

**FORTY-SEVENTH REPORT**

**COMMITTEE ON PETITIONS**

**(SIXTEENTH LOK SABHA)**

**MINISTRY OF COAL**

**(Presented to Lok Sabha on 3.8.2018)**



**LOK SABHA SECRETARIAT  
NEW DELHI**

**August, 2018/\_\_\_\_\_ 1940 (Saka)**

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(i)

**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 Harish Kumar Sethi | - | Senior Executive Assistant |

(iii)

# **FORTY-SEVENTH 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 Forty-Seventh Report (Sixteenth Lok Sabha) of the Committee to the House on the Representation received from Shri Subhash Kumar Singh alleging gross financial irregularities by the Bharat Coking Coal Limited (BCCL) Authorities in terms of making payment to M/s. Mahalaxmi Infra Contract Private Limited without completion of the work

2. The Committee considered and adopted the draft Forty-Seventh Report at their sitting held on 16 April, 2018.

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

**NEW DELHI;**  
**16 April, 2018**  
**26 Chaitra, 1940 (Saka)**

**BHAGAT SINGH KOSHYARI,**  
***Chairperson,***  
***Committee on Petitions.***

(v)

## REPORT

### **REPRESENTATION RECEIVED FROM SHRI SUBHASH KUMAR SINGH ALLEGING GROSS FINANCIAL IRREGULARITIES BY THE BHARAT COKING COAL LIMITED AUTHORITIES IN TERMS OF MAKING PAYMENT TO M/s. MAHALAKSHMI INFRA CONTRACT PRIVATE LIMITED WITHOUT COMPLETION OF THE WORK.**

Shri Subhash Kumar Singh forwarded a Representation dated 05.03.2015 before the Committee alleging gross financial irregularities by the Bharat Coking Coal Limited (BCCL) Authorities in terms of making payment to M/s. Mahalakshmi Infra Contract Pvt. Ltd., without completion of the work (Annexure-I).

2. Shri Subhash Kumar Singh, in his Representation, *inter-alia* stated that the BCCL had awarded a Contract to M/s. Mahalakshmi Infra Contract Pvt. Ltd., B-21, Corporate House, Opp. Pakvan-II, S.G. Highway Bodakdev, Ahmedabad for hiring of Heavy Earth Moving Machineries (HEMM) for removal of Over Burden (OB), extraction and transportation of total quantity of 47.40 lac Metric Ton coal from Salanpur C and D seams of Chaptoria opencast mine patch of the BCCL amounting to Rs.1,45,86,80,000/- *vide* Work Order No. BCCL/XII/GM/TPTN/WO/509 dated 14/19.12.2012. Till January, 2014, the Contractor had excavated and transported a total of 12,55,222 Metric Ton coal and the BCCL had made a payment of Rs.45,29,87,670/- to the Contractor, whereas, the actual amount to be paid to the Contractor was Rs.38,91,40,887/-. The Representationist had alleged that the BCCL had paid Rs.6,91,40,783/- as an additional amount to the Contractor which resulted in gross financial irregularities by the BCCL. The Representationist further stated that a written complaint dated 28.07.2014 was given to the Superintendent of Police, the Central Bureau of Investigation, Dhanbad with a request to inquire into the entire issue and take action against the erring Officials. A copy of the said complaint was also forwarded to the President, Prime Minister, Minister of Coal, Director - CBI and other Officers concerned. However, till date, no FIR had been lodged against the guilty Officials of the BCCL. On the other hand, with the approval of the Officials of the BCCL, the Contractor had stopped the work. The Security Deposit and Earnest Money deposited by the Contractor should have been forfeited immediately by the BCCL but the Officials concerned had not take any action and refunded the Security Deposit and Earnest Money to the Contractor.

3. The Representationist further stated that M/s. Mahalakshmi Infra Contract Pvt. Ltd., i.e., the Contractor which should have been black listed by the BCCL due to non-completion of

work awarded to him, have again been awarded the Contract for excavation and transportation of 31.99 lac Metric Ton coal from the same site i.e., Salanpur C and D seams of Chaptoria opencast mine patch of the BCCL amounting to Rs.1,86,20,10,296/- vide the BCCL letter No. BCCL/GM/CMC/F-LOA/HEMM/Chaptoria Open Cast Patch/2014/3476 dated 18.12.2014. The representationist had also averred that the earlier Contract was given at the rate of Rs.305.80 per ton and the subsequent Contract had been given at the rate of Rs.582/- per ton inspite of the fact that the price of diesel had fallen by around 33%. The Representationist, therefore, requested the Committee to examine all these aspects in detail.

4. The Committee on Petitions 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 comments on the issues raised therein.

