

LOKPAL OF INDIA
Plot No.6, Institutional Area, Phase-II
Vasant Kunj
New Delhi - 110070

Complaint No. : 90/2024

Date : 07.06.2024

Coram : **Shri Justice A.M. Khanwilkar**
Chairperson

Shri Justice L. Narayana Swamy
Judicial Member

Shri Justice Sanjay Yadav
Judicial Member

Shri Sushil Chandra
Member

Shri Justice Ritu Raj Awasthi
Judicial Member

Shri Pankaj Kumar
Member

Shri Ajay Tirkey
Member

ORDER

Pursuant to the Order dated 03.05.2024, the Chief Vigilance Officer, Steel Authority of India Ltd., vide letter dated 31.05.2024 has forwarded the requisite Preliminary Inquiry Report.



2. We have perused the complaint, accompanying documents including the Report received from CVC.

3. After due consideration, it is obvious from the Report that the allegations contained in the complaint under consideration have already been the subject matter of some inquiry; and also follow up action has been taken on the basis of the recommendation of the CVC. We find that every allegation has been factually analysed in the PI report. It may be apposite to advert to the conclusions recorded in the report, which read thus:

4. CONCLUSION:

“All the allegations except the one at **para 2.2** have been addressed/investigated under multiple previous Investigations. Action has also been taken by SAIL Management as per advice of CVO/CVC. The matter has also been examined in detail by MoS(administrative Ministry of SAIL) & CVC as various reports and clarifications have been submitted to MoS & CVC by SAIL Vigilance. Particularly, the matter of fake/forged certificate issued to M/s OKMMPL by M/s ESL(as alleged) has also been examined by IEMs of SAIL and Hon’ble High Court of Jharkhand. Regarding allegation at **para 2.2** related facts have been collected and mentioned in **para 3.3.**”

“Allegation wise conclusion is as under:-

No.	Allegation	Conclusion
2.1	Before lodging the instant complaint, various complaints	The allegations appears sweeping in nature. Various

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	<p>were submitted to SAIL and Ministry of Steel (MoS) from the year 2018 but no steps have been taken so far against the contractor and corrupt officers.</p>	<p>allegations/complaints pertaining to several aspects of tender/contract have been examined in the past years starting from the year 2017. As per advice of CVO/CVC/ MoS, action has been taken against the concerned officers. Initiation of banning action against the contractor has also been advised in Dec.2022 for which proceedings are under progress. The proceedings appear to have been delayed due to writ petition filed by the contractor at Hon'ble High Court of Calcutta.</p>
2.2	<p>SAIL had suspended the contractor but same was challenged in Hon'ble High Court of Calcutta under WPA 14533 of 2023 by M/s AMPL. However, due</p>	<p>Counter affidavit was filed by BSL in matter of WP 14533/2023 on 16.11.2023. The defence of the case was entrusted to regular counsels of BSL. Allegations</p>

	<p>to connivance of SAIL officers, the writ petition remained undefended/not diligently defended and hence the Hon'ble Court set aside the suspension order dated 12.06.2023 and all consequential actions. However, no appeal is being made by SAIL against the judgement. Further, in their judgement dated 23.02.2024, the Hon'ble Court has given SAIL the liberty to proceed with any investigation against M/s AMPL and take consequential steps in accordance with the guidelines but SAIL has not taken any steps in this regard.</p>	<p>pertaining to non-diligence in defence is non-specific in nature and also the conduct of counsels in court is beyond the purview of Vigilance. It is a matter of fact that no appeal is being made by BSL against judgement dated 23.02.2024. However, in line with the judgement, BSL is in process of re-initiating the process for suspension/ banning of business dealings with M/s AMPL. Hence, allegation is not substantiated.</p>
2.3	<p>BSL has made excess payment of Rs 150 crores to M/s AMPL by adopting fraudulent process and falsification of slag/scrap reporting</p>	<p>SAIL-BSL has paid approx. Rs 54 cores for transportation of extra WTS for the contract operated from 04.01.2018 to 03.07.2022.</p>

