

FIFTY-FIRST REPORT

COMMITTEE ON PETITIONS

(SIXTEENTH LOK SABHA)

MINISTRY OF COAL

(Presented to Lok Sabha on 3.8.2018)



**LOK SABHA SECRETARIAT
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**COMPOSITION OF THE COMMITTEE ON PETITIONS
(2017-2018)**

Shri Bhagat Singh Koshyari -*Chairperson*

MEMBERS

2. Shri Suresh C. Angadi
3. Shri Om Birla
4. Shri Jitendra Chaudhury
5. Shri Ram Tahal Choudhary
6. Dr. K. Gopal
7. Shri C.P. Joshi
8. Shri Chhedi Paswan
9. Shri Kamlesh Paswan
10. Shri Arjun Charan Sethi
11. Shri Kodikunnil Suresh
12. Shri Dinesh Trivedi
13. Shri Rajan Vichare
14. Shri Dharmendra Yadav
15. Vacant

SECRETARIAT

- | | | |
|----------------------------|---|---------------------|
| 1. Shri Shiv Kumar | - | Joint Secretary |
| 2. Shri Raju Srivastava | - | Additional Director |
| 3. Shri G.C. Dobhal | - | Deputy Secretary |
| 4. Shri Anand Kumar Hansda | - | Executive Assistant |

(iii)

FIFTY-FIRST REPORT OF THE COMMITTEE ON PETITIONS

(SIXTEENTH LOK SABHA)

INTRODUCTION

I, the Chairperson, Committee on Petitions, having been authorised by the Committee to present the Report on their behalf, present this Fifty-First Report (Sixteenth Lok Sabha) of the Committee to the House on the Representation received from Shri Subhash Kumar Singh regarding payment of full contracted amount by the Bharat Coking Coal Limited (BCCL) to M/s. Sadbhav Annapurna (JV) without completion of the work.

2. The Committee considered and adopted the draft Fifty-First Report at their sitting held on 6 July, 2018.

3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;
6 July, 2018
15 Ashadha, 1940 (Saka)

BHAGAT SINGH KOSHYARI,
Chairperson,
Committee on Petitions.

(v)

REPORT

REPRESENTATION RECEIVED FROM SHRI SUBHASH KUMAR SINGH REGARDING PAYMENT OF FULL CONTRACTED AMOUNT BY THE BHARAT COKING COAL LIMITED (BCCL) TO M/s. SADBHAV ANNAPURNA(JV) WITHOUT COMPLETION OF THE WORK.

Shri Subhash Kumar Singh submitted a Representation regarding payment of full contracted amount by the Bharat Coking Coal Limited (BCCL) to M/s. SADBHAV ANNAPURNA(JV) without completion of the work.

2. Shri Subhash Kumar Singh, in his Representation, *inter alia* submitted:-

- (i) *M/s. SADBHAV ANNAPURNA (JV) had entered into agreement with the Bharat Coking Coal Limited (BCCL). As per the Agreement, M/s. SADBHAV ANNAPURNA (JV), a joint venture Company, had to produce and transport 65.54 lakh metric tonnes of Coal from Khudia Plasia, G.P. (Top), G.P. (Bottom), Brindabanpur (Top & Bottom), Kalimati group of seams of Basantimata Dahibari Coal Patch.*
- (ii) *For the said work an amount of ₹ 4,71,78,8000/- was sanctioned to the Company by the BCCL.*
- (iii) *For production and transporting of 65,54,000 Metric Ton of coal, the outsourcing Company had to bear the expenditure incurred on removing dust and stone as well.*
- (iv) *Upto January, 2015, the Contractor had extracted a total quantity of 10,80,200 tonnes of coal and for this, the Contractor should have not been made payment of more than ₹ 77,76,00,000 approximately.*
- (v) *In response to an information sought under the Right to Information Act, 2005, the BCCL had paid a total of ₹ 1,05,85,15,596/- in 19 installments to the Company in January, 2015. The amount of ₹ 28,09,44,28/- is, thus, more than the actual payable amount of ₹ 77,75,71,168/-.*

3. In this regard, the Representationist had alleged that the BCCL paid an additional amount of ₹ 28,09,44,28/- to the Contractor, *i.e.*, M/s. SADBHAV- ANNAPURNA (JV) against no work of excavation and thus, caused a huge loss to the BCCL. The Representationist had, therefore, requested to look into the matter and examine the instant case in detail.

4. The Committee took up the Representation for examination under Direction 95 of the Directions by the Speaker, Lok Sabha. Accordingly, the Representation received from Shri Subhash Kumar Singh was forwarded to the Ministry of Coal for furnishing their initial comments on the issues raised therein.

5. In response thereto, the Ministry of Coal vide their Office Memorandum No. 54011/5/2015-PRIW-I dated 30 October, 2015, furnished the following comments:-

"BCCL Board in its 291st meeting vide resolution No. 291.40 approved the award work to M/s. Sadbhav Annapurna (JV) for removal of 380.84 LCM OB (Lakh Cubic Meter of Over Burden, including Jhama), removal of 16.5 LCM Dump Loose OB (Lakh Cubic Meter Dump Loose Over Burden) and extraction and transportation of 65.54 LMT (Lakh Metric Ton) coal from Khudia, Palasia, GP (Gopinathpur-Top), GP (Gopinathpur-Bottom), Brindabanpur (Top & Bottom) and Kalimati group of seams of Basantimata Dahibari Patch of Dahibari Colliery of Chanch Victoria Area, BCCL for a period of 48 months with financial involvement of ₹471,78,08,000/- only inclusive of all taxes and levies but exclusive of service tax at diesel base price of Rs. 49.01/liter as per terms and conditions of Notice Inviting Tender (NIT)."

"Accordingly, Letter of Acceptance (LOA) No. BCCL/CGM(CMC)F-LOA/HEMM Dahibari/2013/105 dated 28.01.2013 was issued from the office of the GM(CMC), BCCL and subsequently formal work order No. BCCL/XII/GM/TPTN/TPTN/WO/86 dated 21.05.2013 was issued from the office of the General Manager, Chanch Victoria Area, BCCL in which the items of work, quantity rate and total amount of work were specified. The Contractor started the work with effect from 10.06.2013. During execution of the work, running bills as per the specified items of works were raised by the Contractor and payment to the Contractor was made as per Payment Clause No. 15 of the NIT and as per the rate specified against each item of work after survey measurements."

"The Contractor i.e. M/s Sadbhav-Annapurna (JV) has actually executed 74,12,780.786 M³ of In-situ OB(Cubic Meter of In-Situ Over Burden), 41,26,024.147 M³ (Cubic Meter) of dumped loose OB (Over Burden) and dispatched 8,43,396.600 tonnes of coal up to January, 2015, amounting to a total value of ₹108,20,59,769.46."

"Out of the total amount, after due to deductions, such as Income Tax, Security Deposit, Energy Charges, Penalty for non-achievement of target etc., an amount of ₹98,20,76,221.87 has been paid against achievement till January, 2015, as per the terms of the NIT. In the work order, rate for each and every element of work has been stipulated. The detail item of work with quantity and rate has been given in the work order. However, in this context, it may be mentioned here that Loose Dumped OB along

with considerable quantity of In-situ OB has to be extracted and removed for exposure of the coal face at the initial stage i.e. the Stripping Ratio becomes higher than the average at the initial stage. Further, much more removal of OB is required to maintain the benches as per statute."

"In addition, an amount of ₹ 5,63,97,017.00 has been paid against Diesel Escalation till January, 2015 after due deduction of Income Tax and Security Deposit. The figure of ₹ 719.84 as the cost of extraction of 1 Ton of Coal has nowhere been mentioned, either in the LOA or in the Work Order. It seems to be arbitrary and presumption of the complainant and probably this figure has been derived by the complainant as the approximate cost/ton of coal extracted after successful completion of job considering all the other parameters to remain unchanged during this period, which is not conforming the work order."

"It is clear from the above, that the allegation of making excess payment to the Contractor is not at all correct and there was no over payment as well. In this context, it may be mentioned that at the end of every month the measurement of actual excavation made by the Contractor is done by the company survey team and accordingly payment is made element wise as per the payment clause of the NIT/work order and as per awarded rate."

"Payment to the Contractor cannot be made on the basis of arithmetic average of coal produces and OB removed, as alleged. Payment was released to the contractor as per stipulated terms and condition of work order/NIT. There is no provision of withholding 20% payment and release 80% payment for the total quantity of work executed, as alleged in the complaint."

"Hence, the allegation of additional payment to the Contractor is baseless."

6. In the meantime, the Committee decided to undertake a Study Visit to Guwahati, Kolkata and Port Blair from 3 to 8 May, 2017, wherein, it was also decided to hold an informal discussion with the representatives of the Ministry of Coal at Kolkata on 4 May, 2017 as part of their Study Visit, to have a realistic assessment of the issues raised by the Representationist and the action taken/proposed to be taken by the concerned Authorities of BCCL.