5. In response thereto, the Ministry of Coal vide their Office Memorandum No.54018/10/2014-Vig. dated 13 October, 2015 and 5 February, 2016, furnished the following comments:-

- (i) *M/s. Mahalakshmi Infra Contract Pvt. Ltd., produced and transported 12,55,222 MT of coal till January, 2014 for which they were to be paid Rs.38,38,46,887.60 but they were paid Rs.45,29,87,670 and thus excess payment of Rs. 6,91,40,783.00 was made to the Contractor by the corrupt officers of the BCCL, C.V. Area.*
- (ii) *The Contract was awarded for production and dispatch of 47.70 Lac MT of coal in 3 years' time period. But, the Contract was foreclosed with the approval of the corrupt officers after one year and only 12,55,222 MT coal was produced. Instead of blacklisting the Contractor and forfeiting their Earnest Money and Security Money, the corrupt officers released the same.*
- (iii) *The Contract for the balance work was awarded to the same Contractor at Rs.1,86,20,10,296.00, i.e., at higher cost.*

6. The Committee were informed that the Chief Vigilance Officer, BCCL, in his Report, had submitted the following facts:-

- (a) *The BCCL Board in its meeting held on 01.10.2012 approved the award of work of "Hiring of HEMM for removal of OB, extraction and transportation of coal from*

L-11, L-10 seams Salanpur- D and Salanpur-C of Chaptoria OC Patch of Damagoria Colliery of CV Area” to M/s. Mahalakshmi Infra Contract Pvt. Ltd., for a period of 36 months for removal of 202.10 LCM of loose OB, 20.90 LMT of Jhama and extraction and transportation of 26.80 LMT coal with a financial involvement of Rs.1,45,86,80,000 at diesel base price of Rs.43.30 per litre.

- (b) A Representation was received from M/s. Mahalakshmi Infra Contract Pvt. Ltd., stating the fact that in the NIT, the payment to workmen was not considered as recommended by the High Power Committee of CIL and now the workmen are demanding wages as recommended by the High Power Committee, failing which they are causing frequent disruptions in work. The Company mentioned that they are unable to continue the work under the prevailing circumstances and hence requested to foreclose the awarded work, without imposing penalty.
- (c) In the 80<sup>th</sup> CMDs meet held on 11.11.2013, it was suggested by the CMDs that “wherever feasible the Contract may be foreclosed without penalizing the Contractor in the event the Contractor fails to produce the valid claim against enhanced wages and also not willing to continue the work at the existing terms, fresh tender may be floated against the said work”.
- (d) Consequently, the proposal for foreclosure was placed before the 306<sup>th</sup> meeting of the BCCL Board held on 05.01.2014 which resolved as under:-
- Administrative approval for foreclosure of the Contract for the work of Hiring of HEMM awarded to M/s. Mahalakshmi Infra Contract Pvt., Ltd. with imposition of penalty as per Clause No.6.2 of the General terms and conditions of the tender document, if any, as per terms and conditions of Contract, reserving the rights and remedies available to the Company.
  - Recovery of any amount or penalty proposed to be imposed on the Contractor and other dues, if any, as per terms and conditions of the Contract, from the final bill of the Contractor and as per terms and conditions of the Contract under clause 8.7 under General terms and conditions.
  - Non deduction of any amount for carrying out the incomplete work at risk of the Contractor under clause No.9.2 of General terms and conditions of the Contract in view of point No.9.3 of minutes of 80<sup>th</sup> CMDs meet held on 11.11.2013.



- *Placement of final financial proposal before the BCCL Board for approval, after conducting final survey measurement by Inter subsidiary team, consequent upon administrative approval for foreclosure of the Contract under reference.*
  - *Fresh tendering of revised work shall be done based on approved revised estimate.*
- (e) *The BCCL Board in its 306<sup>th</sup> meeting held on 05.01.2014 had administratively approved the foreclosure of the work awarded to M/s. Mahalakshmi Infra Contract Pvt. Ltd. The Management did not deduct the Earnest Money and Security Deposit of the Contractor amounting to Rs.50 lakh and Rs.247.12 lakh respectively. The matter was placed before the 310<sup>th</sup> meeting of Board of Directors and the same was approved.*
- (f) *Total executed quantity of OB removal upto 14.05.2014 was 73,89,324.044 Cum, which is over 100.484% of the scheduled quantity of 7353742 Cum, (scheduled during the Contract period up to 14.05.2014 in consideration to hindrances) and the executed quantity of extraction and transportation of coal was 17,88,192.70 MT, which is 107.879% of the scheduled quantity of 1657580MT.*
- (g) *Subsequently, open tendering was done on the basis of revised estimate of Rs.1,62,12,51,522/- vide NIT dated 30.06.2014 for the remaining portion of the work. After processing the tender, the BCCL Board in its 312<sup>th</sup> meeting awarded the work to the same Contractor M/s. Mahalakshmi Infra Contract Pvt. Ltd., for removal of 138.51 LCM OB and for extraction and transportation of 31.99 LMT coal, for a period of 24 months at a cost of Rs.1,86,20,10,296/-.*

7. The observations of the Chief Vigilance Officer, BCCL on the matter are as follows:-

- *Payment to the Contractor was done as per the provision of payment clauses of NIT tender document on execution of the element of work (OB, loose OB, coal, Jhama etc.) mentioned above. Payment to the Contractor cannot be made on the basis of arithmetic average of coal produced from the awarded patch.*
- *The complainant had considered only the coal production at the hired patch but not the OB removal. On the payment front, complainant has considered total payment made to the Contractor by the BCCL on account of coal production and OB removal*

*as per the terms of the work order. Thus, the complainant arrived at a misleading conclusion that the Contractor was paid in excess to what he ought to be paid.*

