CHAPTER XX: MINISTRY OF STEEL

Bokaro Power Supply Company (Private) Limited

20.1.1 Avoidable extra expenditure of Rs.12.31 crore on import of coal

The Company's decision to import 0.46 lakh MT of coal on the ground of acute shortage without reviewing the actual availability and consumption pattern resulted in avoidable extra expenditure of Rs.12.31 crore.

Bokaro Power Supply Company (Private) Limited[*] (BPSCL) operates the power plants at Bokaro and sells power and steam to Bokaro Steel Plant (BSL), a unit of SAIL. The monthly requirement of coal for generation of power and steam by BPSCL was around 1.40 lakh MT *per* month and the targeted average monthly stock of coal was 0.10 lakh MT.

In September 2005, the Company decided to import Chinese coal through MMTC Limited (MMTC) on the ground of acute shortage of coal and in October 2005 issued a Letter of Intent to MMTC. The Company purchased 0.46 lakh MT of imported coal of Chinese origin from MMTC at a landed cost of Rs.4,603 *per* MT, which reached BPSCL in January 2006.

During Audit it was observed that the Board of Directors did not review the actual availability and consumption pattern of coal at the time of approving the import which was as follows:

(In lakh MT)

Month	**Availability of coal@**	**Consumption of coal**	**Closing stock (physically available)**
June 2005	1.82	1.33	0.49
July 2005	1.96	1.48	0.48
August 2005	1.89	1.57	0.32
September 2005	1.85	1.52	0.33

@ ***Note: Availability of coal means stock plus receipts during the month***

It would be seen that availability of coal was always much more than the consumption and there was no acute shortage of coal, which was the basis on which import of coal was resorted to. The actual closing stock was always higher than the targeted average stock of 0.10 lakh MT.

Further, the actual coal consumption upto June 2005 was below the average monthly requirement of 1.40 lakh MT. Increase in consumption of coal from July 2005 onwards

[*] ***A joint venture Company of Steel Authority of India Limited and Damodar Valley Corporation***

was not due to excess demand for power but it was mainly due to poor performance of the power plant as the actual coal consumption *per* MT of steam generation (which was 118.37 kg[1] in April 2005) increased to 151.39 kg in September 2005 and to 157.02 kg in November 2005. The Management instead of taking action to control the excess consumption of coal decided to import the costlier coal.

However, procurement of imported coal was also not necessary as the rate for imported coal at Rs.4,603 *per* MT was much higher than the rate for indigenous coal at Rs.1,283 *per* MT. And even after considering that the quality of imported coal was better than indigenous coal by 50 *per cent* based on heat value and ash content, the cost of imported coal would be higher by Rs 2,678 *per* MT[2] than the derived cost of indigenous coal of. Rs.1,925 *per* MT, resulting in extra expenditure of Rs.12.31 crore[3].

The Management stated (June 2007) that critical stock position was reached in August 2005 and decision was taken to force reduction of generation level to 135 MW to build up stock, which reached to the level of 0.10 lakh MT by the end of October 2005. They contended that import was necessary to keep the thermal power plant running since non-supply of steam to BSL could have led to grave consequences.

The Management's reply was not tenable as at the time of the decision to import in September 2005 availability of coal was 1.85 lakh MT and consumption of coal was only 1.52 lakh MT. The closing stock of coal was 0.32 lakh MT at the end of August 2005. Import of coal was also not justified in view of the fact that when the imported coal eventually reached BPSCL in January 2006, the stock level was already 0.39 lakh MT (December 2005) and the so called critical position had ceased to exist.

Thus, import of 0.46 lakh MT of coal at the higher rate of Rs.4,603 *per* MT on the ground of acute shortage of coal resulted in avoidable extra expenditure of Rs.12.31 crore.

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

National Mineral Development Corporation Limited

20.2.1 Avoidable loss due to short payment of advance tax

Failure to consider the published financial results for the purpose of computation of payment of advance tax resulted in an avoidable payment of interest of Rs.1.22 crore under Income Tax Act.

