditions, and mining operations had to be stopped intermittently during 2009-14, and there was no operation between June 2011 - April 2013 and August 2014 - November 2014. Ministry stated that application for renewal was submitted on time and the same is under active consideration of the State Government. The fact remains that mining operations were adversely affected due to non-renewal of mining lease.

Recommendation:-

2. The Company may adequately document the lessons learnt from the ongoing implementation of modernisation and capacity expansion plan. This would be a useful document which would serve as a guide for future expansions.

[8] The bid opening date was re-scheduled from 17th January to 18th January 2013.