- The contention of the Management in invoking the suggestions of CMDs' meet appears to lack sanctity as it was a mere suggestion and not a decision of the Competent Authority. Before considering the case for foreclosure on this ground, the Management of the BCCL did not obtain clear cut directive from the Competent Authority.*
- Shri A. Sarkar, Director (T) had issued Guidelines for implementation of the recommendation of High Power Committee on the wages of Contractor, workers engaged in mining activities for ongoing projects finalized prior to 01.01.2013 and in which the wage component has not been considered because the same was not in existence.*
- The guidelines state that instead of going for foreclosure, the management could have used the provisions of the above cited guidelines in executing the Contract and thus saving excess amount being paid to the same Contractor by inviting fresh tender at a substantially higher rate*
- That foreclosure of the Contract awarded to M/s. Mahalakshmi Infra Contract Pvt. Ltd., and then re-tendering and awarding the work again to the same Company led to undue benefit of Rs.87.57 crore to the Contractor at the cost of the BCCL.*

8. In the extracts of Minutes of 306th Board meeting, it can be seen that the foreclosure of the Contract was approved with imposition of penalty, if any. However, the amount of penalty was not specifically mentioned. The penalty amount was calculated to be Rs. 37,48,674.00 which accrued due to non-achievement of month-wise target. In the extracts of Minutes of 310th meeting of Board of Directors, the Board resolution states that the Contract be foreclosed without imposition of penalty as the work executed as on 14.05.2014 compared to target was 100.84% and 107.879% of OB removal and extraction and transportation of coal respectively.

9. After the examination of reports obtained from the BCCL, CVO, the Bharat Coking Coal Limited had observed as follows:-

- a) The complainant has considered only the coal extraction and transportation component of the Tender while estimating payments due but has made the complaint based on the payments made to the Contractor for coal extraction as well*

*as OB removal. Thus, the complainant has arrived at a misleading conclusion that the Contractor was paid in excess.*

- b) After the award of the Contract, the Coal India Limited enhanced the wages to be paid to workers engaged by Contractors on the recommendation of a High Power Committee. The CIL had considered the impact of the recommendations of the Committee on ongoing contracts and suggested that "The Contract may be foreclosed without penalizing the Contractor in the event Contractor fails to produce the valid claim against the enhanced wages and also not willing to continue the work at the existing terms, fresh tender may be floated against the said work".*
- c) A Representation was received from M/s. Mahalakshmi Infra Contract Pvt. Ltd.. which stated that the Tender did not provide for the higher wages as now recommended by the High Power Committee. The workmen were demanding higher wages recommended by the Higher Power Committee and causing frequent disruptions at work. It, therefore, requested for foreclosure.*
- d) The BCCL Board in its 306th Meeting held on 05.04.2014 approved the proposal for foreclosure of the work awarded to M/s. Mahalakshmi Infra Contract Pvt. Ltd. No penalty was imposed on the Contractor as the Contractor had executed 100.4 percent of OB removal target and the 107.8 percent coal extraction target as per the mutually agreed and approved work schedule taking the hindrance into consideration.*
- e) A fresh Tender was issued. M/s. Mahalakshmi Infra Contract Pvt. Ltd.. again became the lowest tenderer in the Open Competitive Bid and the Tender was awarded to them. This was at a higher cost of Rs.87.5 crores.*
- f) It is clear that no excess payment has been made to the Contractor. The foreclosure was for reasons extraneous and beyond the control of the Contractor and the balance work was awarded to the Contractor through an open transparent process.*

10. The Committee desired to know the role in terms of the Agreement entered between the Company and the Contractor, along with the specific reasons for foreclosing the Contract and later awarding it to the same Contractor for completion of the work, etc. The Ministry of Coal, in a written reply, submitted:-

*"The complaint of Shri Subhash Kumar Singh relates to alleged irregularities caused in connection with the Contract awarded to M/s. Mahalakshmi Infra Contract Pvt. Ltd., for hiring of HEMM for removal of OB, extraction and transportation of coal from Salanpur*

*C&D Seams of Chaptoria opencast mine patch of the BCCL. The Board of the BCCL in its 289<sup>th</sup> Meeting held on 01.10.2012 approved the proposal for award of Contract, to M/s. Mahalakshmi Infra Contract Pvt. Ltd., the work for hiring of HEMM for removal of 202.4 lakh cum of OB, removal of 14.50 lakh cum dumped loose OB and extraction and transportation of 26.80 lakh metric ton (LMT) of coal and 20.90 metric ton of Jhama from L-11, L-10 of Salanpur 'D' and Salanpur 'C' seams of Chaptoria OC Patch of Damagoria Colliery of CV area at a cost of Rs.145.87 crore in a period of 3 years. The work order was issued on 14.12.2012.*