As per Section 208 read with Section 211 of the Income Tax Act 1961 (Act), every Company is required to pay advance tax of not less than 15 *per cent* /45 *per cent* /75 *per cent* on due dates in quarterly instalments (15 of June/September/December) in such a way that the entire tax payable for the assessment year is paid by 15 March for the respective year. According to Section 234 C of the said Act in the event of short payment,

[1] ***Kilogram***
[2] ***Rs.4,603 per MT minus Rs.1,925 per MT***
[3] ***Rs 2,678 per MT multiplied by 45,973 MT***

the Company is liable to pay interest at the rate of one *per cent per* month on the unpaid amount of advance tax.

The Act further stipulates that, if the advance tax paid by the Company on its current income on or before 15 June or 15 September is not less than 12 *per cent* and 36 *per cent* respectively of the tax due on the returned income, then it shall not be liable to pay any interest on the amount of shortfall on those dates.

A scrutiny of records relating to the payment of Income Tax revealed that the advance tax paid by the Company during each of the four quarters for the financial year 2004-05 fell short of the limit prescribed in the Act. As a result, the Company had to pay interest of Rs.6.96 crore for the year 2004-05 under Section 234C of the Act.

The Company paid (15 September 2004/15 December 2004) the second instalment and third instalment of advance tax for the financial year 2004-05 on the basis of estimated annual profit of Rs.763.30 crore and Rs.794.36 crore respectively. It was observed in Audit that the Company had declared (July 2004) a profit[1] of Rs.258.39 crore for the first quarter and profit[2] of Rs 488.58 crore for the half year (October 2004) for 2004-2005. In computing instalment of advance tax for the second and third quarter, the Company failed to consider the published financial results. Had it considered, among other factors, the published results while computing the advance tax instalment for the second and third quarter, it could have saved itself from paying penal interest of Rs.1.22 crore[3] to the income tax authorities out of the total amount of penal interest of Rs.6.96 crore.

The Ministry in its reply stated (July 2007) that in future the profits for the first quarter would be taken into account for payment of advance tax. It further added that the Company had gone (April 2006) in for an appeal to the Chief Commissioner of Income Tax to waive the penal interest charged. The Income Tax Authorities have not waived the penal interest levied under section 234C so far (November 2007).

Thus, the Company incurred an avoidable payment of interest of Rs.1.22 crore due to failure to consider its published financial results for the purpose of computation of payment of advance tax for the second and third quarters.

Steel Authority of India Limited

20.3.1 Irregular payment of Rs.21.29 crore as reward to the employees

The Company made irregular payment of cash reward amounting to Rs.21.29 crore to its employees in contravention of the guidelines issued by DPE.

According to Department of Public Enterprises (DPE)'s instructions dated 20 November 1997, no *ex-gratia*, honorarium, reward, *etc.*, would be paid by the Public Sector Enterprises to their employees over and above the entitlement under the provisions of the

---

[1] ***Profit before tax for the period April to June of 2004-2005***
[2] ***Profit before tax for the period April to September of 2004-2005***
[3] ***Based on yearly profit of Rs.1,034 crore and the loss has been reduced on the assumption that the Company might have earned interest on short term deposits at the rate of 5.81 per cent per annum for the funds retained by it***

Bonus Act or the executive instructions issued by the DPE in respect of *ex-gratia* unless the amount was authorised under a duly approved incentive scheme in accordance with the prescribed procedure.

It was observed in Audit (March 2007) that in July 2004, Steel Authority of India Limited (SAIL) had approved payment of an *ad hoc* cash reward of Rs.13.19 crore (Rs.1,000 *per* employee) to its 1,31,910 employees for promoting motivation and morale.

Further, the Company decided on 29 January 2007 to extend an *ad hoc* cash reward of Rs.3,000 to each employee of IISCO Steel Plant (ISP[1]) who were on the rolls in December 2006. This was done on the plea of a motivational measure to sustain the morale of employees of ISP who did not have their wages revised for more than eight years as ISP was a sick Company[2] under BIFR. The financial implication of this payment to 14,415 employees was Rs.4.33 crore.

In another case, a cash reward of Rs.1,000 to each employee of Bhilai Steel Plant (BSP)[1] of the Company amounting to Rs.3.77 crore was paid in January 2007. The payments were made to 37,688 employees who were on the rolls on 1 April 2006 plus all those who joined service thereafter, in recognition of their contribution to improved performance of the plant and to ensure high morale and motivation levels of employees to sustain performance and growth.

