AUDIT PARA

Present status of the Audit Paras (Commercial + Civil) for inclusion in Annual Report 2012-2013 (As on 12.02.2013)

Sl.No	Para No./Report No.	Brief Subject	Present status
1	Report No. 1 of 2011-12	**Para No.4.1.5: Breach of Article 114(3) of the Constitution of India -Expenditure incurred on establishment expenditure on Regional Pay and Accounts Office, Dhanbad** Scrutiny of Appropriation Accounts of Grant No.10-Ministry of Coal for the financial year 2010-11 revealed that an expenditure of ₹ 16.76 lakh was incurred on establishment related expenditure of Regional Pay and Accounts Office, Dhanbad from a fund in the Public Account, which should have been incurred from the Consolidated Fund of India after due appropriation by the Parliament. Instead of obtaining parliamentary authorisation through the budgetary process, the expenditure was met from the Coal Mines Labour Housing and General Welfare Fund in the Public Account, which was established by an Act of Parliament in 1947 and repealed in 1986. The balance in the Fund was not transferred to the Consolidated Fund of India as envisaged in the Repeal Act of 1986. During the period from 1987-88 to 2009-10, unauthorised expenditure of ₹ 10.43 crore on establishment expenditure on Regional Pay and Accounts Office, Dhanbad was incurred.	*Pending*
2	Para No. 3.1 of Report No.8 of 2012-13	**SECL** **3.1 Non deployment of pay loaders for dispatch of coal produced by surface miners in Dipka Open Cast Mine.** Due to non-deployment of pay loaders, SECL dispatched 6.5 million tone of coal of below 100 mm size, produced by surface miner at Dipka Open Cast Mine, through the facilities of the feeder breakers capable of crushing coal below 100 mm size and thereby failed to utilize gainfully the existing	*Pending*

		crushing facilities and to earn additional revenue of ₹ 12.76 crore during June 2010 to May 2011..	
3.	Para No. 3.2 of Report No.8 of 2012-13	**WCL** 3.2 **Payment of electricity charges at higher rates** Western Coalfields Limited incurred an avoidable expenditure of ₹ 7.62 crore during 2007-08 to 2010-11 on purchase of electricity from two electricity boards at industrial and non-industrial rates instead of availing cheaper domestic rate for domestic consumption of electricity.	*Pending.*
4.	Report No. 7 of 2012-13	**Allocation of Coal Blocks and Augmentation of Coal Production** This Report of the Comptroller & Auditor General of India contains the results of the Performance Audit on "Allocation of coal blocks and Augmentation of coal production". The widening gap between the demand and domestic supply of coal and consequently the progressively increasing imports has assumed a critical situation warranting a study to examine the effectiveness of the processes adopted in allocation of coal blocks to increase coal production and in terms of transparency and objectivity. The performance by Coal India Limited (CIL) in augmenting coal production to meet the demand of the core infrastructure sectors has also been analysed. The issue of competitive bidding for allocation of captive coal blocks in the light of the Ministry of Coal's(MOC) initiatives starting from 2004 and the likely benefits passed on to the private allottees by way of allotment of blocks through otherwise than by Competitive Bidding has also been brought out. **High Lights of Audit Report No. 7 of 2012-13 is given at ANNEXURE**	The report is under examination of Public Accounts Committee (PAC). The background note and reply of Ministry of Coal on the questionnaire received have been furnished to PAC.

Annexure

Highlights of the Audit Report:-

- For increasing the production of coal, the Expert Committee, chaired by Shri T. L. Sankar, on Road Map for Coal Sector Reforms (December 2005) had recommended that the drilling capacity of Central Mine Planning and Design Institute Limited (CMPDIL) be enhanced to at least 15 lakh metre per annum. As against it, the expected drilling capacity of CMPDIL was only 3.44 lakh metre in 2011-12. **(Para 3.2)**
- The rate of increase in production of coal by CIL during XI plan period remained far below the target envisaged by the Planning Commission. The low production was due to inadequate drilling capacities, backlog in overburden removal, mismatch between excavation and transportation capacities, low availability and under-utilisation of Heavy Earth Moving Machinery (HEMM) etc. Efforts of the MOC to increase production by de-reservation of 48 coal blocks of CIL and allocating the same to captive consumers did not yield the desired results as no production could commence from these blocks. **(Para 3.3)**
- New Coal Distribution Policy 2007 envisaged better distribution of coal to small and medium consumers. However, no monitoring mechanism was put in place in CIL for verification of end use of coal. **(Para 3.4)**
- The guidelines for allocation of captive coal blocks clearly stated that "the blocks offered to private sector should be at reasonable distance from existing mines and projects of CIL in order to avoid operational problems". Audit, however, observed that de-reservation of Moher and Moher-Amlohri Extension from NCL in September 2006 and allocation to Sasan UMPP resulted in sharing of boundary of Amlohri Opencast Project of NCL with the private party. As such NCL could not access coal reserve of 48 million tonne of its Amlohri OCP. This also reduced its project life from 24 to 20 years. Similarly, the sharing of boundary of Nigahi Opencast Project of NCL with Moher-Amlohri Extension resulted in reduction of mineable reserves by 9 million tonne. **(Para 3.5)**
- There has been a continuous rise in production of coal from the opencast mines by CIL. However, there was an aggregate shortfall of production in ECL by 9.1 million tonne, CCL by 5.88 million tonne and MCL by 22.86 million tonne during 2006-07 to 2010-11. **(Para 3.6)**