In brief, item-wise details of Work Order were as follows:-

<b>Sl. No.</b>	<b>Element of Work</b>	<b>Quantity (in ton)</b>	<b>Rate (in Rs.)</b>	<b>Amount (in Rs.)</b>
1.0	Removal of OB from face to dump D-1, Lead (0-1) KM	33.60 LCM	57.00/Cum	19,15,20,000
1.1	Removal of OB from face to dump D-1,Lead (1-2) KM	168.80 LCM	61.00/Cum	1,02,96,80,000
2.0	Removal of dumped loose OB upto dump D-1,Lead (1-2) KM	14.50 LCM	41.00/cum	5,00,50,000
3.0	Extraction & transportation of coal from face to surface coal dump No.26,Lead (0-1) KM.	2.20 LMT	31.00 /MT	68,20,000
3.1	Extraction & transportation of coal from face to surface coal dump No.26,Lead (1-2) KM.	5.80 LMT	35.00/MT	2,03,00,000
3.2	Extraction & Transportation of Coal from face to Damagoria Rly. Siding Feeder Breaker, Lead (02-3) KM and Feeder Breaker to Damagoria Rly Siding Lead (0-1) KM with wagon loading.	5.40 LMT	45.00/MT	2,43,00,000
3.3.	Extraction & transportation of coal from face to Damagoria Rly siding, Land (2-3) KM with wagon loading	9.70 LMT	40.00/MT	3,88.00,000
3.4	Extraction & transportation of coal from face to Damagoria Rly siding, Land (3-4) KM with wagon loading	3.70 LMT	46.00/MT	1,70,20,000
4.0	Extraction & transportation of Jhama from face to surface dump No. 27, Land (0-1) KM	5.90 LMT	31.00/MT	1,82,90,000
4.1	Extraction & transportation of Coal from face to surface dump No. 27,	15.00 LMT	33.00/MT	5,25,00,000

	Land (1-2) KM			
		<b>Total</b>		<b>1,45,86,80,000</b>

*The Contract was foreclosed on the following grounds:-*

- (a) *The work was started by the Contractor on 12.12.2012 and to be completed by 11.12.2015. Coal India vide its Circular dated 18.02.2013 had recommended for implementation of wages as per recommendation of High Power Committee, even for the contracts awarded from 01.01.2013.*
- (b) *A request was received from M/s. Mahalakshmi Infra Contract Pvt. Ltd., stating the fact that in the NIT, the payment to workmen was not considered as recommended by the High Power Committee of CIL and now the workmen are demanding wages as recommended by the High Power Committee, failing which they are causing frequent disruptions in work. The Company mentioned that they are unable to continue the work under the prevailing circumstances and hence requested to foreclose the awarded work, without imposing penalty.*
- (c) *It was suggested by the CMDs in the 80th CMDs meeting that "wherever feasible, the Contract may be foreclosed without penalizing the Contractor in the event Contractor fails to produce the valid claim against enhanced wages and also not willing to continue the work at the existing terms, fresh tender may be floated against the said work".*

*Consequently, the proposal for foreclosure was placed before the 306<sup>th</sup> meeting of the BCCL Board held on 05.01.2014 which had administratively approved the foreclosure of the work awarded to M/s. Mahalakshmi Infra Contract Pvt. Ltd. Thereafter, it was decided that fresh tendering of revised work shall be done based on approved revised estimate. Subsequently, open tendering was done on the basis of revised estimate of Rs.162,12,51,522/- vide NIT dated 30.06.2014 for the remaining portion of the work. In this tender, M/s. Mahalakshmi Infra Contract Pvt. Ltd has again emerged as the L-1 bidder out of the 4 bidders who participated in the tender and accordingly the BCCL Board in its 312<sup>th</sup> meeting awarded the work to the same Contractor for removal of 138.51 LCM OB and for extraction and transportation of 31.99 LMT coal, for a period of 24 months at a cost of Rs.1,86,20,10,296/-."*

11. The Committee, thereafter, categorically desired to know the comments of the Ministry on the allegations made in the instant Representation that as per the information obtained under the RTI Act, 2005, an excess payment of Rs.6.91 crore had been disbursed to M/s. Mahalakshmi Infra Contract Pvt. Ltd. The Ministry of Coal, in a written reply, submitted:-

- (i) *M/s. Mahalakshmi Infra Contract Pvt. Ltd., produced and transported 12,55,222 MT of coal till January, 2014 for which they were to be paid Rs.38,38,46,887.60, but they were paid Rs.45,29,87,670 and thus excess payment of Rs.6,91,40,783.00 was made to the Contractor by the corrupt officers of the BCCL (C.V. Area).*
- (ii) *The Contract was awarded for production and dispatch of 47.70 Lac MT of coal in 3 years' time period. But, the Contract was foreclosed with the approval of the corrupt officers after one year and only 12,55,222 MT coal was produced. Instead of blacklisting the Contractor and forfeiting their Earnest Money and Security Money, corrupt officers released the same.*

12. On being asked by the Committee to furnish the details of Companies who participated in the said Open Tender, the Ministry of Coal, in a written reply, submitted:-

In all, the following 12 bidders participated in the said tender:-

- (1) *M/s. PLR Projects Pvt. Ltd., Hyderabad*
- (2) *M/s. BGR Mining & Infra Pvt. Ltd., Hyderabad*
- (3) *M/s. Coronation Infrastructure Ltd, New Delhi*
- (4) *M/s. AMPL-CISC(JV), Kolkata*
- (5) *M/s. Madhucon Projects Ltd., Hyderabad*
- (6) *M/s. Sadbhav-Vishnushiva Joint Venture, Ahmedabad*
- (7) *M/s. GRC Projects Ltd., Hyderabad*
- (8) *M/s. Faridabad Gurgaon Minerals, Gurgaon*
- (9) *M/s. NCC Ltd., Hyderabad*
- (10) *M/s. KRR Infra Projects Pvt. Ltd., Hyderabad*
- (11) *M/s. Ripley & Co. Ltd., Kolkata*
- (12) *M/s. Mahalakshmi Infra Contract Pvt. Ltd., Ahmedabad*