As payment of reward in an *ad hoc* manner without following the prescribed procedure is prohibited as per the above guidelines of DPE, the decision taken by the Company for the payment of cash reward was irregular.

The Management stated (July 2007) that payments to ISP and BSP were made to encourage efforts by employees in future. Further, payments were made as per guidelines for wage revision issued by DPE which allows payment of perquisites and allowances upto a maximum of 50 *per cent* of the basic pay. Payments over and above the ceiling of 50 *per cent* were to be entirely in the nature of performance related payments which should not exceed five *per cent* of the distributable profits in an enterprise. The Ministry, while endorsing (September 2007) the reply of the Management, stated that these one time payments were in the nature of 'recognition/reward' and had been in monetary terms.

The reply was not tenable as the the DPE's guidelines quoted in the reply were not relevant in this case as the payment of cash reward did not come within the ambit of perquisites or allowances. The payment was also not based on any duly approved performance related incentive scheme and was *ad hoc* in nature.

Thus, payment of cash reward to the employees of the Company in contravention of the guidelines issued by DPE had resulted in extra expenditure of Rs.21.29 crore.

---

[1] ***ISP and BSP are two integrated steel plants of the five integrated steel plants of SAIL.***

[2] ***Indian Iron and Steel Company (IISCO) Limited which was a 100 per cent subsidiary of SAIL has been merged with the parent company as IISCO Steel Plant with effect from 16 February 2006.***

20.3.2 Loss of Rs.5.37 crore due to premature failure of XLPE cables

Company purchased 33 KV XLPE cables, without incorporating performance bank guarantee clause, from a party against whom negative reports were available, resulting in premature failure of the cables causing a loss of Rs.5.37 crore.

The Power Distribution network of Rourkela Steel Plant (RSP), a unit of SAIL, was equipped with oil filled cables at 33 KV level since inception (35 years). The existing cables were giving trouble due to long use and hence for their replacement, RSP purchased 21,930 metres of 33 KV XLPE cable* from M/s Central Cables Limited (CCL), Nagpur at a cost of Rs.4.54 crore. The Letter of Intent was issued by Bhilai Steel Plant in May 2002, the Central Procurement Agency (CPA) and formal purchase orders were issued by RSP in December 2002 and April 2004. The purchase orders, *inter alia*, provided for a guarantee clause under which the cables were to give a trouble free performance for a period of 12 months from the date of use or 18 months from the date of supply whichever was earlier.

Cables were received during July 2003 to November 2004 and laying thereof was started from February 2004 through a separate job contract. Initially, 10,167 metres of cables were laid. The cables started failing at regular intervals soon after its commissioning. Thereafter, the balance cables were laid under the supervision of Central Power Research Institute (CPRI). Out of the balance quantity of 11,763 metres (21,930 minus 10,167 metres) of cables, 10,263 metres were laid inside the plant and the remaining 1,500 metres were kept in stores. The cables continued to fail even after they were laid under the supervision of CPRI. The cost of cable laying, supervision, testing *etc.,* was Rs.83 lakh.

The Management of RSP took up the issue of cable failure with the supplier and asked for the replacement of the entire supplied quantity in January 2005. Ruling out the possibility of manufacturing defects in the cables, the supplier attributed the failure to the cable operating and laying parameters at RSP and agreed to replace only 92 metres of cables. Subsequently, the Management decided (July 2006) to replace the laid cables with fresh procurement of 18,500 metres to take care of the critical operations inside the plant. The Management took action against the supplier by invoking the arbitration clause and appointing an Arbitrator only in July 2007 on the premature failure of the cables and their non-replacement by the supplier.

It was seen in Audit that the procurement of cables from CCL was not proper in view of the following deficiencies:-

(i) Manufacturing technology of XLPE cables of CCL was different than that of XLPE cables being used in RSP system. Further, the product of CCL was found to be unsatisfactory in other organisation where the party was debarred from conducting business, a fact known to the Management. *None the less*, order was placed without incorporating performance bank guarantee clause, on a party whose supply worthiness was not known, and against whom negative reports were available.