<p>and shifting of scrap from SMS I and II(which should have been processed by M/s FSNL) to slag dump yard.</p>	<p>Though incidents of over-reporting of WTS have been detected (which is one of the grounds for recommending initiation of banning of business dealings with the party), it may not be prudent to declare the entire expenditure as infructuous which has occurred over a period of 4.5 years. Further, for allowing dumping of fresh slag at AMPL site, as one of the charges, already major penalty has been awarded to Shri XXXXXXX, Engineer i/c of the contract as per advice of CVC dated 16.12.2022. Similar allegation has already been addressed under past complaints as mentioned in para 3.2.1, 3.2.4, 3.2.5, 3.2.7 and 3.2.9 above.</p>
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2.4	The tender participation was done by JV of M/s AMPL and M/s OKMMPL but tender was awarded only to M/s AMPL which was a breach of contract terms and conditions.	Similar allegation has already been addressed under past complaint as mentioned in para 3.2.8 above. In line with FSA of CVC, Minor Penalty was imposed on TC members who recommended placement of WO/contract on M/s AMPL only instead of consortium. Even though W.O. was placed on M/s AMPL only, contract agreement was signed by both consortium member. Also, as per opinion of ASGI, contract may be awarded to lead member of the consortium.
2.5	The tender was awarded to M/s AMPL without fulfilling the eligibility criteria. The experience certificate issued to the contractor by M/s Electrosteel Steels	Similar allegation has already been addressed under past complaints as mentioned in para 3.2.2, 3.2.3 and 3.2.6 above.

	<p>Limited(ESL) was fake and fabricated, which was also confirmed by M/s ESL at the stage of tender evaluation. Evidence for same was given to SAIL and MoS but no enquiry was done. A complaint in this regard was also filed by M/s International Commerce Limited(ICL) which was dealt casually and was closed on the pretext of pendency of the matter before Hon'ble Jharkhand High Court.</p>	<p>The matter has already been examined by CVO/MoS/CVC/ IEMs/Hon'ble High Court of Jharkhand. The allegation has not substantiated. CVC advised closure of the case while IEMs advised to await decision of court in the matter. WPC 2036/2017 filed by M/s ICL in this regard has already been dismissed by Hon'ble Court vide judgement dated 08.02.2023. It has also been revealed that M/s ICL was itself banned from business dealings due to submission of fake documents in tender for 1st cycle of work.</p>
2.6	<p>In spite of the documentary evidence of fake and fabricated documents, the contractor (consortium of M/s AMPL and M/s</p>	<p>Similar allegation has already been addressed under past complaints as mentioned in para 3.2.6 and 3.2.9 above.</p>

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<p>OKMMPL) was not banned and the contract was extended four times.</p>	<p>The allegation regarding submission of fabricated documents did not substantiate. Allegation pertaining to contract extension (two times) has been examined in detail under complaint No.CV/COMP/444/2021/BSL/104 and CV/COMP/104/2022/BSL/28 under para 3.2.9 above. The case was referred to CVC and action has been taken according to the advice of CVC in the case. CVC in their FSA dated 16.12.2022 has advised no action against the committee members who recommended the contract extension two times/re-appropriation of quantities and also advised RDA-Minor against</p>
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		Shri XXXXX, the then GM(MRD) and RDA-Major against Shri XXXXX, the then Engineer I/c.
2.7	SAIL-BSL has issued certificate to the contractor for performance of the work in spite of fraud committed and even the penalties imposed are not at par with the fraud committed by the contractor.	<p>SAIL-BSL has issued certificate dated 21.06.2023 to the contractor (consortium) while mentioning all penalties imposed and penal actions taken including suspension and initiation of banning. This was in line with recommendation of CVO and agreement with Chairman, SAIL as mentioned in para 3.2.9 above. Further, the certificate has been issued as per actual execution of the work. Hence, allegation is not tenable.</p> <p>As regards imposition of penalties on contractor, it is seen that total</p>



penalty of Rs. 1.26 crores approx. has been levied on the contractor as per different provisions of the contract. Further, BSL is in process of re-initiating the suspension/banning action against the constituent parties of the consortium led by M/s AMPL. Hence, the allegation pertaining to penalties imposed being not at par does not appear tenable.

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2. We are in agreement with the view as recorded in the Report under consideration. In that view of the matter, nothing more needs to be done in the present complaint.

3. Accordingly we dispose of this complaint.





Court Master