13. The Committee further desired to know the details of the officials of the BCCL who scrutinized the said Open Tender *vis-à-vis* short listing of M/s. Mahalakshmi Infra Contract Pvt. Ltd., for award of said work and their present status i.e., whether there officials are still working in the BCCL or retired, the Ministry of Coal, in a written reply, submitted:-

*"The name(s) of officials of the BCCL who scrutinized the said Open Tender vis-à-vis short listing of M/s. Mahalakshmi Infra Contract Pvt. Ltd., for award of the said work were as under:-*

- (1) Shri. A.K. Sarkar, Director (T)P&P,
- (2) Shri Arun Anand Sahay, GM (Excavation)
- (3) Shri Alok Kumar Gangopadhyay, GM (Fin) I/C.
- (4) Shri. Tarashish Mondal, GM(CV Area),
- (5) Shri. S. K. Das, GM(CMC).

*Shri S K Das, GM, CMC is still working in the BCCL. All other Members had retired.*

*The date(s) of retirement of aforesaid officials are as under:-*

<b>Name</b>	<b>Date of Retirement</b>
(1) Shri A K Sarkar	31.01.2016
(2) Shri Arun Anand Sahay	31.12.2012
(3) Shri Alok Kumar Gangopadhyay	31.10.2015
(4) Shri Tarashish Mondal	28.02.2015

14. The Committee, then, specifically desired to know the names of CMDs who participated in the 80th CMDs meet, wherein, a decision was taken to foreclose the Contract without penalizing the Contractor, the Ministry of Coal, in a written reply, submitted:-

*The list of participants of 80th CMDs meet held on 11.11.2013 is as under:-*

- (1) Shri S Narsing Rao, Chairman, CIL
- (2) Shri R Mohan Das, Director(P&IR), CIL
- (3) Shri N Kumar, Director (T), CIL/ CMD, SECL
- (4) Shri B.K. Saxena, Director(Mktg.), CIL
- (5) Shri Manoj Kumar, CVO, CIL
- (6) Shri T K Lahiry, CMD, BCCL
- (7) Shri Gopal Singh, CMD, CCL
- (8) Miss Shantilata Sahu, CMD, NCL(Acting)
- (9) Shri A N Sahay, CMD, MCL
- (10) Shri R. Chandra, D (T), ECL
- (11) Shri S.S. Malhi, D (T), WCL
- (12) Shri R.K. Chopra, D (T)(RD&T), CMPDI
- (13) Shri S P Datta Majumdar, CGM & TS to Chairman
- (14) Shri M Mukhopadhyay, CM (Excav.), Chairman's Sectt, CIL

15. On being asked by the Committee about the details of total payment released to M/s. Mahalakshmi Infra Contract Pvt. Ltd., till the time of foreclosing of the initial Contract, the Ministry of Coal, in a written reply, submitted:-

Total bill amount	= Rs.49,40,69,876.00
Service Tax	= Rs.7,02,75,083.00
Diesel escalation	= Rs.7,58,56,739.00
Total Payment	= Rs.64,02,01,698.00

16. The Committee when asked about the details of Companies participated in the said re-tendering of the same work, the Ministry of Coal, in a written reply, submitted:-

*It was not re-tendering. A total of four bidders participated in the Fresh tender:-*

- (1) *M/s. NCC Ltd, Hyderabad*
- (2) *M/s. Ambey Mining Pvt. Ltd., Kolkata*
- (3) *M/s. Mahalakshmi Infra Contract Pvt. Ltd., Ahmedabad*
- (4) *AT-Libra BPL (JV), Dhanbad*

17. The Committee further desired to know the details of officials of the BCCL who scrutinized the fresh Open Tender *vis-à-vis* again short listing of M/s. Mahalakshmi Infra Contract Pvt. Ltd., for award of Contract for remaining portion of work, the Ministry of Coal, in a written reply, submitted:-

- (1) *Shri. Dinesh Chandra Jha, Director (T)Op.*
- (2) *Shri Bireswar Misra, GM (Excavation)*
- (3) *Shri Alok Kumar Gangopadhyay, GM (Fin) I/C.*
- (4) *Shri. Ashish Kumar Sen, GM(CV Area),*
- (5) *Shri. S. K. Das, GM(CMC),*

*Shri S K Das, GM, CMC is still working in the BCCL. All other members have retired.*

*The date(s) of retirement of aforesaid officials are as under:-*

<b>Name</b>	<b>Date of Retirement</b>
<i>Shri Dinesh Chandra Jha</i>	<i>31.08.2016</i>
<i>Shri Bireswar Misra</i>	<i>31.10.2015</i>
<i>Shri Alok Kumar Gangopadhyay</i>	<i>31.10.2015</i>
<i>Shri Ashish Kumar Sen</i>	<i>31.08.2016</i>