* ***Cross linked polyethylene insulated cable***

(ii) On the proposal for procurement of XLPE cables the Managing Director, RSP had specifically requested to go in for a proven technology or alternatively, the procurement should be made on turnkey basis for system integration with guarantee linked to payment. The Letter of Intent however, was issued by CPA on behalf of RSP without complying with the above specific requirements of the Managing Director, RSP.

(iii) There was considerable delay in laying of the cables. The first batch of cable was received in July 2003, the processing of order for cables laying was initiated in February 2004 and was charged in May 2004. Subsequently, other batches of cables were laid and charged in October 2004 and November 2004. Delay in cable laying put pressure on the products guarantee clause since by the time RSP could notice the failure, the guarantee period was about to expire.

While accepting the fact that there were manufacturing defects in the cables and there was delay in laying of cables, the Management in its reply stated (July 2007) that on the issue of premature failure of the cables, RSP had taken various actions which included sending of final demand notice (June 2007) and invoking of the Arbitration clause.

The reply of the Management was essentially a *post facto* rationalisation as had the cables been procured from a proven supplier and had there been a guarantee linked payment clause in the order, the loss could have been avoided. The process of invoking of Arbitration clause was a belated action on the part of the Management.

Thus, purchase of cables from a party, whose credentials in manufacturing of 33 KV XLPE cables were unreliable, resulted in premature failure of the cables causing a loss of Rs.5.37 crore towards cost of the cables, cost of laying and other charges.

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

20.3.3 Avoidable loss of Rs.1.23 crore due to violation of Excise Rules

Reassessment of Excise Duty by the Company on the export surplus in contravention of the Central Excise Rules resulted in payment of penalty of Rs.1.23 crore.

The Excisable goods meant for export to other countries are cleared under bond without payment of Excise Duty under Rule-19(3) of Central Excise Rules read with notification no. 42/2001-CE (NT) dated 26 June 2001, as amended. For clearance without payment of duty, the particulars of the consignments of the goods for export including the value/quantity and amount of duty has to be declared in the application for removal of excisable goods under export (ARE-1) as provided in the rules/notification.

As per provisions in the rule, in case the excisable goods cleared under ARE-1 are not exported for any reason and the exporter intends to divert the goods for home consumption, he may be permitted to do so by the Excise authorities on request in writing. Duty as specified in the application will be payable on such diverted goods with interest at the rate of 24 *per cent per annum* on such duty from the date of removal for export from the factory/warehouse till the date of payment of duty. There will not be any

need for reassessment unless there are reasons to believe that the assessment was not correct.

It was observed in Audit that Bokaro Steel Plant (BSL), a unit of SAIL, for exporting Hot Rolled (HR) Coils/Slit Coils to National Tubes Limited, Bangladesh under several contracts, cleared 28,481.872 MT of Coils under bond. BSL sent the HR Coils to M/s. SAIL – Bansal Services Center Limited, a job worker for slitting the coils as per specification in the contract. Subsequently, BSL exported only 18,160.351 MT of Coils and diverted 10,322.796 MT for sale in the domestic market. BSL reassessed the value of the diverted quantity of goods considering rebate allowed to customers on sale prices, reclassifying a portion of the goods generated during cutting/slitting as scrap and paid Excise Duty on the reassessed value which was lower by Rs.1.23 crore than the Excise Duty assessed on the value declared earlier in the ARE-1.

Considering the unilateral reassessment of the duty as contravening the provisions of the Excise Rules, the Central Excise Deptt, Bokaro issued (March and August 2003) three show cause notices to BSL for recovery of the duty of Rs.1.23 crore along with penalty and interest on the Excise Duty. Subsequently, the Commissioner of Central Excise, Ranchi passed (August 2005) three orders asking BSL for payment of Rs.1.23 crore as Excise Duty along with interest and Rs.1.23 crore as penalty. BSL filed appeal (November 2005) against the orders before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), Kolkata and applied for the necessary clearance from the Committee of Secretaries *viz.*, “Committee on Disputes” (COD) which was necessary for pursuing the appeal as per the decision of the Hon’ble Supreme Court. The COD however, did not grant permission (June 2006) on the ground that no question of facts and laws were involved in the matter of dispute. Hence, the appeal filed by BSL at CESTAT was rejected. Ultimately the Company paid (July 2006) Rs.1.23 crore as Excise Duty and a penalty of Rs.1.23 crore. Besides, Excise Department also made a demand of Rs.1.12 crore towards interest.