7. During the Study Visit, on the issue, the representatives of the Ministry of Coal reiterated their earlier position as communicated to the Committee *vide* their Office Memorandum No. 54011/5/2015-PRIW-I dated 30 October, 2015 and informed that BCCL Board in its 291st Meeting *vide* Resolution No. 291.40 approved the award of work to M/s. Sadbhav Annapurna

(JV) for removal of 380.84 LCM OB including Jhama, 16.5 LCM dump loose OB and extraction and transportation of 65.54 LMT coal from Khudia, Palasia, GP (Top), GP (Bottom), Brindabanpur (Top and Bottom) and Kalimati Group of seams at Basantimata Dahibari Patch of Dahibari Colliery of Chanch Victoria (CV) Area of BCCL for a period of 48 months with financial involvement of ₹471,78,08,000/- which was inclusive of all taxes and levies but exclusive of service tax at diesel base price of ₹49.01/liter as per terms and conditions of Notice Inviting Tender (NIT).

8. On being enquired by the Committee about the details of the contract awarded to M/s. Sadbhav Annapurna(JV), the representatives of the Ministry of Coal informed the Committee that, initially, Work Order dated 21.05.2013 was issued to M/s. Sadbhav Annapurna (JV) specifying the items of work. However, revised Work Orders dated 29.03.2014 and 24/26.11.2014 were issued later, due to deviation in the awarded quantum of work and extension of time. The representatives of the Ministry also furnished a briefed item-wise details of quantity, as per different Work Orders dated 21.05.2013, 29.03.2014 and 24/26.11.2014, which is reproduced as follows:-

Sl. No.		Original Work Order as per WO No: BCCL/XII/GM/TPTN/WO /86, dated: 21.05.2013	Revised Work Order after 1 st deviation WO No: BCCL/GM/CV/AM (PIg)/2014/541 & 541(A), dated: 29.03.2014	Revised Work Order after 2 nd deviation WO No: BCCL/GM/CV/ AM (PIg)/2014/927, dated: 24/26.11.2014
	Reasons for Deviation	Originally awarded for a period of 48 months w.e.f 10.06.13 to 9.06.17	Addition of extra patch and revision in sanctioned boundary with extension of time for a period of 9 months w.e.f 10.06.17 to 09.03.18	Addition of extra patch and revision in sanctioned boundary with extension of time of 8 months w.e.f 10.03.18 to 09.11.18
	Item of work	Quantity	Quantity	Quantity
1.	Removal of OB including Jhama	380.84 LCM	443.99 LCM	507.24 LCM
2	Removal of loose dumped OB	16.50 LCM	45.95 LCM	45.95 LCM
3.	Extraction of coal	65.54 LMT	89.15 LMT	121.68 LMT
4.	Stripping ratio	1 : 6.06	1 : 5.50	1:4.55
	Total financial involvement	₹ 471,78,08,000/- (₹ 471.78 cr.)	₹ 560,31,24,150/- (₹ 560.31 cr.)	₹ 638,21,10,400/- (₹ 638.21 cr.)

9. The Committee, thereafter, enquired about the details regarding schedule(s) of Achievements *vis-a-vis* Targets formulated by the BCCL while giving the contract to M/s. Sadbhav Annapurna (JV). The representatives of the Ministry of Coal informed the Committee that with the revision of Work Order twice on 29.03.2014 and 24/26.11.2014 due to deviation in the awarded quantum of work, the mutually agreed Work Schedule was also revised five times and furnished written statements indicating Target and Achievement as on 31.01.2015 and 30.04.2016, which are given as under:-

I. Statement of Target and Achievement as on 31.01.2015

Sl. No.	ITEM	TARGET	ACHIEVEMENT
1.	COAL	12.81 L Te	10.70 LTe
2.	OB	123.50 LCM	74.13 LCM
3.	LOB	42.60 LCM	41.26 LCM

II. Statement of Target and Achievement as on 30.04.2016

Sl. No.	ITEM	TARGET	ACHIEVEMENT
1.	COAL	32.91 L Te	19.07 LTe
2.	OB	254.00 LCM	131.89 LCM
3.	LOB	45.95 LCM	42.70 LCM

10. The representatives of the Ministry of Coal, thereupon, informed the Committee that the Letter of Acceptance (LOA) No. BCCL/CGM (CMC)/F-LOA/HEMM Dahibari/2013/105 dated 28 January, 2015 was issued from the office of the General Manager(CMC), BCCL and subsequently formal Work Order No. BCCL/XII/GM/TPTN/WO/86 dated 21 May, 2013 was issued from the office of the General Manager, Chanch Victoria Area, BCCL – in which the items of work, quantity rate and total amount of work were specified. The representatives further informed that the Contractor started the work with effect from 10 June, 2013 and during execution of the work, running bills as per the specified items of works were raised by the Contractor and payments to the Contractor were made as per Payment Clause No.15 of the NIT and as per the rate specified against each item of work after survey measurements.

11. On being again enquired by the Committee about the details of items of work, quantity rate and total amount of work, etc., *vide* Work Order dated 21 May, 2013 issued by BCCL to M/s. Sadbhav Annapurna (JV), the representatives of the Ministry furnished the details of Work Order dated 21.05.2013 and subsequent revised Work Orders dated 29.3.2014 and 24/26.11.2014, due to deviation in the quantum of work, which are given as follows:-

SI.No	Items of work	Original work order dated 21.05.2013			1 st Deviation work order dated 29.03.2014		2 nd Deviation work order dated 24/26 .11.2014	
		Rate in Rs.	Quantity	Amount (Rs. In lakh)	Quantity	Amount (Rs. in lakh)	Quantity	Amount (Rs. in lakh)
1.0	Excavation & Removal of OB including Jhama from face to dump, Lead(3-4) KM	96.00/ Cum	96.10 LCM	92,25.60	96.10 LCM	92,25.60	96.10 LCM	92,25.60
1.1	Excavation & Removal of OB including Jhama from face to dump, Lead(4-5) KM	112.00/ Cum	244.96 LCM	274,35.52	244.96 LCM	274,35.52	244.96 LCM	274,35.52
1.2	Excavation & Removal of OB including Jhama from face to dump, Lead(5-6) KM	133.00/ cum	39.78 LCM	52,90.74	39.78 LCM	52,90.74	39.78 LCM	52,90.74
1.3	Excavation & Removal of OB including Jhama from face to dump, Lead(1-2) KM	87.21/ Cum	Nil	Nil	34.15 LCM	29,78.22	44.15 LCM	38,50.32
1.4	Excavation & Removal of OB including Jhama from face to dump, Lead(2-3) KM	95.25/ Cum	Nil	Nil	29.00 LCM	27,62.25	72.25 LCM	68,81.81
1.5	Excavation & Removal of OB including Jhama from Face to old quarry Dump (Back Filling) Lead (0-1) KM	79.19/ Cum	Nil	Nil	Nil	Nil	10.00 LCM	7,91.90
2.0	Removal of dumped loose OB to dump, Lead(2-3) KM	81.00/ Cum	16.50 LCM	13,36.50	29.95 LCM	24,25.95	29.95 LCM	24,25.95
2.1	Removal of dumped loose OB to dump, Lead(1-2) KM	43.94/ Cum	Nil	Nil	16.00 LCM	7,03.04	16.00 LCM	7,03.04
3.0	Extraction & transportation of coal from face to surface coal dump ,Lead(0-1) KM	30.00/MT	2.73 LMT	81.90	3.53 LMT	1,05.90	5.00 LMT	1,50.00

3.1	Extraction & transportation of coal from face to surface coal dump, Lead(1-2) KM	36.00/MT	6.25 LMT	2,25.00	8.30 LMT	2,98.80	10.00 LMT	3,60.00
3.2	Extraction & transportation of coal from face to surface coal dump, Lead(2-3) KM	45.00/MT	6.02 LMT	2,70.90	9.78 LMT	4,40.10	15.00 LMT	6,75.00
3.3	Extraction & transportation of coal from face to NLOCP Rly. siding, directly Lead (4-5)KM with wagon loading	54.00/MT	3.90 LMT	2,10.60	8.90 LMT	4,80.60	3.43 LMT	1,85.22
3.4	Extraction & transportation of coal from face to NLOCP Rly. siding, directly Lead (5-6)KM with wagon loading	63.00/MT	14.04 LMT	8,84.52	20.60 LMT	12,97.80	Nil	Nil
3.5	Extraction & transportation of coal from face to NLOCP Rly. siding, directly Lead (6-7)KM with wagon loading	68.00/MT	32.60 LMT	22,16.80	38.04 LMT	25,86.72	Nil	Nil
3.6	Extraction & transportation of coal from face to NLOCP Rly. siding, directly via Patlabari More Lead (5-6)KM with wagon loading	63.00/MT	Nil	Nil	Nil	Nil	9.50 LMT	5,98.50
3.7	Extraction & transportation of coal from face to NLOCP Rly. siding, directly via Patlabari More Lead (6-7)KM with wagon loading	68.00/MT	Nil	Nil	Nil	Nil	17.00 LMT	11,56.00
3.8	Extraction & transportation of coal from face to Mobile Crusher, via Kutchha Culvert over khudia River, Lead (5-6)KM with wagon loading.	63.00/MT	Nil	Nil	Nil	Nil	21.50 LMT	13,54.50
3.9	Extraction & transportation of coal	68.00/MT	Nil	Nil	Nil	Nil	40.25 LMT	27,37.00

	from face to Mobile Crusher, via Kutchha Culvert over Khudia River, Lead (6-7)KM with wagon loading						
	TOTAL AMOUNT			471,78.08		560,31.24	638,21.10