18. In response to a query by the Committee about the names of Members of the Board of the BCCL, who approved the proposal for awarding the work to the same Contractor, i.e., M/s. Mahalakshmi Infra Contract Pvt. Ltd. and the date(s) of their relinquishment of his/her charge, the Ministry of Coal, in a written reply, submitted:-

Name	Designation	From	To
Shri T.K. Lahiry	CMD	01.11.08	07.08.15
Shri S K Sahi	Dir.	27.01.14	04.08.16
Shri S.B. Ghosh Dastidar	Dir.	31.01.12	30.01.15
Shri P.R Mondal	Dir.	12.02.13	11.02.16
Shri Amitava Saha	Dir.	02.08.11	28.02.15

The details of Officers who had relinquished their charge :-

Shri Ashok Sarkar	Director	25.08.11	31.01.16
Shri B. K. Panda	Director	01.01.14	30.06.17

19. On the question of payment released to M/s. Mahalakshmi Infra Contract Pvt. Ltd. for completion of remaining work for which re-tendering was done and the Contract was again given to the same Contractor, the Ministry of Coal, in a written reply, submitted:-

*"M/s. Mahalakshmi Infra Contract has been paid following amount upto 30th RA (May 2017) for ongoing work in Chaptorioa Patch, Damagoria OCP:-*

*Gross amount : Rs.152.99 crore  
Deduction : Rs.13.40 crore  
Net amount : Rs.139.59 crore"*

20. The Committee then specifically desired to know whether the proposal(s) of the BCCL involving financial matters are forwarded to the Ministry of coal for their concurrence/ approval and at any point of time, the proposal(s) relating to award of Contract, foreclosure of Contract and again giving of Contract to M/s. Mahalakshmi Infra Contract Pvt. Ltd. by the BCCL have ever been forwarded by the BCCL to the Ministry of Coal, the Ministry of Coal in their written reply submitted:-

*"Award/foreclosure of the Contract to M/s. Mahalakshmi Infra Contract Pvt. Ltd. was under DoP of BCCL Board."*

21. On this issue, the Committee also undertook a Study Visit to Kolkata from 4 to 5 May, 2017 to have a realistic assessment of the issues raised by the representationist and the action taken/proposed to be taken by the Authorities concerned of the BCCL.

22. During the Study Visit, the Committee desired to know the inherent contradiction between the 'grounds for foreclosing the Contract' and the 'reply given by the BCCL to the representationist'. The Ministry of Coal, in a written reply, submitted:-

*"All employees of M/s. Mahalakshmi Infra Contract Pvt. Ltd., are being paid High Power Committee wages through Bank.*

*The work under the Contract was started on 12.12.2012 and M/s. Mahalakshmi Infra Contract Pvt. Ltd., paid its employees the HPC recommended wages from August, 2013 to May, 2014 only (i.e., till the foreclosure) through Bank and simultaneously expressed their inability to continue the work for long, with paying the HPC recommended wages to their employees."*

23. The Committee desired to know the comments of the Ministry on the allegation of the Representationist that M/s. Mahalakshmi Infra Contract Pvt. Ltd., stopped its work on the site. The duration of the work for the Contractor was for three years and the total 47.70 Lakh MT Coal was to be produced. But the Contractor had stopped its operation - after receiving excess payment of Rs.6.91 crore. The Ministry of Coal, in their written reply, submitted:-

*"It is observed that the Representationist had considered only the coal production at hired patch but not OB removal as per the terms of the work order. Thus, the Representationist had arrived to a misleading conclusion that the Contractor was paid in excess to what he ought to be paid. In this connection it may be mentioned that the work of the Contract under reference was executed up to 14.05.2014 and thereafter it was foreclosed. Before the foreclosure, the Contractor extracted 17,32,991.05 Te of coal and removed 74,46,258.086 M<sup>3</sup> of OB for which the total payment of made to the Contractor after deducting the tax was Rs.62,11,55,170.00. Hence no extra payment was disbursed to M/s. Mahalakshmi Infra Contract Pvt. Ltd."*

24. In the matter, the Committee, thereafter, took oral evidence of the representatives of the Ministry of Coal on 7.9.2017.

25. During the evidence, the Committee desired to know the reasons for making excess payment to M/s. Mahalakshmi Infra Contract Pvt. Ltd., as alleged by the representationist. The

representatives from the Ministry of Coal deposed before the Committee that payment of Rs.6.91 crore made to M/s. Mahalakshmi Infra Contract Pvt. Ltd., could not be termed as excess payment as the work is still going on and will be completed in September, 2017 and the same could be extended further. Besides, the payment already given to the Contractor will be adjusted at the time of making final settlement. As a matter of fact, investigations are under way to fix the responsibility against the officers who had given false Report in the matter.

