CHAPTER XI: DEPARTMENT OF HEAVY INDUSTRIES

Bharat Heavy Electricals Limited

11.1.1 Non-realisation of Rs.4.22 crore from a customer

The Company took an unwarranted risk and dispatched 95 *per cent* of the materials on verbal assurance which resulted in non-realisation of an amount of Rs.4.22 crore from the customer for more than six years.

Bharat Heavy Electricals Limited (Company) received an order (22 December 1999) from M/s. Arunachalam Sugar Mills Limited (ASML), Pondicherry for supply of a straight condensing turbo generator set of 4,280 KW capacity at a total value of Rs.5.46 crore (*ex*-works, exclusive of tax and other statutory levies). The supply was to be completed within 14 months of the date of order. The contract required the Company to test the equipment before dispatch for which 10 days written notice was to be given to ASML and to dispatch the equipment as per dispatch instructions of ASML.

The Company informed ASML that testing would be conducted between 16 March 2001 and 22 March 2001, but the latter did not turn up for the test. The Company conducted the test without the presence of ASML's representative and sent (29 March 2001) the test report to the latter. Thereafter, the Company without waiting for the formal approval of ASML dispatched (31 March 2001) 95 *per cent* of the materials. The dispatch was stated to be made on verbal clearance from Chairman of ASML. When the Company requested for payment of Rs.4.22 crore against the supplies made, ASML stated (April 2001) that the claims were not in order as it had not given despatch clearance.

In January 2002 ASML proposed to make payment through bill of exchange and sought the Company's help in commissioning the generator and completing all supplies. As the bill of exchange was not guaranteed by ASML's bankers, the Company (February 2002) put forth certain conditions which were not responded to by ASML.

For recovering the outstanding amount, the Company issued (September 2003) legal notices and referred (July 2004) the matter to arbitration. Meanwhile, an official liquidator was appointed by the Hon'ble High Court of Madras in winding up proceeding filed by various creditors of ASML. As the Company was only an unpaid seller and not a secured creditor, chances of recovering the amount were assessed as remote.

The Management replied (May/August 2007) that materials were dispatched to meet the target date of supply to avoid levy of the LD by ASML and that dispatch instructions as referred to in the contract pertained to furnishing the routine details like consignee address, sales tax registration numbers, contact details, *etc*., by ASML. They added that the Company as unpaid seller has a lien over the equipment supplied by it.

The reply was not acceptable as the target date of supply had already lapsed on 22 February 2001 and the Company took a risk in dispatching equipment based on the verbal clearance of ASML and despite ASML's condition, in the absence of the buyer's representative for the pre-dispatch tests.

Thus, the Company failed to safeguard its interest by dispatching the material on the verbal clearance of the customer, which resulted in non-realisation of an amount of Rs.4.22 crore for more than six years.

The matter was reported to the Ministry in June 2007; reply was awaited (November 2007).

11.1.2 Extra expenditure due to non-placement of order as per the tender enquiry

The Company did not place purchase order as per delivery terms offered by a vendor for procurement of Molybdenum-Oxide resulting in extra expenditure of Rs.2.21 crore.

Central Foundry Forge Plant, Hardwar (CFFP) of Bharat Heavy Electricals Limited (Company) uses Molybdenum-Oxide and Ferro Molybdenum in manufacturing steel castings and forgings. The CFFP floated (20 April 2004) a tender enquiry on four approved vendors for supply of 32 MT Molybdenum-Oxide (MoO_3). All the four offers received (12 May 2004) were found to be technically suitable; no vendor, however, offered the full quantity. Purchase Order was placed (14 May 2004) on Electro Ferro Alloys (EFA), the lowest vendor, at a rate of Rs.7.80 lakh *per* MT for 10 MT.

It was noticed that though EFA had offered 20 MT of MoO_3, CFFP placed an order for 10 MT and with a delivery schedule other than what was offered by EFA. As the delivery schedule was not as per its offer, EFA did not accept (18 May 2004) the order. The Company subsequently accepted (31 May 2004) the delivery schedule of EFA, but EFA again refused (2 June 2004) the order as it was received after the validity period of the bid.

The Company floated a revised enquiry (12 July 2004) and received two offers, which were opened on 30 July 2004. By this time the price of the MoO_3 had risen by over 46 *per cent*, *i.e.*, from Rs.7.80 lakh *per* MT to Rs.11.44 lakh *per* MT. The Company placed the order on Premier Alloys at an average rate of Rs.11.44 lakh *per* MT on the last day (after business hours) of bid validity (4 August 2004). Premier Alloys refused to accept the order as it was received after the expiry of validity period. The Company now placed the order on the next vendor, Impex Metal for supply of 32 MT at an average rate of Rs.11.98 lakh *per* MT. Impex Metal could supply nine MT only, and the Company had to purchase the material from the open market at an average rate of Rs.25.30 lakh *per* MT which was higher than the rates of May 2004 and August 2004 by 224 *per cent* and 121 *per cent*, respectively.