12. The Committee, thereafter, desired to know about the details of total payment made to M/s. Sadbhav Annapurna (JV) up to 30 April, 2016 as per the items and rate(s) of works specified in the Work Orders and *item-wise* target(s) achieved by the Contractor. In reply thereto, the representatives of the Ministry submitted before the Committee that the payment beyond 31 January, 2016 has not been made since the contractor has not raised any bill against execution of work after 31 January, 2016, therefore, the representatives furnished the details of payment made to the contractor up to 31 January, 2016, which are given as follows:-

Sl. No	Item of work	Rate in Rs./cum/Te	Awarded Quantity as per 2 nd deviation	Executed quantity up to 31.01.16	Billed Amount up to 31.01.16 (Rs. in lakh)
1.0	Excavation & Removal of OB including Jhama from face to dump, Lead(3-4) KM	96.00 /Cum	96.10 LCM	39.38 LCM	37,80.28
1.1	Excavation & Removal of OB including Jhama from face to dump, Lead(4-5) KM	112.00 /Cum	244.96 LCM	43.42 LCM	48,62.82
1.2	Excavation & Removal of OB including Jhama from face to dump, Lead(5-6) KM	133.00 /Cum	39.78 LCM	6.05 LCM	8,04.01
1.3	Excavation & Removal of OB including Jhama from face to dump, Lead(1-2) KM	87.21 /Cum	44.15 LCM	21.81 LCM	19,01.78
1.4	Excavation & Removal of OB including Jhama from face to dump, Lead(2-3) KM	95.25 / Cum	72.25 LCM	14.65 LCM	13,95.24
1.5	Excavation & Removal of OB including Jhama from face to old quarry (backfilling) Dump No. "8", Lead (0-1) KM	79.19 / Cum	10.00 LCM	0.00 LCM	0.00
2.0	Removal of dumped loose OB to dump, Lead (2-3) KM	81.00 /Cum	29.95 LCM	29.95 LCM	24,25.95
2.1	Removal of dumped loose OB to dump, Lead (1-2) KM	43.94 /Cum	16.00 LCM	12.75 LCM	5,60.38
3.0	Extraction & transportation of coal from	30.00	5.00	3.33	99.94

	face to surface coal dump,Lead (0-1) KM	/MT	LMT	LMT	
3.1	Extraction & transportation of coal from face to surface coal dump, Lead (1-2) KM	36.00	10.00	3.65	1,31.30
		/MT	LMT	LMT	
3.2	Extraction & transportation of coal from face to surface coal dump, Lead (2-3) KM	45.00	15.00	0.00	NIL
		/MT	LMT		
3.3	Extraction & transportation of coal from face to NLOCP Rly. siding, directly Lead (4-5) KM with wagon loading	54.00	3.43	1.69	91.08
		/MT	LMT	LMT	
3.4	Extraction & transportation of coal from face to NLOCP Rly. siding, directly Lead (5-6) KM with wagon loading	63.00	0.00	0	NIL
		/MT	LMT		
3.5	Extraction & transportation of coal from face to NLOCP Rly. siding, directly Lead (6-7) KM with wagon loading	68.00	0.00	0.00	NIL
		/MT	LMT		
3.6	Extraction & transportation of coal from face to NLOCP Rly. Siding, via Patlabari More Lead (5-6) KM with wagon loading	63.00	9.50	0.00	NIL
		/MT	LMT		
3.7	Extraction & transportation of coal from face to NLOCP Rly. siding, directly via Patlabari More Lead (6-7) KM with wagon loading	68.00	17.00	0.54	36.89
		/MT	LMT	LMT	
3.8	Extraction & transportation of coal from face to NLOCP Rly. Siding Mobile Crusher, via Kuchha culvert over Khudia river (5-6) KM with wagon loading	63.00	21.50	7.89	4,97.09
		/MT	LMT	LMT	
3.9	Extraction & transportation of coal from face to NLOCP Rly. siding, Mobile Crusher via Kuchha culvert over the Khudia river Lead (6-7) KM with wagon loading	68.00	40.25	0.00	NIL
		/MT	LMT		
			TOTAL		Rs 165,86.74

13. On a query from the Committee with respect to the Clause No. 15, *i.e.*, Payment Clause of the NIT in accordance to which the payment to the Contractor, *i.e.*, M/s Sadbhav Annapurna (JV) was made by the BCCL, the representatives of the Ministry, at the first instance, furnished the aforementioned Clause and the terms and conditions thereunder, as follows:-

"Clause No: 15 of NIT/Tender Document states as follows:-

(A) Payment will be released on quantity of coal dispatched outside the leasehold limits of the quarry and quantity of overburden removed for the above purpose as calculated on the basis of **current stripping ratio as per mutually agreed 'Work Schedule' (time and progress chart) drawn by the Area Authority and duly approved by CMD, BCCL.** Payment of coal and OB shall be regulated in the following manner:-

- (i) On account payment for removal of OB (as per average monthly quantity in work schedule) will be admissible to the extent of 50% (fifty percent) of the quantity of OB disposed of by the contractor till the time coal is exposed for extraction subject to fulfillment of OB removal schedule.
- (ii) Full value of payment due for coal produced/dispatched within contract quantity shall be paid in on account bills.
- (iii) Full value of payment for OB actually removed or OB commensurate to coal produced (as per current stripping ratio), whichever is less shall be paid in on account bills.
- (iv) 50% (fifty percent) of payment for OB removal in excess of commensurate quantity within contract quantity will be paid in on account bills.

Above stipulation for progressive payment is to ensure compliance of targets as per work schedule **(time and progress chart) approved by CMD, BCCL.** However, actual quantity executed as certified in the joint measurement shall be paid in the final bill after reconciliation.

(B) Release of payment after extraction/production of coal and transportation to surface dump by the contractor **in those cases where the contractor is not responsible for non-dispatch of coal from surface dump** the following system is to be adopted:

- (i) 80% payment for the coal produced and transported up to Dump to be considered for payment.
- (ii) Balance 20% payment from the above coal produced and transported will be released only after dispatch of the total coal considered at Sl .No. (i).

- (iii) *The volumetric quantity of coal produced/transported and dumped at Surface Dump as per BOQ shall be calculated in accordance with the prescribed guidelines of the yellow book and same shall be converted into ton for considering the above payment.*
- (iv) *Final payment for coal will be regulated in accordance with clause of work order issued to the Agency for the work.*
- (v) *Release of payment for the quantities of OB commensurate with 80% quantity of coal produced (**as per current stripping ratio**) and transported to dump.*

*For releasing such payments as at 'B', approval of **CMD, BCCL** will be required with information to Board. Area will only process such proposals where the contractor is not responsible for non-dispatch of coal.*

Item-wise payments made to M/s. Sadbhav Annapurna (JV) are in accordance with the clause No. 15 (A) of NIT. "

14. On a specific query as to whether the *item-wise* payments made to M/s. Sadbhav Annapurna (JV) are in accordance with Clause No. 15 of the NIT and if so, whether any Independent Audit was undertaken to verify and certify that the payments made to the Contractor are as per the *item-wise* rate(s) specified in the Work Order and in proportion to the *item-wise* targets(s) achieved by the Contractor, the representatives of the Ministry of Coal informed that every month an Independent Audit was done at 'Area level' to verify that the payment recommended by Unit Management to the Contractor are as per *item-wise* rates specified in the Work Order and are in proportion to the *item-wise* target achieved by the contractor and only then payment was recommended to the Contractor. The representatives of the Ministry further informed that audit is being performed by an outside agency (Chartered Accountant Firm), duly appointed by BCCL Headquarter to conduct Internal Audit of the Company. The representatives also informed that audit of Annual Accounts has been done each year by a Chartered Accountant Firm dully appointed by BCCL H/Q and Annual Accounts of Area 2015-16 have also been audited by the CAG.

15. The representatives of the Ministry of Coal, thereafter, apprised the Committee of the fact that the Contactor, *i.e.*, M/s. Sadbhav Annapurna (JV) has actually executed 74,12,780.786 M3

of *in-situ* OB, 41,26,024.147 M3 of dumped loose OB and dispatched 8,43,696.600 ton of coal up to January, 2015, amounting to a total value of ₹108,20,59,769.46.