- The production from underground mines has stagnated around 43 million tonne from 2006-07 to 2009-10 and decreased to 40 million tonne in 2010-11, which was 9.28 per cent of the total production of CIL in 2010-11. **(Para 3.7)**

Allocation of Coal Blocks

- The allotment process for such captive coal blocks was through a Screening Committee mechanism which had very wide representation of different Ministries in Government of India and also the States in which that particular coal block lay.

  The Screening Committee recommended the allocation of coal block to a particular allottee / allottees out of all the applicants for that coal block by way of minutes of the meeting of the Screening Committee. However, there was nothing on record in the said minutes or in other documents indicating any comparative evaluation of the applicants for a coal block which was relied upon by the Screening Committee. Thus, a transparent method for allocation of coal blocks was not followed by the Screening Committee. **(Para 4.1)**

- In the context of the perceived inadequacy of the Screening Committee mechanism to effectively handle the allocation process, the initiative was taken in 2004 to introduce a system of auction for allotment of such coal blocks. The concept of allocation of captive coal blocks through competitive bidding was first made public on 28 June 2004 at an interactive meeting held with the stake holders under the chairmanship of Secretary (Coal). Following the meeting, a comprehensive note on "Competitive Bidding for allocation of coal blocks" was submitted (16th July 2004) by the then Secretary (Coal) before the Minister of State, Coal and Mines highlighting that .since there is a substantial difference between price of coal supplied by Coal India and coal produced through captive mining, there is a windfall gain to the person who is allotted a captive block It was, therefore, felt necessary by Ministry of Coal to adopt a selection process which could be acceptable as demonstrably more transparent and objective. Auctioning of blocks was considered by Ministry of Coal as one of the widely practiced and acceptable selection process which was transparent and objective. The note further indicated that the .bidding system will only tap part of the windfall profit for the public purposes.

Despite these facts and the decision thereon, the GOI is yet (February 2012) to finalise the modus operendi of competitive bidding. **(Para 4.2)**

- As of June 2004, 39 coal blocks (net) stood allocated. During the period from July 2004 to September 2006 (till the time the matter was referred to the Ministry of Mines for taking action on the issue of amendment of MMDR Act for introduction of competitive bidding), 71 more blocks (net) were allocated. In all, since July 2004, 142 coal blocks (net) were allocated to various Governments and private parties following the existing process of allocation itself. This allocation lacked transparency and objectivity. **(Para 4.2)**
- Ministry of Coal referred the matter of introduction of competitive bidding process for allocation of coal blocks to the Department of Legal Affairs (DLA) in June 2004 for seeking an opinion whether coal blocks could be allocated through auction/ competitive bidding route by making rules under the Coal Mines (Nationalisation) Act, 1973 (CMN Act) read with Mines and Minerals (Regulation and Development) Act (MMDR Act), 1957 and Mineral Concession Rules, 1960. After a series of correspondences and after two years DLA stated (28 July 2006) that it was open to the government to introduce the auctioning of coal mining blocks for captive use through competitive bidding as the selection process for allocation was possible by amending the existing administrative instructions and such a process could be governed by the provisions of the Indian Contract Act, 1872. Thus, competitive bidding could have been introduced in 2006(as per the advice of DLA in July 2006). DLA also stated that the course which was to be adopted in the instant case, i.e., to amend the Act or to effect changes in the administrative instructions, was a matter of policy to be decided by the referring Ministry. The same opinion was reiterated by the Law Secretary in August 2006 also. **(Para 4.2)**
- MoLJ in its opinion dated 30 August 2006 after clarifying rationale for earlier opinion, finally opined that the administrative ministry may initiate measures for amendment in the MMDR Act. Pending amendment in the Act, it proceeded to allocate coal blocks on the advice of the ECC of July 2006. Finally with the amendment in the MMDR Act, rules for auctions by competitive bidding of coal mines were notified on 2 February 2012 after inter ministerial consultation. Most

importantly, the contention of Ministry of Coal in 2004-2006 when it was making attempts to introduce transparency/ competition in allocation of coal blocks was exacXly along the lines of the conclusions of audit. The Hon'ble Supreme Court, in the judgment on 2G spectrum, has also directed to introduce transparency/competition in allocation of scarce natural resources. **(Para 4.2 and 4.3)**

