

## CHAPTER VI

### **Irregularities in Awarding Major Works by Santacruz Electronics Export Processing Zone (SEEPZ), Special Economic Zone (SEZ), Authority**

**6.1** It was observed from Financial Accounts of Santacruz Electronics Export Processing Zone (SEEPZ) Authority that during the year 2015-16 and 2016-17 substantial amount was booked under ‘Advances on Capital Account’ (₹ 637.08 lakh in 2015-16 and ₹ 3304.39 lakh in 2016-17) and under ‘Capital works in progress’ (₹ 3087.41 lakh in 2015-16 and ₹ 5197.56 lakh in 2016-17). Hence, during the regular compliance audit (January/February 2018) of the SEEPZ SEZ Authority (herein after referred as “the Authority”) special focus was given to the transactions reported under these heads. Audit findings are discussed in the following paragraphs.

#### **6.2 Irregularities in awarding of Major works of SEEPZ-Authority:-**

Audit noticed following major issues:-

- (i) awarding of works to ineligible agency;
- (ii) Issue of work order without approval of Authority;
- (iii) Weak mechanisms for quality control;
- (iv) LOP/LOA issued to SEZ units without scrutinizing mandatory norms and other miscellaneous irregularities.

These issues are discussed in subsequent paragraphs.

##### **6.2.1 Award of Major works of SEEPZ-SEZ Authority to ineligible agency (NFCD)**

As per the Government of India office memorandum issued on 2 November 2010 read with rule 1 of General Financial Rules (GFR) 2017, provisions contained in GFR are deemed to be applicable to Central Autonomous Bodies except to the extent of the bye laws of an Autonomous Body for separate Financial Rules which have been approved by the Government. In the absence of any specific provision relating to awarding of works related to Major/Minor construction/repair works in the SEZ Rules 2009, provisions of GFR is applicable to the Authority.

As per sub rule 2 and 3 of Rule 133 of GFR, 2017 a Ministry or Department may, at its discretion, assign repair works estimated to cost above ₹ 30 lakh and original/minor works of any value to any Public Works Organization (PWO) such as Central Public Works Department, State Public Works Department, others Central Government organizations authorized to carry out civil or electrical works or to any Public Sector Undertakings (PSU) set up by the Central or State

Government or any other Central/State Government organisation/PSU which may be notified by Ministry of Urban Development (MoUD) after evaluating their financial strength and technical competence. For award of work under the sub rule 3, competition among PSUs/organizations shall be ensured.

Audit scrutiny revealed that SEZ Authority had awarded (February 2017) the works of structural repair and allied civil works and water proof treatment to National Co-operative Construction and Development Federation (NFCD) of India Ltd amounting to ₹ 74.85 crore. Advance payment of ₹ 56.14 crore had been made to the agency upto December 2017. Audit noticed that NFCD was only not on the list of agencies notified by MoUD, the selection of the agency was also done without any competitive bidding. It was seen that NFCD is an agency registered under Multi State Co-operatives Society Act 2002, Department of Agriculture and Co-operation, Ministry of Agriculture, Government of India.

On this being pointed out, Authority in their reply stated (February 2018) that the Authority was enacted under the provisions of SEZ Act, 2005 and Section 51 of the SEZ Act, 2005 has an overriding effect in respect of any other law or instruments etc. It further stated that it has power to incur expenditure above the threshold limit of ₹ 50 lakh and had decided to engage NFCD on deposit work basis to carry out maintenance and repairs work because earlier the repair and maintenance work of the building was with MIDC which delayed the execution.

Reply of the Authority is not acceptable because under Rule 7 of SEZ Rules the Authority is permitted to incur expenditure on minor and maintenance works upto ₹ 50 lakh only. As far as the procedure to be followed while incurring the expenditure for awarding works in excess of ₹ 30 lakh is concerned, the GFR provisions continue to be applicable to the Authority.

Since NFCD is an agency registered under Multi State Co-operatives Society Act it was not eligible being not on the list of agencies notified by MoUD for carrying out the maintenance works of government autonomous body. Moreover, no competitive process was followed to select the agency.

In further response received from the Ministry of Commerce and Industry, it was stated that the appointment of NFCD was under examination by the Ministry's Vigilance Section, as to whether GFR Rules have been followed or not. Further progress is awaited (October 2019).

### **6.2.2 Issue of work order without approval of Authority**

Authority had approved an expenditure of ₹ 40.48 crore including five per cent contingency for structural repair and allied civil works of Standard Designed

Factories (SDF) buildings and Gems and Jewellery buildings. However, NFCD was issued work order in February 2017 for ₹ 44.58 crore. Thus, work order for an excess amount of ₹ 4 crore was issued without approval of the Authority. Further, an additional amount of ₹ 7.77 crore was sanctioned for structural repairs without approval of the Authority.

In reply the Authority stated (April 2018) that the proposal for additional amount of ₹ 7.77 crore was to be taken up in the agenda of the subsequent meeting of Authority for deliberation and discussion. However, the Authority was under reconstitution and the letter of approval was issued by the administration due to oversight.