16. The Committee, then, desired to know the details of work [M3 of *in-situ* OB dumped loose OB and dispatch of coal] amounting to ₹ 108,20,59,769.46 executed by M/s. Sadbhav Annapurna (JV) up to January, 2015 in terms of works specified and approval in the 291st BCCL Board meeting *i.e.* removal of 16.5 LCM Dump Loose OB and extraction and transportation of 65.54 LMT Coal from Khudia, Palasia, GP(Top), GP (Bottom), Brindabanpur (Top & Bottom) and Kalimati Group of seams of Basantimata Dahibari Patch of Dahibari Colliery of Chanch Victoria Area. In response thereto, the representatives of the Ministry furnished the details of work executed by M/s. Sadbhav Annapurna (JV) up to January, 2015 in terms of works specified and approved in the 291st, 305th and 311th BCCL Board meetings against the approved quantity from Khudia, Palasia, GP (Top), GP (Bottom), Brindabanpur (Top & Bottom) and Kalimati group of Seams of Basantimata Dahibari Patch of Dahibari Colliery of Chanch Victoria Area along with the details of the quantity of Dumped Loose OB, *in-situ* OB and Coal which has been added further to the original awarded Work Order on account of the deviation(s) approved in the BCCL Board meetings, which are given below.

Sl. No.	Element of work	Rate in Rs/cum/Te	Awarded Quantity as per 2nd deviation	Executed up to 31.01.15	Billed Quantity as per NIT Clause No. 15 on dispatch qty. of coal	Amount (Rs. in lakh)
1.0	Excavation & Removal of OB including Jhama from face to dump, Lead(3-4) KM	96.00 /Cum	96.10 LCM	37.33 LCM	37.33 LCM	35,83.86
1.1	Excavation & Removal of OB including Jhama from face to dump, Lead(4-5) KM	112.00 /Cum	244.96 LCM	26.58 LCM	24.48 LCM	27,41.84
1.2	Excavation & Removal of OB including Jhama from face to dump, Lead(5-6) KM	133.00 /Cum	39.78 LCM	0.0	00	00
1.3	Excavation & Removal of OB including Jhama from face to dump, Lead(1-2) KM	87.21 /Cum	44.15 LCM	4.99 LCM	4.99 LCM	4,35.44
1.4	Excavation & Removal of OB including Jhama from face to dump, Lead(2-3) KM	95.25 / Cum	72.25 LCM	5.22 LCM	5.22 LCM	4,97.21
1.5	Excavation & Removal of OB including Jhama from face to old quarry (backfilling) Dump No. "8", Lead(0-1) KM	79.19 / Cum	10.00 LCM	0.00	00	00

2.0	Removal of dumped loose OB to dump, Lead (2-3) KM	81.00 /Cum	29.95 LCM	29.95 LCM	29.95 LCM	24,25.95
2.1	Removal of dumped loose OB to dump, Lead (1-2) KM	43.94 /Cum	16.00 LCM	11.31 LCM	11.31 LCM	4,96.97
3.0	Extraction & transportation of coal from face to surface coal dump, Lead (0-1) KM	30.00 / MT	5.00 LMT	3.33 LMT	3.33 LMT	99.94
3.1	Extraction & transportation of coal from face to surface coal dump, Lead (1-2) KM	36.00 /MT	10.00 LMT	2.52 LMT	0.26 LMT	9.25
3.2	Extraction & transportation of coal from face to surface coal dump, Lead (2-3) KM	45.00 /MT	15.00 LMT	0.00	00	00
3.3	Extraction & transportation of coal from face to NLOCP Rly. siding, directly Lead (4-5) KM with wagon loading.	54.00 /MT	3.43 LMT	1.69 LMT	1.69 LMT	91.08
3.4	Extraction & transportation of coal from face to NLOCP Rly. siding, directly Lead (5-6) KM with wagon loading	63.00 /MT	0.00 LMT	0.00	0.00	0.00
3.5	Extraction & transportation of coal from face to NLOCP Rly. siding, directly Lead (6-7) KM with wagon loading	68.00 /MT	0.00 LMT	0.00	0.00	0.00
3.6	Extraction & transportation of coal from face to NLOCP Rly. Siding, via Patlabari More Lead (5-6) KM with wagon loading	63.00 /MT	9.50 LMT	0.00	0.00	0.00
3.7	Extraction & transportation of coal from face to NLOCP Rly. siding, directly via Patlabari More Lead (6-7) KM with wagon loading	68.00 /MT	17.00 LMT	0.0	0.0	0.0
3.8	Extraction & transportation of coal from face to NLOCP Rly. Siding Mobile Crusher, via kuchha culvert over khudia river (5-6) KM with wagon loading	63.00 /MT	21.50 LMT	2.28 LMT	2.28 LMT	1,43.76
3.9	Extraction & transportation of coal from face to NLOCP Rly. siding, Mobile Crusher via kuchha culvert over the Khudia river Lead (6-7) KM with wagon loading	68.00 /MT	40.25 LMT	0.88 LMT	0.88	59.87
	TOTAL AMOUNT					₹105,85.16

Further, the representatives of the Ministry of Coal informed the Committee that as per Clause No. 15A of NIT withheld of OBR lead (4-5) 210215.526 cum @ 112 = ₹ 235,44,139.00, therefore, the gross payment was due as ₹ 108,20,59,769/-.

17. The Committee, thereafter, specifically desired to know the details of work executed by M/s. Sadbhav Annapurna (JV) as on 30 April, 2016, in terms of works specified and approved in the 291st BCCL Board meeting. The representatives of the Ministry of Coal furnished the details of work, which are as given under:-

Sl. No.	Element of work	Rate in Rs/cum/ Te	Awarded Quantity as per 2nd deviation	Executed up to 30.04.16
1.0	Excavation & Removal of OB including Jhama from face to dump, Lead(3-4) KM	96.00 LCM	96.10 LCM	40.13 LCM
1.1	Excavation & Removal of OB including Jhama from face to dump, Lead(4-5) KM	112 /Cum	244.96 LCM	43.42 LCM
1.2	Excavation & Removal of OB including Jhama from face to dump, Lead(5-6) KM	133.00 /Cum	39.78 LCM	6.05 LCM
1.3	Excavation & Removal of OB including Jhama from face to dump, Lead(1-2) KM	87.21 /Cum	44.15 LCM	23.66 LCM
1.4	Excavation & Removal of OB including Jhama from face to dump, Lead(2-3) KM	95.25 / Cum	72.25 LCM	18.64 LCM
1.5	Excavation & Removal of OB including Jhama from face to old quarry (backfilling) Dump No. "8", Lead (0-1) KM	79.19 / Cum	10.00 LCM	0.00 LCM
2.0	Removal of dumped loose OB to dump, Lead (2-3) KM	81.00 /Cum	29.95 LCM	29.95 LCM
2.1	Removal of dumped loose OB to dump, Lead (1-2) KM	43.94 /Cum	16.00 LCM	12.75 LCM
3.0	Extraction & transportation of coal from face to surface coal dump Lead (0-1) KM	30.00 / MT	5.00 LMT	3.33 LMT
3.1	Extraction & transportation of coal from face to surface coal dump, Lead (1-2) KM	36.00 /MT	10.00 LMT	4.28 LMT

3.2	Extraction & transportation of coal from face to surface coal dump, Lead (2-3) KM	45.00 /MT	15.00 LMT	0.00
3.3	Extraction & transportation of coal from face to NLOCP Rly. siding, directly Lead (4-5) KM with wagon loading	54.00 /MT	3.43 LMT	1.69 LMT
3.4	Extraction & transportation of coal from face to NLOCP Rly. siding, directly Lead (5-6) KM with wagon loading	63.00 /MT	0.00 LMT	00
3.5	Extraction & transportation of coal from face to NLOCP Rly. siding, directly Lead (6-7) KM with wagon loading	68.00 /MT	0.00 LMT	0.00
3.6	Extraction & transportation of coal from face to NLOCP Rly. Siding, <i>via</i> Patlabari More Lead (5-6) KM with wagon loading	63.00 /MT	9.50 LMT	0.00
3.7	Extraction & transportation of coal from face to NLOCP Rly. siding, directly <i>via</i> Patlabari More Lead (6-7) KM with wagon loading	68.00 /MT	17.00 LMT	0.54 LMT
3.8	Extraction & transportation of coal from face to NLOCP Rly. Siding Mobile Crusher, <i>via</i> kuchha culvert over khudia river (5-6) KM with wagon loading	63.00 /MT	21.50 LMT	9.23 LMT
3.9	Extraction & transportation of coal from face to NLOCP Rly. siding, Mobile Crusher <i>via</i> kuchha culvert over the Khudia river Lead (6-7) KM with wagon loading	68.00 /MT	40.25 LMT	0.00

18. In this connection, the representatives of the Ministry of Coal informed the Committee that the quantity of coal transportation was erroneously booked on Measurement Book in 18th RA and has been rectified in 19th RA and therefore, the executed quantity of element No. 3.9 (Extraction & Transportation of Coal from face to NLOCP Rly. siding, Mobile Crusher *via* Kuchha Culvert over the Khudia river Lead (6-7)KM with wagon loading) became 'Nil'. The representatives further informed that, though it was earlier considered at element No. 3.9 (@68/MT) for a quantity of 88037.44 Te, actually execution was for the element of work at Sl. No. 3.8 (@63/MT) and the difference was deducted (88037.44MT*5=₹ 4,40,187) in next running account bill (*i.e.* 19th RA).