26. The Committee further desired to know the details of Schedules of Targets and Achievements formulated by the BCCL for the Company under the terms of the Agreement for the outsourcing Company, the Ministry of Coal, in their written reply, submitted:-

*"The details containing the Schedules of Targets formulated by the BCCL for the Company under the terms of the Agreement for the outsourcing Company is at Annexure-II. The details containing the schedule of Achievements and Targets formulated by the BCCL for the Company till foreclosure are at Annexure-III.*

27. The Committee then specifically desired to know as to whether the item-wise payment made to M/s. Mahalakshmi Infra Contract Pvt. Ltd., was in accordance with the terms of the Contract, the Ministry of Coal, in their written reply, submitted:-

*"The Contractor had completed work to the tune of Rs.49.41 crore out of total Rs.145.87 crore and the balance work was awarded to the same Contractor at Rs.186.20 crore. As per the Work Schedule (Annexure-II), the Contractor would have completed, as on May, 2014, i.e., OB 110.50 lakh cubic meter of OB 10.30 lakh cubic meter of loose OB and 24.70 lakh metric tons of coal Jhama. The work executed by the Contractor, as indicated in the agenda for the Board is less than the target scheduled. In this connection, it may be mentioned that the work of the Contract under reference was executed up to 14.05.2014 and then it has been foreclosed. Before the foreclosure, the Contractor extracted 17,32,991.05 Te of coal and removed 74,46,258.086 M<sup>3</sup> of OB for which the total payment of Rs.62,11,55,170.00 was made to the Contractor, after deducting the tax. The item-wise payment was made in accordance with the terms of Contract by the BCCL."*

28. The Committee, thereafter, desired to know the deliberations made by the BCCL during its 306th and 310th meetings with regard to the outsourcing Company under reference, the Ministry of Coal, in their written reply, submitted:-

*"In the 306<sup>th</sup> Meeting of Board of Directors of the BCCL one of the items in the Agenda for the Meeting was to consider the proposal for administrative approval for foreclosure of the Contract of "Hiring of HEMM for removal OB, extraction and Transportation of coal from L-11, L-10, Salanpur 'D' and Salanpur – 'C' Seams of Chaptoria OC Patch of Damagoria Colliery of CV Area." awarded to M/S. Mahalakshmi Infra Contract Pvt. Ltd. After due deliberation, the BCCL Board had passed the resolution as follows:-*

- a) Administrative approval for foreclosure of the Contract for the work of "Hiring of HEMM for removal OB, extraction and Transportation of coal from L-11, L-10, Salanpur 'D' and Salanpur – 'C' Seams of Chaptoria OC Patch of Damagoria Colliery of CV Area." awarded to M/s. Mahalakshmi Infra Contract Pvt. Ltd. with imposition of penalty as per clause 6.2 of "General Terms & Conditions" of the Tender Document, if any, as per terms and conditions of Contract, reserving all the rights and remedies available to the Company.*
- b) Recovery of any amount or penalty proposed to be imposed on the Contractor and other dues, if any, as per terms and conditions of the Contract, from the final bill of the Contractor and as per terms and conditions of the Contract under clause 8.7 under "General Terms & Conditions".*
- c) Non deduction of any amount for carrying out the incomplete work at risk of the Contractor under clause 9.2 of "General Terms & Conditions" of the Contract in view of point No. 9.3 of minutes of 80<sup>th</sup> CMD's meet held on 11.11.2013.*
- d) Placement of final financial proposal before the BCCL Board for approval, after conducting final survey measurement by Inter Subsidiary Team, consequent upon administrative approval for foreclosure of the Contract under reference.*
- e) Fresh tendering of revised work shall be done based on approved revised estimate.*

29. The Committee, then, categorically desired to know the grounds on which foreclosure-without penalty was approved. The Ministry of Coal, in their written reply, submitted:-

*"The reasons stated by the BCCL for foreclosing the Contract without levying any penalty on the Contractor are:-*

- (1) The work was being disrupted due to frequent dispute and strike by Unions for implementation of higher wages in accordance with the recommendations of the High Power Committee on Wages.*

- (2) *M/s. Mahalakshmi Infra Contract Pvt. Ltd. were reluctant to pay the wages to the workmen working under them as per the rate recommended by the High Power Committee subject to fulfillment of the clauses enumerated in the office order issued from the office of the Director (T) P&P, BCCL.*
- (3) *Further foreclosure has been proposed in view of point No. 9.3 of Minutes of 80<sup>th</sup> meeting of CMD held on 11/11/13 at Kolkata wherein it was suggested that wherever feasible the Contract may be foreclosed without penalizing the Contractor in the event Contractor fails to produce the valid claim against enhanced wages and also not willing to continue the work at the existing terms, fresh tender may be floated against the said work.*

30. The Committee, thereafter, wanted to know about the reasons for waiving the clause of 'without imposition of any penalty for foreclosure' as decided in the 306<sup>th</sup> Meeting of the Board of Directors of the BCCL during the 310<sup>th</sup> Meeting of the BCCL. The Ministry of Coal, in their written reply, furnished the BCCL Board Resolution at Point Nos. (a) and (d) of item No. 306.5I which are given as under:-

- “(a) Administrative approval for foreclosure of the Contract for the work of “Hiring of HEMM for removal OB, extraction and Transportation of coal from L-11, L-10, Salanpur ‘D’ and Salanpur ‘C’ seams of Chaptoria OC Patch of Damagoria Colliery of CV Area.”, awarded to M/s. Mahalakshmi Infra Contract Pvt. Ltd. with imposition of penalty as per clause 6.2 of “General Terms & Conditions” of the Tender Document, if any, as per terms and conditions of Contract, reserving all the rights and remedies available to the Company.*
- d) Placing final financial proposal before the BCCL Board for approval, after conducting final survey measurement by Inter Subsidiary Team, consequent upon administrative approval for foreclosure of the Contract under reference.”*

Point Nos. (a) and (d) of item No. 306.5I may kindly be read together and may kindly be perused and considered.