As a result, due to not placing the order as per tender enquiry as well as the offered terms of the vendor, the Company could not obtain the material at lower rates offered by EFA. This resulted in an extra expenditure of Rs.2.21 crore on the procurement of 20 MT of MoO_3.

The Management stated (August 2007) that EFA had not accepted the order due to extraneous reasons, as the prices showed a rising trend and that EFA had also defaulted in earlier purchase orders dated 24 February 2004. They added that there was no certainty of receipt of material in the unprecedented market situation prevailing during that time.

The reply was not acceptable because the failure of vendor to supply the material against the order of February 2004 should have prompted the CFFP to either place a firm order based on the offered terms in the April 2004 bids or not consider the vendor at all in the order placement.

The matter was reported to the Ministry in June 2007; reply was awaited (November 2007).

11.1.3 Avoidable extra expenditure of Rs.1.34 crore

Failure to place purchase orders within validity period resulted in extra expenditure of Rs.1.34 crore.

Bharat Heavy Electricals Limited (Company) incurred an avoidable expenditure of Rs.1.34 crore due to non-placement of purchase orders within the validity period of offer in three cases as discussed below:

Case 1: Boiler Auxiliaries Plant (BAP), Ranipet

The Ranipet unit of the Company invited (21 January 2004) limited tender enquiries for procurement of various sizes of steel plates. The offer of Hansa Industries Private Limited (HIPL), Indian agents of Thyssen Krupp, Germany was the lowest for six sizes (492.741 MT) with validity of prices upto 12 February 2004. The division released the letter of intent at a belated stage on 18 February 2004 instead of before 12 February 2004. HIPL refused to accept the order. Fresh tender was invited and purchase orders placed (June 2004) on Metal One Corporation, Japan and Ferromex, Belgium at prices higher by 40 *per cent* than those offered by HIPL in February 2004.Thus, failure to place purchase order within the validity period resulted in an avoidable expenditure of Rs.38.98 lakh.

The Management accepted (May 2007) the observation.

Case 2: High Pressure Boiler Plant (HPBP), Tiruchy

The Tiruchy unit of the Company invited limited tenders (27 February 2004) for the procurement of 97.39 MT of Stainless Steel Plates (11 items) required for a Project with the tender due date as 15 March 2004 which was further extended to 25 March 2004. Response was received from two suppliers but the same were not found to be technically suitable. An offer was received from M/s. Indu Steel, France (supplier) through their Indian Agent on 26 March 2004. This was one of the parties to whom the purchase enquiry was sent and it was the only technically qualified party. The supplier quoted a price of Euro 4,240 *per* MT. The prices were valid till 2 April 2004. The Company failed to place the order within the validity period. The procurement had to be made through another bid resulting in extra expenditure of Rs.44.92 lakh.

The Management stated (March 2007) that only one vendor was technically qualified and the same was a late offer with technical deviation. It took some time for getting the approval of competent authority for these changes and for accepting the late offer.

The reply was not acceptable. The Company having decided to consider the late offer as the only technically acceptable, should have ensured that offer was processed within the validity period. Thus, failure to place the order within the validity period allowed the supplier party to increase its price resulting in extra expenditure of Rs.44.92 lakh.

Case 3: Industrial Systems Group (ISG), Bangalore

In response to a tender enquiry from the Industrial Systems Group of the Company at Bangalore for the procurement of one 2,000 KVA DG set with accessories for Western Mountain Gas Turbine Power Plant (GTPP) of General Electricity Company, Libya the lowest quotation received was from Kohler India, Bangalore (Indian agent of Kohler, USA) for a price of Rs.131.90 lakh. The price was valid till 31 May 2004. Instead of placing a firm order on the party a letter of intent was issued on 27 May 2004. Since the order was not confirmed before 31 May 2004, the party intimated that their principals refused to hold the prices. A fresh tender was floated and order was placed on Powerica, Chennai at a price of Rs.181.73 lakh resulting in extra expenditure of Rs.49.83 lakh.

The Management stated (May 2007 and July 2007) that Kohler had put one additional condition that they will supply the DG set from Singapore. As Singapore was not indicated as the country of origin by Libyan Customer in their letter of credit (LC) , same had to be taken up with the customer through International Operation Division of the Company for necessary LC amendments. On account of the above reasons, purchase order could not be immediately placed on Kohler, even though letter of intent was placed pending LC Amendment from the customer.