19. The representatives of the Ministry further informed the Committee that out of the total amount, after due deduction, such as Income Tax, Security deposit, Energy Charges, Penalty for non-achievements of target, etc., an amount of ₹ 98,20,76,220 has been paid against achievement till January, 2015, as per the terms of NIT. Further, the representatives of the Ministry apprised the Committee of the fact that, in Work Order, rate for each and every element of work has been stipulated and the detail of items of work with quantity and rate has also been given in the Work Order. The representatives of the Ministry also informed that, loose dump OB along with considerable quantity of in-situ OB has to be extracted and removed for exposure of the coal face at the initial stage; *i.e.* the Stripping Ratio becomes higher than the average at the initial stage and therefore, much more removal of OB is required to maintain the benches as per statute.

20. The Committee observed that, from 10 June, 2013 (*i.e.*, when the Contractor started the work) up to January, 2015, ₹ 98,20,76,221.87 (approximately ₹ 98.21 crore) has been paid to the Contractor after deducting Income Tax, Security Deposit, Energy Charges, Penalty for non-achievements of targets, etc. In this regard, the Committee specifically enquired about the details and reason(s) for the deductions made on accounts of Energy charges and Penalty for non-achievements of target by the BCCL. The representatives of the Ministry explained that the Contractor started the work from 10th June, 2013 up to January, 2015 and an amount of ₹ 98,20,36,219/- has been paid to the Contractor after deducting Income Tax, Security deposit, energy charges, penalty for non-achievement of target, etc. The representatives further explained that, in their earlier communication, it was mentioned that ₹ 98,20,76,221.87 had been paid to the Contractor up to January, 2015, but actually ₹ 98,20,36,219/- was paid to the Contractor up to January, 2015. The representatives of the Ministry submitted that there was a difference of (-)₹ 40,002.87 due to inadvertent entry in earlier reply. The representatives further submitted before the Committee that, this is being corrected and confirmed as payment made for ₹ 98,20,36,219 up to January, 2015. Thereafter, the representatives furnished the details of deductions, which are given as under:-

Items	Amount (Rs. in Lakh)	Reasons
Energy Charges	14.59	Against Electricity Consumption provided by BCCL as per NIT P/43 Point no 10,P/C/82
Penalty	24.52	For Non-Achievement of Target for the fault on the part of the Contractor

Income Tax	1,90.82	
Security Deposit	5,29.26	
Adm. Charge	1.20	
Lead Difference (Recover)	4.40	
Total	7,64.79	

21. On the aspect of deduction made by the BCCL on account of penalty for non-achievement of target, the representatives of the Ministry informed to the Committee that, penalty is calculated in accordance with the Clause No. 6 of the NIT which is given as under:-

"Immediately after the contract is concluded the Engineer-in-charge and the contractor shall agree upon time and progress chart (Work Schedule) duly approved by CMD, BCCL, prepared on the basis of the transportation schedule to be submitted by the contractor showing in order in which the work is proposed to be carried out within the time specified in the contract documents. For the purpose of this time and progress chart (work Schedule), the work shall be deemed to have commenced on the expiry of 10(Ten) days from the issue of letter of acceptance / work order handling over the site of work whichever is later."

6.1 *If the contractor, without reasonable cause or valid reasons, commits default in commencing the execution of the work within the aforesaid date, the company shall without prejudice to any other right or remedy, be at liberty, by giving 15 days' notice in writing to the contractor to commence the work, failing which to forfeit the earnest money deposited by him.*

6.2 *In the event of the contractor's failure to comply with the required progress in terms of the agreed time and progress chart or to complete the work and clear the site on or before the contract or the extended date of completion, he shall without prejudice to any other right or remedy available under the law to the company on account of such breach, shall become liable to pay for penalty as under:-*

If the average daily progress of work during the calendar months is less than the stipulated rate indicated in the tender document, penalty as detailed below will be levied:-

(i) *If the average daily progress of work executed during in the calendar month is more than 80% and less than 100% of stipulated rate of progress, penalty equal to 10% of the contract value of the shortfall in work shall be levied.*

- (ii) *If the average daily progress of the work executed during the calendar month is less than 80% of stipulated rate, penalty equal to 20% of the contract value of the shortfall in work shall be levied.*
- (iii) *The aggregate of the penalties so levied shall not exceed 10% of the total contract value.*

(i), (ii), & (iii) penalties will be calculated every month and withheld. The contractor shall be allowed to make up the short fall in the succeeding three months within the stipulated time of completion. Once the shortfall is fully made up, the so withheld penalty will be released.

As mentioned in above Clause “in the event of the Contractor failure” penalty is being deducted for non-achievement of target. If the contractor fails to achieve the target which is not attributed on the part of contractor on the reason mentioned under Clause No. 6.4 of the NIT.

- (a) *Abnormally bad weather.*
- (b) *Serious loss or damage by fire.*
- (c) *Civil commotion, strikes or lockouts affecting any of the trades employed on the work.*
- (d) *Delay on the part of contractors or tradesman engaged by the company not form in part of the contract, holding up further progress of the work.*
- (e) *Any other causes which, at the sole discretion of the company is beyond the control of the contract.*

Further, on the aspect of deduction made by the BCCL on account of Energy Charges, the representatives of the Ministry of Coal informed to the Committee that, as per NIT Point No. 10.

22. The Committee, thereafter, specifically asked the representatives of the Ministry to explain the meaning and implications of the following stipulations made by the Ministry of Coal vide their communication dated 30 October, 2015:-

“Loose Dumped OB along with considerable quantity of in-situ OB has to be extracted and removed for exposure of the coal face at the time initial stage i.e. the Stripping Ratio becomes higher than the average at the initial stage. Further, much more removal of OB is required to maintain the benches as per statue”

23. In this regard, the representatives of the Ministry submitted the following written reply, to the Committee:-

"At the initial stage before starting of the operation of the Basantimata Dahibari patch of Dahibari Colliery, there was old OB dump in the Area to be excavated and removed. For starting the extraction of In-situ OB and exposure of coal face, the abovementioned OB i.e. loose dumped OB has to be removed including formation of benches as per statute to reach the coal seam at a depth of about 45 M, and therefore, quantity of OB extraction against per ton of coal was more and as such the stripping ratio becomes higher at the initial stage."

24. On being categorically asked by the Committee as to whether to release payment of ₹98,20,76,221 to the Contractor which is around 20% of the total contract amount, within an initial period of 18 months, is justified on the part of BCCL, the representatives of the Ministry submitted as follows:-

"Initially the work was awarded for a period of 48 months, but after the second deviation the period (along with quantity) was extended till 09.11.2018 i.e. for a total contract period of 5 years 5 months and the awarded value was also increased from ₹471,78,08,000/- to ₹638,21,10,400/- with addition in the quantity of coal, In-situ OB and loose OB for addition of working patch and extension of time period up to 09.11.2018.

It is further submitted that an amount of ₹563,97,017/- has been paid against diesel escalation till January, 2015, after due deduction of Income Tax and security deposit. The figure of ₹719.84 as the cost of extraction of 1 ton coal has not been mentioned either in the LOA or in the Work Order. It seems to be arbitrary and presumption on the part of the complainant and probably this figure has been derived by the complainant as the approximate cost/ton of coal extracted after successful completion of job considering all the other parameters to remain unchanged during this period, which is not conforming to the Work Order. "

25. However, on a specific query by the Committee about the meaning and implication of 'service tax at diesel base price of Rs.49.01/liter', the representatives of the Ministry elaborated as follows:-

"The Service Tax is not related to the diesel base price of ₹49.01 / liter. The service tax is Government's due. As such diesel base price has no implication on Service Tax. Diesel base price of ₹49.01/liter is the base for award of work and payment to the contractor varies in accordance with the price of diesel from time to time."

26. The Committee, thereafter, asked the representatives of the Ministry about the reasons and the justification for paying an amount of ₹5,63,97,017 as diesel escalation to the Contractor. In reply thereto, the representatives submitted as under:-

"The Contractor had started the work from 10th June, 2013 up to January, 2015. ₹ 5,60,76,530/- was paid to the contractor after deducting Income Tax and security deposit. This is to further apprise that in BCCL's/MOC's earlier communication it was mentioned that ₹ 5,63,97,017/- was paid to the contractor up to January 2015 whereas actually ₹ 5,60,76,530/- was duly paid to the contractor up to January 2015. There is difference of (-)₹ 32048/-. This was due to inadvertent entry in earlier reply. This is being corrected and confirmed as payment made for ₹5,60,76,530/- up to January, 2015. The diesel escalation was paid to the Contractor as per Price Variation Clause No: 37 of the NIT and Sub-Clauses No : 37.05.1 and 37.05.2 on the basis of the formulae as indicated below:-

Clause-37.05.1

Diesel Price Variation Rate (Per Te or Per cum) = $Dx2/dxR/C$ where -

D = One way distance from Colliery to destination in Kilometers

d = Distance covered per liter of diesel by the Transport Equipment in KM

C = Capacity of tippers (in Te or in cum)

R = Variation in the price of diesel from the base price (in Rs./Ltr.)

