

## CHAPTER-11

### COMPLIANCE AUDIT OBSERVATIONS (PUBLIC SECTOR UNDERTAKINGS)

#### Haryana Orbital Rail Corporation Limited

##### 11.1 Payment of avoidable interest

**Imprudent decision of the Company to retain the share application money beyond the stipulated time, in contravention to the provisions of the Companies Act, 2013 led to payment of an avoidable interest of ₹ 1.20 crore to the share applicants.**

Section 42 (6) of the Companies Act, 2013 provides that a Company making an offer for subscription of securities on private placement shall allot its securities within 60 days from the date of receipt of application money or shall repay the money to the subscribers within 15 days from the date of completion of 60 days, failing which it shall be liable to repay that money with interest at the rate of 12 *per cent* per annum from the expiry of the 60<sup>th</sup> day.

The Board of Directors (BoD) of the Haryana Orbital Rail Corporation Limited<sup>1</sup> (Company) accorded (November 2020) approval to increase paid-up capital from ₹ 0.10 crore to ₹ 200 crore and allot 19.99 crore equity shares of ₹ 10 each aggregating to ₹ 199.90 crore on right issue basis to its existing six shareholders<sup>2</sup> in one or more tranches. Accordingly, the Company issued (23 December 2020) offer letters to its existing equity shareholders for right issue of 19.99 crore shares with major shareholding of 45 *per cent* to Haryana Rail Infrastructure Development Corporation Limited (HRIDCL), based on their shareholding in the Company on 15 December 2020. The offer was valid for the period 28 December 2020 to 25 January 2021. In response to this, share application money (SAM) of ₹ 29.99 crore (April 2021) and ₹ 9.99 crore (April/September 2021) from two shareholders only viz. Maruti Suzuki India Limited (MSIL) and Gurugram Metropolitan Development Authority (GMDA) respectively was received beyond the offer period. Due to non-receipt of SAM from other shareholders particularly the major shareholder i.e. HRIDCL, and to

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<sup>1</sup> Incorporated on 25 December 2019 as a Special Purpose Vehicle for the purpose of construction, operation and maintenance of Haryana Orbital Rail Corridor Project. The Company is an Associate Company of Haryana Rail Infrastructure Development Corporation Limited (HRIDCL). HRIDCL is a Joint Venture of Government of Haryana and Ministry of Railways/ Government of India. Equity shareholding as on March 2021: Government of Haryana: 51 *per cent* and Ministry of Railways: 49 *per cent*.

<sup>2</sup> HRIDCL: 8,99,55,000 shares (45 *per cent*), Maruti Suzuki India Limited: 2,99,85,000 shares (15 *per cent*), Gurugram Metropolitan Development Authority: 99,95,000 shares (5 *per cent*), Haryana State Industrial & Infrastructure Development Corporation Limited: 2,99,85,000 shares (15 *per cent*), All cargo Logistics Limited: 1,99,90,000 (10 *per cent*) and International Cargo Terminals & Infrastructure Private Limited: 1,99,90,000 (10 *per cent*).

avoid dilution of Government's controlling interest, the Company did not allot shares to MSIL and GMDA within the prescribed time limit. However, as required under the provisions of Section 42 (6) of the Companies Act, 2013, instead of refunding the SAM to MSIL and GMDA within the prescribed time, the Company decided to retain the SAM.

Audit observed (November 2023) that the Company had issued offer letters for issue of shares on right issue basis in December 2020 even before finalisation of shareholders' agreement with its existing shareholders. Later, the Company issued the revised offer letters for right issue to its shareholders on 11 February 2022 after finalisation of shareholders' agreement with five shareholders<sup>3</sup> on the same day (11 February 2022). The Company received SAM in March 2022 from two shareholders<sup>4</sup> and land as SAM from one shareholder<sup>5</sup> and allotted shares to five shareholders<sup>6</sup> including MSIL and GMDA on 17 March 2022 against the SAM received earlier from them in April/ September 2021. Eventually, the Company had to pay interest of ₹ 3.20 crore to MSIL (₹ 2.79 crore in August 2022) and GMDA (₹ 0.41 crore in February 2023) for delay in allotment of shares as per Section 42 (6) of the Companies Act, 2013. It was also observed that the Company had earned interest of ₹ 2.00 crore on the SAM received from MSIL and GMDA.

Thus, imprudent decision of the Company to retain the SAM of MSIL and GMDA beyond the prescribed time, in contravention to the provisions of the Companies Act, 2013 led to payment of an avoidable interest of ₹ 1.20 crore (₹ 3.20 crore - ₹ 2.00 crore).

The Management replied (December 2023) that share application money was not refunded to MSIL and GMDA with the expectation that contribution from other shareholders would be received shortly, however, the signing of shareholders' agreement by the shareholders and release of share application took time. The reply is not tenable as the Company had issued offer letters to the existing shareholders without finalisation of shareholders' agreement, and it had unduly retained the share application money of MSIL and GMDA beyond the prescribed time till final allotment of shares to them, which was made only after issue of the revised offer letters.

The matter was referred to the Government (April 2024) and the reply was awaited (July 2025).

***Recommendation: The Company should strictly adhere to the applicable statutory provisions to protect its financial interest.***

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<sup>3</sup> Excluding International Cargo Terminals & Infrastructure Private Limited.

<sup>4</sup> HRIDCL and Allcargo Logistics Limited (ACL).

<sup>5</sup> Haryana State Industrial & Infrastructure Development Corporation Limited (HSIIDC).

<sup>6</sup> MSIL, GMDA, HRIDCL, ACL and HSIIDC.