Authority further stated that the approval had been withdrawn in April 2018 and would be taken up in the next Authority meeting for deliberations and that no additional payment/budget had been released to M/s. NFCD on this account.

Ministry replied (July 2019) that the Committee of Members of the Authority reconstituted to look into the matter held the view that the appointment of M/s NFCD was already under examination by Vigilance Section. It was further stated that the Institute of Technology (IIT), Mumbai which conducted a third party structural audit had in its report attributed the escalation in cost to the fact that the structural and non-structural repair works in the buildings had been carried out at the places which were appearing to be good at the time of initial audit and inspection and those were not considered in the initial estimates.

The irregularities in awarding of contract for major works indicated serious deficiencies in the financial management of the Authority for which responsibility needs to be fixed.

### **6.2.3. Weak mechanism for quality control**

Disaster Management Advisor (DMA) of the Authority had inspected (November 2017) all the structural and waterproofing works of SDF and Gems and Jewellery buildings completed by NFCD's contractors. They submitted inspection report highlighting major structural discrepancies in all the buildings which included defective columns and beams and in completed work. Though the Authority had taken up the matter with NFCD several times to rectify the deficiencies, no action was taken by NFCD till the date of audit. Since no MoU was signed between the Authority and NFCD and no Bank Guarantee (BG)/Performance Guarantee (PG) was taken, Authority could not enforce action against NFCD.

In reply the Authority stated that the NFCD was in the process of compliance of the discrepancies as pointed out by DMA. With respect to MoU, the Authority stated that the draft MoU was under process of finalization.

Ministry further stated (July 2019) that to ensure the execution of the work was as per the given quality standards and technical specification a third party audit through Department of Civil Engineer, Indian (IIT), Mumbai was carried out. Fact remains quality control mechanism failure was evident from the IIT, Mumbai inspection report which stated that repairs were carried out even at the places which were appearing to be good, which resulted in escalation of costs.

#### **6.2.4 LOP/LOA issued to SEZ units without scrutinizing mandatory norms**

Rule 17 and 18 of SEZ Rules 2006 contains provisions regarding allotment of units in SEZ which provides for applying to the Development Commissioner for setting up of unit in SEZ inter alia with allotment of land/industrial sheds in the SEZ along with approval for water connection, Registration-cum Membership certificate (RCMC), proof of registration with Central Pollution Control Board, Power connection, Building approval plan, approval from inspectorate of factories, pollution control clearance and NOC from fire department beside Export projections and past performance, if the applicant is existing SEEPZ unit etc.

Audit noticed (February 2018) that the Authority had invited (May 2017) applications for allotment of units in building SDF VIII (New Tower) even before occupation certificate was issued by the MIDC. Approvals were accorded to 18 SEZ Units (12 fresh LOPs, six existing units were allowed Broad banding/additional space) in July 2017 by Unit Approval Committee (UAC)<sup>57</sup> although the requisite clearances like Occupation Certificate (OC), water and power connection, pollution control clearance, fire clearance and RCMC certificates had not been obtained. Allotment of units in the SDF VIII even before getting OC was irregular. Further, no business operation could be commenced by any SEZ Unit as there was no water and power connection and allotments were put under review because of non-submission of requisite approval certificates by the units.

Audit noticed that the subsequent UAC held in August 2017, decided to review all allotments already made by earlier UAC on the grounds of non-fulfilment of terms and conditions laid down in the Provisional letter of SEEPZ authority e.g.

<sup>57</sup> UAC is constituted under Rule 18 of SEZ Rules, SEEPZ Authority-DC, SEEPZ Composition of UAC- Development Commissioner (Chairman), Members- Nominee of the Zonal DGFT, Nominee of Joint Director of Industries and Nominees of Income Tax, Mumbai along with special invitees- Joint DC, SEEPZ, Deputy DC, SEEPZ and Specified officer, SEEPZ

acceptance of conditions by the allottee, making of payment within stipulated time and also cases of application for additional space because of capacity enhancement on the grounds that “there appears to be no-correlation between projected export and space allotted to the units with respect to their past performance, existing installed capacity and space utilized by them”.

Audit requested (February 2018) the Authority to furnish the outcome of examination/review of the LOA issued and whether any departmental proceedings/ enquiries were being conducted to fix the responsibility.

In their reply (March 2018), the Authority stated that after the approval of Ministry of Commerce (March 2018), allotments of Gems & Jewellery units in SDF-VIII (New tower) have been cancelled (May 2018). As per the directions of the UAC, the LOA dated 12 July 2017 and 14 July 2017 have also been cancelled (May 2018).

### 6.3. Conclusion

The audit findings included in the chapter indicated serious lapses and non-compliance to the GFR provisions. The instances of issue of excess work order without approval and cancellation of allotments of units due to lack of mandatory clearances from statutory authorities are serious lacunae in the working of the Authority and needs to be addressed at the highest level. The irregularities in awarding of contract for major works indicated serious deficiencies in the financial management of the Authority for which responsibility needs to be fixed.

Though the Ministry stated that departmental vigilance inquiry had been initiated, the outcome of the inquiry was not shared with audit.

New Delhi  
Dated: 26th November, 2019

  
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Dated: 29th November, 2019

  
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