(Note:- in the above formula the value of the 'd' will have to be standardized on the basis of studies through CMPDIL. Till standardization of 'd', the following two formula will be used for transportation of coal and OB /sand)

For Coal: Diesel price variation rate in Rs per Te= $DxR/15$

For OB/Sand: Diesel price variation rate in Rs per Cum = $DxR/9$

Where D= one way distance from colliery to destination in Kilometers

R= variation in the price of diesel from the base price (in Rs. per Lt.)

Clause -37.05.2

*Diesel price variation rate (in Rs./Te.) for loading of Coal by Pay loader =
0.066 x variation in the price of diesel per litre from base price.*

*Diesel price variation rate (in Rs. Per cum.) for loading of OB by excavator =
0.25 x variation in the price of diesel per litre from the base price.*

27. On being specifically enquired as to whether the additional amount on account of diesel escalation over and above the contracted amount of ₹ 471,78,08,000/- paid to the Contactor was mentioned in the Work Order, the representatives of the Ministry submitted as under:-

"The provision of additional amount on account of diesel escalation in addition to the awarded amount had already been mentioned in the Work Order at Sl.No. 22."

28. The Committee, thereafter, asked the representatives of the Ministry to explain the parameters that have been changed during the period of contract and whether these parameters conform to the conditions of the Work Order. In response thereto, the representatives of the Ministry submitted as under:-

"The following parameters have been changed after award of the original work order:-

- a. 1st deviation for addition in the quantity of Coal and OB with addition of patch and extension of time as mentioned in Reply of point No. 1*
- b. 2nd deviation for addition in the quantity of Coal and OB with addition of patch and extension of time as mentioned in Reply of point No. 1*
- c. Changes of diesel market price from time to time during the period of execution of the work.*
- d. Wages escalation due to implementation of High Power Committee recommendations during the period of execution of the work.*

The above changes conform to the provisions of the NIT and Work Order."

29. Thereafter, the Committee specifically desired to know *items-wise* details the total work remaining and the total balance payment to be made to the Contractor, as on 30th April, 2016. In

response thereto, the representatives of the Ministry furnished the *item-wise* details as given follows:-

Sl. No.	Item of work	Rate in Rs/cum/Te	Awarded Quantity as per 2 nd deviation	Executed up to 30.04.16	Balance to be executed as on 30.04.2016	
					Quantity	Amount (Rs. in lakhs)
1.0	Excavation & Removal of OB including Jhama from face to dump, Lead(3-4) KM	96.00 /Cum	96.10 LCM	40.13 LCM	55.97 LCM	53,73.16
1.1	Excavation & Removal of OB including Jhama from face to dump, Lead(4-5) KM	112.00	244.96	43.42	201.54	22,57.27
		/Cum	LCM	LCM	LCM	
1.2	Excavation & Removal of OB including Jhama from face to dump, Lead(5-6) KM	133.00	39.78	6.05	33.74	44,86.73
		/Cum	LCM	LCM	LCM	
1.3	Excavation & Removal of OB including Jhama from face to dump, Lead(1-2) KM	87.21	44.15	23.66	20.49	17,87.21
		/Cum	LCM	LCM	LCM	
1.4	Excavation & Removal of OB including Jhama from face to dump, Lead(2-3) KM	95.25 / Cum	72.25 LCM	18.64 LCM	53.61 LCM	51,06.64
1.5	Excavation & Removal of OB including Jhama from face to old quarry (backfilling) Dump No. "8", Lead (0-1) KM	79.19	10.00	0.00	10.00	7,91.90
		/ Cum	LCM	LCM	LCM	
2.0	Removal of dumped loose OB to dump, Lead (2-3) KM	81.00	29.95	29.95	0.5	40.5
		/Cum	LCM	LCM	LCM	
2.1	Removal of dumped loose OB to dump, Lead (1-2) KM	43.94	16.00	12.75	3.25	1,42.66
		/Cum	LCM	LCM	LCM	
3.0	Extraction & transportation of coal from face to surface coal dump, Lead (0-1) KM	30.00	5.00	3.33	1.67	50.06
		/ MT	LMT	LMT	LMT	
3.1	Extraction & transportation of coal from face to surface coal dump, Lead (1-2) KM	36.00	10.00	4.28	5.72	2,05.90
		/MT	LMT	LMT	LMT	
3.2	Extraction & transportation of coal from	45.00	15.00	0.00	15.00	6,75.00
					LMT	

	face to surface coal dump, Lead (2-3) KM	/MT	LMT			
3.3	Extraction & transportation of coal from face to NLOCP Railway siding, directly Lead(4-5) KM with wagon loading	54.00 /MT	3.43 LMT	1.69 LMT	1.74 LMT	94.14
3.4	Extraction & transportation of coal from face to NLOCP Rly. siding, directly Lead (5- 6)KM with wagon loading	63.00 /MT	0.00 LMT	0.00	00	00
3.5	Extraction & transportation of coal from face to NLOCP Rly. siding, directly Lead (6- 7)KM with wagon loading	68.00 /MT	0.00 LMT	0.00	00	00
3.6	Extraction & transportation of coal from face to NLOCP Rly. Siding, via Patlabari More Lead (5-6)KM with wagon loading	63.00 /MT	9.50 LMT	0.00	9.50 LMT	5,98.50
3.7	Extraction & transportation of coal from face to NLOCP Rly. siding, directly via Patlabari More Lead (6- 7)KM with wagon loading	68.00 /MT	17.00 LMT	0.54 LMT	16.46 LMT	11,19.11
3.8	Extraction & transportation of coal from face to NLOCP Rly. Siding Mobile Crusher, via kuchha culvert over khudia river (5-6) KM with wagon loading	63.00 /MT	21.50 LMT	9.23 LMT	12.27 LMT	7,72.93
3.9	Extraction & transportation of coal from face to NLOCP Rly. siding, Mobile Crusher via kuchha culvert over the Khudia river Lead (6-7) KM with wagon loading	68.00 /MT	40.25 LMT	0.00	40.25 LMT	27,37.00
					TOTAL	₹ 465,13.64

30. The representatives of the Ministry of Coal further informed the Committee that as per the original Work Order, the contract was to be completed by 09.06.2017. However, after revision of the Work Order twice on 29.03.2014 and 24/26.11.2014, the revised work programme is to be completed by 09.11.2018. On the aspect of penalty for delay in completion

of approved work programme, the representatives informed that it is to be calculated in accordance with the clause No. 6 of the NIT and payments to the Contractor are to be made in accordance with clause No. 15 of the NIT. The representatives of the Ministry/BCCL further informed that in accordance with the provisions, ad-hoc penalty is calculated based on these provisions and amount was retained. However, final penalty has to be calculated on completion of the work programme, before making final payment to the Contractor. The representatives reiterated that, since the completion of the contract is in 2018, the final amount of penalty would be calculated only after completion of the work schedule *i.e.* on 09.11.2018. The representatives assured the Committee that the issue was examined in the Ministry and the Company has been directed to take appropriate action. Further, on the aspect of payment to the Contractor, the representatives informed the Committee that the payment has been made till 31.01.2016, though the work execution figures as on 30.04.2016 has been provided for the calculation of the balance quantity and amount, after 30.04.2016.

31. In the matter, the Committee, thereafter, took oral evidence of the representatives of the Ministry of Coal on 7 September, 2017. During the evidence, on being asked by the Committee as to whether it is a fact that the Work Order for removal of LCM OB including Jhama, extraction and transportation of coal from Khudia, etc., was initially given to M/s Sadbhav Annapurna (JV) on 21 May 2013 and as to when the said Contractor commenced operations in respect of extraction and transportation of coal, etc., the representatives of the Ministry of Coal submitted that Work Order was issued on 21st May, 2013 and the Contractor commenced the work from 10th June, 2013.

32. The Committee, thereafter, specifically asked the representatives of the Ministry as to whether it is also a fact that as per Original Work Order, the contract was to be completed by 9 June, 2017, *i.e.* within a period of 48 months and also the reasons for issuing a revised Work Order on 29 March, 2014 and thereafter again on 24/26 November, 2014. In reply thereto, the representatives of the Ministry of Coal submitted:-

"BCCL has informed that as per the Original Work Order, the contract was to be completed by 9th June, 2017, i.e. within a period of 48 months.

However, revised work orders were issued on 29.03.2014 and on 24/26.11.2014 as mining contracts are based on the estimates prepared before taking up the project and all the geological and technical parameters cannot be predicted with 100 % accuracy at the estimation stage. Due to presence of faults / folds / fire & water etc., coal seam and

OB may get disturbed differently at different positions and hence parameters like coal & OB ratio, haul roads length & gradient, Coal & OB benches may differ from estimate.