**Haryana Tourism Corporation Limited**

**11.2 Undue favour to contractor**

**Delay in transfer of possession of a Convention Centre to the contractor as well as execution of license agreement and extension of renovation and upgradation period (without license fee) in violation of the agreed terms and conditions of LOI, unduly favoured the contractor and deprived the Company of license fee income of ₹ 0.68 crore.**

As per the e-auction conducted in January 2022, the Haryana Tourism Corporation Limited (Company) issued (24 February 2022) Letter of Intent (LOI) to M/s J.B. Decore (contractor) being the highest bidder, for leasing out its Convention Centre, Tilyar Lake, Rohtak at an annual license fee of ₹ 1.75 crore for a period of three years with provision of extension of three years and further three years (total nine years) on the revised license fee<sup>7</sup>. The other terms and conditions of the LOI, *inter-alia*, provided the following:

- In response to LOI, the successful bidder will have to give acceptance within seven days from issue of LOI and deposit interest free security equal to 12 months license fee less earnest money/ EMD within 15 days from issue of LOI. Failure to deposit the security within 15 days from the date of offer letter will result in forfeiture of the earnest money.
- After acceptance of LOI, the license would be granted to the highest bidder. Thereafter, the licensee shall be allowed to use and occupy the premises within three days from the date of issue of license and accordingly, license agreement would be duly executed between two parties. Consequently, the licensee would be given 90 days period (without any license fee) for renovating, upgrading and furnishing of premises as per plan submitted at the time of submission of technical bid, at its own cost and expense. Subsequently, after expiry of 90 days, the period of license would commence, and the licensee would be bound to make periodic payment as per terms and conditions.
- Open space/area would be given on “*as is where is basis*” and all the expenses incurred on repair/renovation of the existing structure will be borne by the licensee and the total fittings and fixtures, if any installed by Licensee will become the property of the Licensor after the expiry of the license period.

The contractor accepted the LOI on the same date of its issuance i.e. 24 February 2022 and deposited a part of the security amount of ₹ 0.70 crore on 09 March 2022 against ₹ 1.65 crore<sup>8</sup> within the stipulated time while seeking one month

<sup>7</sup> Subject to minimum increase of 15 *per cent* over the previous license fee.

<sup>8</sup> Required security: ₹ 1.75 crore less EMD: 0.10 crore.

time for deposit of balance security amount of ₹ 0.95 crore, which was allowed (11 March 2022) by the Company. The contractor, however, deposited the balance security amount of ₹ 0.95 crore on 07 May 2022, beyond the extended period. The Company had issued (11 March 2022) a letter to the contractor for possession of the Convention Centre and execution of license agreement. The license agreement was executed (08 June 2022) between the Company and the contractor for a period of three years from 06 September 2022 to 05 September 2025 after allowing 90 days period from 08 June 2022 for renovation and upgradation, etc. (without license fee). The contractor was allowed to take possession of the Convention Centre on 08 June 2022. Further, on the request of the contractor, the Company extended (04 October 2022) the time-period of 90 days for renovation and upgradation etc.

Audit observed (July 2023) that the contractor had violated the agreed terms and conditions of the LOI with respect to payment of the stipulated security amount within the prescribed time. However, the Company did not take action for forfeiture of the earnest money. Further, the license for the Convention Centre should have been granted to the contractor immediately after acceptance of LOI by the contractor on 24 February 2022, followed by transfer of possession of the Convention Centre to the contractor within three days from grant of the license. However, the transfer of possession of the Convention Centre to the contractor and execution of license agreement was done with a delay of 86 days from the date of intimation for possession (11 March 2022) after allowing three days. Further, on the request of the contractor, the Company also extended (04 October 2022) the time-period for renovation and upgradation etc. by 56 days from 06 September 2022 to 31 October 2022 (without license fee), in violation of the agreed terms and conditions of LOI.

Thus, delay in transfer of possession of the Convention Centre to the contractor as well as execution of license agreement, and extension of renovation and upgradation period (without license fee) in violation of the agreed terms and conditions of LOI, unduly favoured the contractor and deprived the Company of license fee income amounting to ₹ 0.68 crore<sup>9</sup>.

The Management stated (April 2024) that LOI was accepted on 24 February 2022. However, due to various administrative issues, the letter for possession was issued on 11 March 2022. During inspection of Convention Centre, the licensee found that there was leakage in the roof of Convention Centre and heavy repair work was to be done before renovation work. Therefore, three-month period for the renovation was not sufficient. For smoothening the work of Convention Centre, a further period of two months was extended by

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<sup>9</sup> ₹ 1.75 crore/365 X 142 (86+56) days.

competent authority.

The reply is not acceptable as extension of 56 days for renovation and upgradation etc. (without license fee) in violation of the agreed terms and conditions of the LOI i.e. relaxation in terms and conditions post e-auction stage was unwarranted and against the principles of competitive tendering as the Convention Centre premises were offered on “*as is where is basis*”. Further, the delay on the part of the Company attributed to administrative reasons was not justified.

The matter was referred to the Government (April 2024) and the reply was awaited (July 2025).

***Recommendation: Relaxation in terms and conditions of e-auction having financial implication in favour of contractor at post auction stage should be avoided and departmental action may be initiated against the officers for giving such relaxations to the contractor.***



**Chandigarh**

**(ASHUTOSH SHARMA)**

**Date: 26 December 2025    Principal Accountant General (Audit), Haryana**

**Countersigned**



**New Delhi**

**(K. SANJAY MURTHY)**

**Date: 13 January 2026**

**Comptroller and Auditor General of India**