- Delay in introduction of the process of competitive bidding has rendered the existing process beneficial to the private companies. Audit has estimated financial gains to the tune of ₹1.86 lakh crore likely to accrue to private coal block allottees (based on average cost of production and average sale price of Opencast mines of CIL in the year 2010-11). A part of this financial gain could have accrued to the national exchequer by operationalising the decision taken years earlier to introduce competitive bidding for allocation of coal blocks. Therefore, audit is of strong opinion that there is a need for strict regulatory and monitoring mechanism to ensure that benefit of cheaper coal is passed on to the consumers. **(Para 4.3)**
- It is further clarified that the Draft Performance Audit Report on 'Allocation of Coal Blocks and Augmentation of Coal production by Coal India Limited' issued to the Ministry of Coal on 28 February 2012 estimated a gain of ₹10.67 lakh crore based on the prices prevailing on 31st March, 2011. Thereafter, an exit conference was held on 9 March 2012 with the Ministry of Coal. Based on the replies furnished, further interaction with the CMPDIL was held and the report was processed as per the standard operating procedure which entails examination and vetting of the facts, figures and content at various levels. As a result, the financial benefit to the private allottees is now estimated as ₹1.86 lakh crore. Important reasons for the difference in the figure of the draft report and the one in the final report are as follows:
  - The financial benefit to Government companies has been excluded.
  - For calculating the financial benefit only 'Open Cast' mines have been considered and the 'Underground' mines have been excluded. In case of 'Mixed Mines', i.e. where there are both Open Cast and Underground portions only the Open Cast portion has been included in the calculation.
  - Extractable reserve has been

taken as per the mining plan where available. Where mining plans were not available, a conservative assumption of 73 % of the geological reserve for open cast mines and 37% of the geological reserve for mixed mines has been considered as explained in para 4.3 of the report. Accordingly the extractable reserve of 6282.5 million tonnes has been calculated.

- The average benefit per tonnes has been arrived at by first, taking the difference between the average sale price (₹ 1028.42) per tonnes for all grades of CIL coal for 2010-11 and the average cost of production (₹583.01) per tonnes for all grades of CIL coal for 2010-11. Secondly, as advised by the Ministry of Coal vide letter dated 15 March 2012 a further allowance of ₹150 per tonnes has been made for financing cost. Accordingly the average benefit of ₹295.41 per tonnes has been applied to the extractable reserve of 6282.5 million tonnes calculated as above. **(Para 4.3)**

- Captive coal mining is a mechanism envisaged to encourage private sector participation in coal mining. CIL has not been able to increase production to meet the growing demand for coal for core infrastructure sector like Power, Steel and Cement etc. With the declared objective for "Power to all by 2012", the Government allocated 194 (net) coal block with aggregate geological reserves of 44,440 million tonnes to Government and private parties as of 31 March 2011. The procedure followed for allocation of coal blocks to captive consumers lacked transparency as the allotments of coal blocks to prospective captive consumers were made merely on the basis of recommendation from State Governments and other administrative ministries without ensuring transparency and objectivity. **(Para 4.1 and 5.1 read with Para 1.1 and 1.6)**

- Production of coal from captive mining was not encouraging. Out of 86 such coal blocks which were to produce 73.00 million tonnes of coal during 2010-11, only 28 blocks which included 15 blocks allocated to private sector, could start production by 31st March, 2011 and produce only 34.64 million tonnes of coal during 2010-11. **(Para 5.2)**

- Ministry of Coal introduced (March 2005) the system of bank guarantee

(BG) to ensure timely production from the coal blocks. MOC de-allocated 24 blocks upto June 2011 for lack of initiative for development of coal blocks by the allottees. The Monitoring Committee also recommended (January and February 2011) for deduction of BG from 15 allottees for delay in development of coal blocks. However, MOC could not encash the BG, wherever applicable, from these allottees as the modalities for such encashment were still to be worked out (November 2011). The Expert Committee also recommended for encashment of BG in full in such cases. As of November 2011, amount of lapsed BG worked out by audit was ₹ 311.81 crore against 15 blocks which needed to be renewed. **(Para 5.7)**

Audit Recommendations are:-

MOC should

- Urgently work out the modalities to implement the procedure of allocation of coal blocks for captive mining through competitive bidding to bring 'objectivity' and 'transparency' in the allocation and for tapping of a part of benefit accruing to the allottees of captive coal blocks to public exchequer.
- Adopt a well-coordinated and planned approach alongwith State Governments through a High Powered Committee as a single window mechanism to expedite action towards granting of various approvals such as mining lease, mining plan, forest clearance, environment management plan and land acquisition.
- Evolve a system of giving 'incentives' to encourage production performance from captive coal blocks and 'disincentives' to discourage non/poor performance.

CIL should

- Fix its production targets in line with the targets fixed by the Planning Commission.
- Expedite setting up of coal washeries as washing capacities of coal are grossly inadequate in CIL subsidiaries in view of the fact that Indian coal contains higher percentage of ash and washing of coal is of utmost significance, both for the efficiencies in the user plants and from the point of view of environmental concerns besides fetching higher returns.
- Synchronise its excavation and transportation capacities.