During execution, these unforeseen geological and technical parameters necessitate deviation from the originally awarded contract to ensure compliance of safety laws & rules, for maximum conservation of coal and for smooth running of the contract. In order to meet the requirements during execution of the contract, there is clear provision in the NIT/ tender document to deal with the situation under the head 'Deviation'. All deviations, after due approval, are to be communicated to the Contractor concerned in the form of revised work order. This may involve increase/decrease/no change in financial value from that of the original contract.

So far the instant contract is concerned the said two deviations/ revised work orders were issued due to following reasons:

- (i) In order to maintain safety of men & machinery*
- (ii) In order to cope up with following technical / geological requirements:*
 - (a) Smooth gradient of haul road to reach the bottom most coal seam to be extracted by the instant contract*
 - (b) To deal with the changed geology and safety requirements encountered during execution of the instant contract."*

33. The Committee, further asked the representatives of the Ministry as to whether there exist any Standing Orders/Regulations, etc., on the basis of which the Authorities concerned are competent to revise the work order thereby, enhancing the financial involvement and the target date for the completion of work and their details thereof. In reply thereto, the representatives of the Ministry of Coal submitted:-

"There is an express provision for deviations in the NIT/Tender document under Clause No. 5 of General Terms and Conditions, which is as follows:

5. Deviations/ variations in quantities:

Extent and pricing: The quantities given in the 'Schedule of Quantities' are provisional and are meant to indicate the extent of the work and to provide a uniform basis for tendering and any variation either by addition or omission shall not vitiate the contract.

- 5.1. *The company through its Engineer-In-Charge or his representative shall, without radically changing the original scope and nature of the contracted work, have power to make any alterations in or additions to or substitution of the original and instructions that may appear to be necessary or advisable during the progress of the work. The Contractor shall be bound to carry out the works in accordance with the instructions given to him in writing by the Engineer-In-Charge or his representative on behalf of the Company. Such altered or additional or substituted work, which shall form part of the original contract, shall be carried out by the Contractor on the same conditions in all respects on which they agreed to do the main work and at the same rate/rates as are specified in the contract.*
- 5.2. *If the additional, altered work includes any class of work for which no rate/ rates is/are specified in the contract, rates for such items shall be determined by the Engineer-in-Charge as follows:*
- (a) *The rate shall be derived from the rate/rates for similar or near similar class of work as is / are specified in the contract /tender, failing which*
 - (b) *The rate shall be derived from the company's prescribed schedule of rates based on which the estimate for tendering has been prepared plus or minus the percentage by which the tendered amount for the whole work quoted by the Contractor is above or below the estimated amount as per the tender documents, failing which*
 - (c) *The rate shall be derived from Contractor's rate claimed for such class of work supported by analysis of the rate /rates claimed by the Contractor. The rate to be determined by the Engineer-In-Charge as may be considered reasonable taking into account percentage of profit and overhead not exceeding ten percent or on the basis of market rates, if any, prevailing at the time when work was done.*

In the case of composite tenders, where two or more schedule of quantities for similar item description may form part of the contract, the applicable rate shall be taken from the schedule of quantities of that particular part in which the deviation is involved, failing that at the lowest applicable rate for the similar item of work in the other schedule of quantities.

However, the Engineer-In-charge shall be at liberty to cancel the instruction by notice in writing and to arrange to carry out the work in such a manner as he / she considers advisable under the circumstances. The Contractor shall under no circumstances suspend the work on the plea of non-settlement of rates.

- 5.3. *Alterations in the quantities shall not be considered as a change in the conditions of the contract nor invalidate any of the provisions thereof provided that a supplementary work order or agreement for the item/items involved will be necessary when the alterations involved one or more of the followings:*
- (i) *An increase of more than 10% of the total cost of work calculated from the original tendered quantities and the contract Price.*
 - (ii) *More than 10% deviation from original awarded value should require approval of next higher authority, but total amount should be within the delegated power of next higher authority.*
- 5.4. *The time for completion of the originally contracted work shall be extended by the Company in the proportion that the additional work (in value) bears to the original contracted work (in value) as may be assessed and certified by the Engineer-in-charge.*
- 5.5. *The Company through its Engineer-In-charge or his representative, on behalf of the Company, shall have power to omit any part of the work for any reason and the Contractor shall be bound to carry out the work in accordance with the instructions given by the E.I.C. No claim for extra charges / damages shall be made by the Contractor on these grounds.*
- 5.6. *In the event of any deviation being ordered which in the opinion of the Contractor changes radically the original scope, and nature of the contract, the Contractor shall under no circumstances suspend the work, either original or altered or substituted, and the dispute / disagreement as to the nature of deviation or the rate/ rates to be paid thereof shall be resolved separately with the company.*
- 5.7. *The re-appropriation/ re- allocation of the quantities may be done with the approval of Engineer-In-Charge within the stipulated contract period and contract value with the approval of the approving authority of the contract. In case the approving authority is Board, then with the approval of the CMD of the Subsidiary Company.*

BCCL Board in its 288th meeting held on 31.07.2012 vide resolution item no. 288.5V accordingly resolved as follows:-

“for existing hired HEMM contracts working up to 500 metres outside the boundary allocated in any direction, at the same rate, terms and conditions may

be executed with the approval of CMD with subsequent information to BCCL Board. The distance of 500 metres will be duly certified by HQ survey department."

34. On being specifically enquired by the Committee as to who was the approving Authority in the BCCL, while revising the original Work Order, since the total financial involvement payable to M/s Sadbhav Annapurna (JV) increased to Rs. 166.43 crore, the representatives of the Ministry of Coal submitted that the amount mentioned in the original Work Order was Rs. 471.78 crore, which was revised to Rs. 638.21 crore, and thus, the net increase was Rs. 166.43 crore. Further, the representatives submitted that the Board was the approving Authority of the said revision.

35. The Committee, further desired to know from the representatives of the Ministry that while revising the Work Order twice along with enhanced financial implications, what were the reasons for deviation which have been ascribed to '*addition of extra patch and revision of sanctioned boundary*'. In response thereto, the representatives of the Ministry of Coal submitted:-

"BCCL has informed that in order to maximise conservation of coal and the technical geometrics required to be maintained for safety of men and machines, it was necessary for addition of the adjacent small patches which resulted into revision of awarded/sanctioned boundary."

36. The Committee, thereafter, specifically asked the representatives of the Ministry as to whether it would have been more beneficial if open tenders for additional works were again invited by the BCCL Authorities instead of revising the work order, etc., in favour of M/s Sadbhav Annapurna (JV). In reply thereto, the representatives of the Ministry of Coal submitted:-

"BCCL has informed that the small patches (one patch of width 98 meters and another patch of width 98 meters) were added to the instant operating patch for various technically compulsive reasons. These small patches were adjacent to the operating patch/mines. It is technically not feasible to work out those small patches with limited width / length, as an independent patch up to the depth of more than 125 meters to which the original patch is operating."

37. The Committee, thereupon, desired to know about the total target achieved, as on 30 June, 2017 in quantifiable terms, by M/s. Sadbhav Annapurna (JV) in terms of conditions

stipulated in the Work Order. The representatives of the Ministry of Coal furnished the requisite information as follows:-

Target achieved till 30th June, 2017

Sl. No.	Item of Work	Target as per 2 nd deviation (for a period of 65 months)	Target achieved till 30.06.2017 (for a period of 48 months)
1.	Removal of OB including Jhama	507.24 LCM	162.72 LCM
2.	Removal of loose dumped OB	45.95 LCM	42.70 LCM
3.	Extraction of coal	121.68 LMT	24.94 LMT

38. The Committee, thereafter, desired to know specifically as to whether concession in the form of revising the Work Order, enhancing the financial involvement along with the target date has also been extended to other Contractors of BCCL in the past. In reply thereto, the representatives of the Ministry of Coal submitted as follows:-

"BCCL has stated that no concession in the form of revised work order has ever been given to any Contractor including M/s. Sadbhav Annapurna (JV). However, there are several contracts before as well as after the instant contract in which deviation was done and revised work orders were issued under the said provisions of NIT/tender documents.

At BCCL, hiring of HEMM contract is based on approved estimates prepared before taking up the project. All the geological and technical parameters are estimated based on available information.

However, many unforeseen situations arise involving geo mining parameters like fault, fold, fire, water etc. Further, the coal is to be extracted from a depth, after removing upper Overburden layers, making benches with required height and width as per statute. To reach the dip most coal seam, haul roads are to be prepared maintaining required gradient. To comply with these safety provisions as per statute and for smooth running of the contract, at times deviations from awarded contracts becomes technical necessity. Hence, there is express provision in the NIT/ tender document to deal with the situation under the head 'Deviation'.

The revised work order is issued including the changed parameters after approval of deviation by the competent authority."

39. The Committee, thereafter, asked about the reasons due to which M/s Sadbhav Annapurna (JV) had not raised any bill against execution of work after 31 January, 2016. In response thereto, the representatives of the Ministry of Coal submitted:-

"Earlier, the Contractor had raised the bill till 31 January 2016. Subsequently, the Contractor has raised the bill till May' 2017."