The reply was not tenable. The party had clearly indicated that supply would be made from Singapore and when technical / commercial bids were opened in January 2004 and this was not considered a barrier to opening of price bids. The price bids were opened on 4 February 2004 whereas the issue of amending the LC for supply from Singapore was taken up at a much later stage after the validity of offer was already over.

Thus, failure to place a firm order on lowest party within the validity period resulted in extra expenditure of Rs.49.83 lakh.

The matter was reported to the Ministry in June 2007; reply was awaited (November 2007).

Heavy Engineering Corporation Limited

11.2.1 Avoidable payment of liquidated damage of Rs.4.12 crore

The Company suffered a loss of Rs.4.12 crore on account of liquidated damages as the Company failed to adhere to the delivery schedule in supplying Electric Rope Shovels.

Heavy Engineering Corporation Limited (HEC) entered into a contract (April 2003) with Coal India Limited (CIL) for manufacture and supply of three $10M^3$ Electric Rope Shovels at a firm and total price of Rs.43.15 crore. As per the terms of the contract, the supply of shovels was to be completed between January 2004 and March 2004 failing which the LD equivalent to 0.5 *per cent* of the price of electric shovel for each week's delay, subject to a maximum of five *per cent* of the price were recoverable from the Company.

The Company failed to supply shovels within the contractual delivery schedule and requested for extension of delivery period twice which was acceded to by the customer subject to imposition of LD as per terms of the contract. The Company supplied the shovels in January 2005 after a delay ranging from 10 months to 12 months and CIL recovered LD amounting to Rs.2.16 crore.

It was observed in Audit that the Company took 31 months in finding out the source of supply and placed order in September 2003 for procurement of electrics on M/s. G.E., USA after a delay of five months from the date of contract (April 2003) without any safeguard for prompt supply considering the tight delivery schedule.

The electrics required for these shovels were sophisticated in nature and initially the Management issued the order for commissioning of one set of electrics to M/s. G.E., USA in September 2003. However, due to the incapability of its own engineers to commission second and third set of electrics, the Management awarded the job (January 2005) to M/s. G.E. USA after passage of nine months from the contractual delivery date.

The Management stated (June 2007) that the delay in supply of shovels was mainly due to delay in supply of Electrics by M/s. G.E., USA. Further, the two sets of electrics were not commissioned by HEC engineers in view of the risk that M/s. G.E., USA would not cover the items under warranty if anything went wrong during commissioning.

The Management reply was not tenable in view of the fact that the order for procurement of electrics was placed on M/s. G.E., USA in September 2003 *i.e.*, after a delay of five months from the date of contract (April 2003) without any safeguard for prompt supply considering the delivery schedule. Further, the Company issued the order for commissioning of only one set of electrics to M/s. G.E., USA, knowing well that the Company did not have any in house expertise resulting in further delaying the supply of electric shovels to M/s. CIL.

In another case Company entered into a contract (September 2004) with Mahanadi Coalfields Limited (MCL) for manufacture and supply of eight $5M^3$ Electric Rope Shovels at a price of Rs. four crore *per* shovel with delivery schedule between December 2004 to April 2005. The customer issued (August 2005) a repeat order for two more shovels at the same price and terms and conditions with delivery to be completed by April 2006. As per terms of the contract, LD equivalent to 0.5 *per cent* of the price of electric shovel for each week delay, subject to a maximum of five *per cent* of the price would be recovered from the Company in case of delayed supplies.

The Company failed to supply the shovels within contractual delivery period and requested the customer for extension of delivery upto November 2006 which was acceded to (September 2006) by the customer subject to imposition of LD as per terms of the contract. The Company supplied eight shovels between February 2005 and October 2006 with a delay of two months to nineteen months and two shovels in November 2006 with a delay of six to seven months. MCL deducted a sum of Rs.1.96 crore towards LD.

It was observed in Audit that the manufacturing plan for the shovels was finalised (March 2005) after a delay of six months from the date of agreement and the electrics for shovels were ordered (February 2005) after the expiry of contractual delivery dates for six shovels.

The Management while accepting (June 2007) the delay stated that delay in supply of shovels was mainly due to delay in supply of electrics by the supplier.

The Management reply was not tenable in view of the fact that there were delays in finalising the manufacture plans for the shovels and LD clause was not invoked against the supplier for delayed delivery of electrics.

Thus, due to failure to do preparatory planning and to assess its work procedures for ensuring timely delivery of the Electric Rope Shovels, Company had to suffer a loss of Rs.4.12 crore (Rs.2.16 crore plus Rs.1.96 crore) because of the LD recovered by the customer.

The matter was reported to the Ministry in August 2007; reply was awaited (November 2007).