The Ministry stated (October 2007) that since, the actual goods exported after processing were different from the goods removed to the job workers premises, the value of the goods were reassessed and Excise Duty was paid on the basis of reassessed value which was as per the provisions of the Trade Notice and the Excise Rules. Hence, no wrong was done while discharging its Excise Duty liability. The case had been resubmitted to the COD for reconsideration.

The Ministry’s contention was not acceptable since reassessment of Excise Duty on the goods cleared under ARE-1 could be done only with the permission of the Excise Department and Trade Notice No. 19/2002 dated 16 September 2002 also did not provide for re-assessment of duties.

Thus, due to reassessment of Excise Duty on export surplus diverted for domestic consumption without proper permission and in contravention of the rules and procedures, BSL had to pay penalty of Rs.1.23 crore.

20.3.4 Avoidable expenditure due to delay in lifting of iron ore

Visvesvaraya Iron and Steel Plant placed orders in February and March 2005 on National Mineral Development Corporation Limited for supply of 35,000 WMT of iron ore but it could not lift the entire ordered quantity within the delivery schedule and incurred an additional expenditure of Rs.1.18 crore.

Visvesvaraya Iron and Steel Plant, Bhadravati (Plant), a unit of Steel Authority of India Limited, purchases iron ore from National Mineral Development Corporation Limited, Hyderabad (NMDC). The Plant placed a purchase order on NMDC in February 2005 for supply of 20,000 WMT[1] of iron ore from its Kumaraswamy mines at the rate of Rs.815 *per* WMT with delivery schedule upto 31 March 2005. The plant subsequently issued two extension orders for supply of an additional 35,000 WMT (20,000 plus 15,000 WMT) on 24 February 2005 and 24 March 2005 respectively, on the same terms and conditions of price and delivery. The Plant made an advance payment of Rs.4.60 crore between 8 February 2005 and 24 March 2005 for supply of 55,000 WMT. The Plant lifted only 33,106 WMT iron ore out of the ordered quantity of 55,000 WMT upto 31 March 2005 and 21,722 WMT out of the balance quantity of iron ore was lifted during April/May 2005.

During September 2005, NMDC revised the price of iron ore from Rs.815 to Rs.1,358 *per* WMT with retrospective effect from 1 April 2005 and claimed Rs.1.18 crore for 21,722 WMT lifted by the Plant in April/May 2005 against the above purchase orders issued in February/March 2005. The Plant settled the claim in September 2005. Thus, by failing to lift the entire quantity of 55,000 WMT of iron ore prior to 31 March 2005, the Plant incurred an avoidable expenditure of Rs.1.18 crore.

The Management stated (November 2006/March 2007) that the Plant had entered into (March 2006) a long-term agreement with NMDC with price escalation clause for a period of three years retrospectively from April 2005. The Management further added that the entire quantity could not be lifted before 31 March 2005 due to logistic problems. The Ministry stated (August 2007) that the agreement was applicable to all the materials received from 1 April 2005 irrespective of the date of Purchase Order and all the payments made to NMDC were as per the agreement.

The replies of the Management and the Ministry were not tenable because the plant should have taken action to lift the entire quantity before 31 March 2005 as per its delivery schedule and as it was aware even in February 2005 of the impending increase in price with effect from April 2005 and therefore wanted to build up a stock to the level of 1,00,000 MT of iron ore. As to the logistic problems like non-availability of rail connection and unsuitability of road the Plant should have planned the lifting of the ore as per its ordered schedule and intent to build the stock prior to price increase. In fact the plant used only 15 of the 46 days[2] in the delivery period available for actually lifting the material.

[1] ***Wet Metric Tonne***
[2] ***During 14 February 2005 to 31 March 2005***

Thus, the Plant's failure to lift iron ore within the delivery schedule resulted in extra expenditure of Rs.1.18 crore.