40. Further, the Committee specially desired to know about the reasons on the basis of which the representationist, namely, Shri Subhash Kumar Singh had alleged the payment of full contracted amount by the Bharat Coking Coal Limited (BCCL) Authorities to M/s. Sadbhav Annapurna (JV), without completion of work. The representatives of the Ministry of Coal, in their reply, submitted:-

"The tenure of the contract shall be over in 2018 and therefore the full contracted amount has not been paid."

OBSERVATIONS/RECOMMENDATIONS

Award of Contact to M/s. Sadbhav Annapurna (JV)

41. The Committee note from the submissions made by the Ministry of Coal that BCCL had awarded a Contract to M/s. Sadbhav Annapurna (JV) for removal of 380.84 LCM OB (Lakh Cubic Meter of Over Burden, including Jhama), removal of 16.5 LCM Dump Loose OB (Lakh Cubic Meter Dump Loose Over Burden) and extraction and transportation of 65.54 LMT (Lakh Metric Ton) coal from Khudia, Palasia, GP (Gopinathpur-Top), GP (Gopinathpur-Bottom), Brindabanpur (Top & Bottom) and Kalimati group of seams of Basantimata Dahibari Patch of Dahibari Colliery of Chanch Victoria Area, BCCL for a period of 48 months (w.e.f., 10.6.2013 to 9.6.2017) with the financial involvement of ₹ 4,71,78,08,000/- vide Work Order dated 21.05.2013. M/s. Sadbhav Annapurna (JV) started the work with effect from 10.06.2013 and executed 74,12,780.786 M3 of In-situ OB (Cubic Meter of In-Situ Over Burden), 41,26,024.147 M3 (Cubic Meter) of dumped loose OB (Over Burden) and dispatched 8,43,396.600 Ton of coal up to January, 2015; amounting to a total value of ₹ 1,08,20,59,769.46. However, out of the total amount, after making deductions, viz., such as Income Tax, Security Deposit, Energy Charges, Penalty for non-achievement of target, etc., BCCL actually paid an amount of ₹ 98,20,36,219/- to the Contractor till January, 2015. In addition to this, an amount of ₹ 5,60,76,530/- was paid by the BCCL to the Contractor against the Diesel Escalation till January, 2015. Taking into account the above payments, the Committee observe that till January, 2015, BCCL had paid ₹ 1,03,81,12,749/- during period of initial 18 months to the Contractor, i.e., M/s. Sadbhav Annapurna (JV) which is around 22% of the total contracted amount of ₹ 4,71,78,08,000/- as per the Work Order dated 21.05.2013.

42. The Committee are constrained to take a very serious note of the fact that the release of payment of ₹ 1,03,81,12,749/- by the BCCL to the Contractor, which was

approximately 22% of the total contracted amount within an initial period of just 18 months is not justifiable on the part of the BCCL without proper assessment of the work actually executed by the Contractor. The Committee, therefore, strongly recommend that before releasing the payment against the Bill(s) raised by the Contractors - whether presently engaged or to be engaged in future, proper assessment of the work actually executed by the Contractor(s) keeping in view the target and achievement, physical inspection of the site to check the actual progress/production in respect of extraction and transportation of coal, excavation and removal of OB, and removal of loose dump OB should be meticulously done in accordance with the established accounting procedures and vetted by internal Vigilance Apparatus. The Committee would like to be apprised of the steps taken in this regard within three months of the presentation of this Report.

Conditions/Parameters with respect to midway deviations of work

43. The Committee further take note of the fact that the original Work Order dated 21.5.2013 was subsequently revised twice and the revised Work Orders dated 29.3.2014 and 24/26.11.2014 were issued midway by the BCCL due to deviation in the awarded quantum of work and extension of time. The revised Work Order dated 29.3.2014 after the first deviation had added some extra patch of work and had, thus, revised the already sanctioned contours of work with an extension of time for period of 9 months (w.e.f. 10.6.2017 to 9.3.2018) and with the financial involvement of ₹ 5,60,31,24,150/-. The subsequent revised Work Order dated 24/26.11.2014 after second deviation further added some extra patch of work and revised the sanctioned outline of work with an extension of time for a further period of 8 months (w.e.f. 10.3.2018 to 9.11.2018) again with the financial involvement of ₹ 6,38,21,10,400/-. Consequently, due to above mentioned deviations in the awarded quantum of work, the mutually agreed Work Schedule was also revised five times.

44. Since frequent revising of Contract and the Work Schedule with hefty additional financial implications to the same Contractor without any cogent reasons could be an indication of undue favoritism and causing loss to the exchequer, the Committee, recommend that any deviation in the execution of Contract after the initiation of the Contracted Work should be specifically mentioned in the Notice Inviting Tender and subsequent Revised Work Order(s) so that such situation, as in the instant case, could be avoided in future. Further, the changes or revision with respect to conditions/parameters subsequent to the deviation(s) of work should conform to the provisions mentioned in the Notice Inviting Tender and the Work Order and duly approved by the Competent Authority, *i.e.*, the Board of the Company. Alternately, if some additional work of removal of Dump Loose OB and/or extraction and transportation of coal, etc., crops up midway, the BCCL should work out modalities to award the work to some other Contractor after adhering to the prescribed Standard Operating Procedures. The Committee would like to be apprised of the action taken by the Ministry in this regard.

Target vis-à-vis Achievement

45. The Committee observe that M/s. Sadbhav Annapurna (JV) could not achieve the parameters and time schedule prescribed in the original Work Order dated 21.5.2013 for removal, extraction and transportation of Coal. As a matter of fact, up to 31.1.2015, the Contractor could only execute 60% of the target for which the BCCL had imposed a penalty of ₹ 24,52,000/-. However, the Committee are astonished to find that subsequent to the revision of the contracted work twice *vide* Work Orders dated 29.3.2014 and 24/26.11.2014 that too in favour of M/s. Sadbhav Annapurna (JV), the Contractor did not make any sincere efforts to re-calibrate its operations as a result of which, as on 30.4.2016, a meagre 52% and 58% of the targets were achieved in respect of excavation/removal of OB and extraction/ transportation of coal respectively.

46. In this connection, the Committee further recommend that the existing penalty provision(s) under Clause No. 6 of the Notice Inviting Tender as well as relevant provision(s) in other NITs to be floated by the subsidiaries of Coal India Limited including the BCCL in future, should be reviewed and made more lucid and stringent with respect to non-achievement of target by the Contractor. Further, there should also be an express provision in the NITs relating to forfeiture of earnest money/security deposit and also Blacklisting of the all such Contractors who fail to achieve the target as per the Tender Document due to which the Company incurs financial losses. The Committee would like to be apprised of the concrete action initiated by the Ministry of Coal, in this regard.

Alleged financial irregularities of overpayment

47. The Committee observe from the submissions made by the Ministry of Coal that there were no glaring irregularities found in the case of payment made to M/s. Sadbhav Annapurna (JV) by the BCCL without completion of work. As per the Report of the CVO of BCCL, no irregularities were established except that of non-deduction of penalty amount by the BCCL officials against whom minor penalty was imposed. However, the Committee are satisfied to note that when the connivance of some officials on the aspect of non-deduction of penalty amount from M/s. Sadbhav Annapurna (JV) was pointed out during the informal discussion with the representatives of the Ministry of Coal during the Study Visit of the Committee to Kolkata on 4.5.2017, the Minor Penalty against the delinquent officials were converted to Major Penalty Proceedings. However, in this regard, the Committee are of the considered opinion that the specific work areas in all the subsidiaries of Coal India Limited which are prone to corruption should be identified by the Ministry and an Institutional Mechanism with an impregnable fireball of stringent time-bound penalty should be put in place so that any element of corrupt practices by the officials are tackled in a mechanical manner.

48. The Committee also foresee that there could be many more cases relating to over/advance payments to the Contractors by the BCCL which should now be promptly investigated by some Independent Investigation Agency. In this regard, the Committee fully endorse the recommendations of the CVO, BCCL to inquire into all the matters related to over/advance payments to the Contractors in all the subsidiaries of CIL including M/s. Sadbhav Annapurna (JV) and also to hand over the investigation to the Central Bureau of Investigation for detailed inquiry/investigation. The Committee would like the Ministry of Coal to take necessary action and apprise the Committee accordingly within three months of the presentation of this Report to the House.

Use of modern technology for measurement of extraction, removal and transportation of coal

49. With a view to ensure accurate physical measurement of extraction, removal and transportation of coal by the Contractors devoid of manual intervention, the Committee recommend that the Ministry of Coal should persuade the Management of Coal India Limited to introduce modern technology such as, Unmanned Aerial Vehicle (UAV), 3D Terrestrial Laser Scanner (TLS), etc., in all its subsidiaries, viz., Bharat Coking Coal Limited, Western Coalfields, Central Coalfields, Eastern Coalfields, Northern Coalfields, Mahanadi Coalfields, etc., so that the payment to the Contractors is made strictly in accordance with scientific work measurement of extraction, removal and transportation of coal by them. The Committee would like to be apprised of the action taken by the Ministry of Coal in the matter.