Resolution *vide* item No. 306.5I was for Administrative Approval for foreclosure of the subject work and therefore, naturally at that time, details of execution was not readily available. Accordingly, the stipulation at point No. (a) of 306.5I was made for keeping the option open. Subsequently, after conducting final survey measurement, final

financial proposal was placed before the BCCL Board *vide* item no. 310.3B, where it was observed that the Contractor has executed the work as under:-

Sl. No.	Particulars	Total Executed quantity up to 14.05.2014	Scheduled Quantity during the Contract period up to 14.05.2014 in consideration to Hindrance	% over target
1	OB (In-situ) & Dumped Loose OB	7389324.044 Cum.	7353742 Cum	100.484 %
2	Coal & Jhama (G-7)	1788192.70 MT	1657580 MT	107.879 %
	Stripping Ratio	1 : 4.132		

*Whereby it was observed that the Contractor has executed in accordance with the approved work schedule and therefore, on such question of penalty as per clause 6.2 of General Terms & Conditions of the Tender Document is not attracted, and consequently, no penalty was imposed while approving the final financial proposal consequent upon administrative approval for foreclosure of the Contract under reference vide item no. 310.3B as given under:-*

*“(1) Final financial proposal for foreclosure of Contract for the work for “Hiring of HEMM for removal OB, extraction and Transportation of coal from L-11, L-10, Salanpur ‘D’ and Salanpur ‘C’ seams of Chaptoria OC Patch of Damagoria Colliery of CV Area.”, awarded to M/s. Mahalakshmi Infra Contract Pvt. Ltd. without imposition of penalty, on execution of 335822.850 cum of dumped loose OB and 7053501.194 cum insitu OB and 1788192.70 cum coal upto 14.05.2014, having a total value of ₹49,40,69,876.95 (Rupees Forty Nine Crores Forty Lakhs Sixty Nine Thousand Eight Hundred Seventy Six and Ninety Five Paise only) inclusive of all taxes and levies but exclusive of service tax at the diesel base price of ₹ 43.40/litre and as per terms and conditions of NIT as detailed below.....”*

31. On being specifically enquired by the Committee as to whether reversing the resolution of ‘without imposition of penalty’ passed in the 306<sup>th</sup> Meeting of the Board of Directors with ‘without imposition of any penalty’ during the 310<sup>th</sup> Meeting had not caused huge loss to the exchequer, the Ministry of Coal, in their written reply, submitted:-

*"In pursuance to decision of the BCCL Board vide resolution item No.306.5I, applicability of clause 6.2 was explored by the executing authority while placing the final financial proposal for approval before the BCCL Board after conducting final survey*

*measurement by Inter Subsidiary Team, consequent upon administrative approval for foreclosure of the Contract under reference in accordance with point No. (d) of item resolution No. 306.5I. The representatives further informed that, however, it was found that Contractor has executed 100.484% OB and 107.879% coal against mutually agreed and approved work schedule taking hindrances into consideration. As the progress of the work was found to be as per approved work schedule, after Inter Subsidiary Survey Measurement, penalty under clause 6.2 is not attracted. For the reason as stated earlier, the BCCL Board resolved as under in its 310<sup>th</sup> meeting, as at point No. (1) of item resolution No. 310.3B.*

*In view of the above and as per deliberation, reserving all the rights and remedies available to the Company, the BCCL has followed directions of the Board vide Resolution No. 306.5I, and dealt the matter as per provisions of NIT. The subsequent Resolution of the BCCL Board vide item No.310.3B reflects the due process followed in the matter under reference, and therefore, there was no reversing of the resolution and no loss was caused to exchequer due to this decision."*

32. On a specific query with regard to the estimated total loss to the exchequer, the Ministry of Coal, in their written reply, submitted:-

*As mentioned above, CVO, CIL was requested to conduct a comprehensive investigation in the matter and forward a report to the Ministry. However, the report from CIL was not found satisfactory. Hence, CVO, CIL has been again requested to reinvestigate the matter and sent a report to the Ministry. The estimation of a loss, if any, can only be ascertained after examination of the report once it is received.*

33. The Committee desired to know the details of the functionaries, including the then Board of Directors of the BCCL who were instrumental in causing loss to the exchequer/embezzlement of Government money/criminal conspiracy, the Ministry of Coal, in their written reply, submitted:-

a) *Officers prima-facie responsible for initiation and recommendation of the proposal for foreclosure of Contract under work order No. 509 dated 14/19.12.2012 awarded to M/s. Mahalakshmi Infra Pvt. Ltd.*

- (1) *Shri A Ghosh, The then Sr. Mgr.(Mining)/Manager, Damagoria colliery (expired)*
- (2) *Shri A K Sen, the then GM (Mining)/AGM, CV Area (Retired)*
- (3) *Shri R K Kundu – The then Survey officer, Damagoria colliery*
- (4) *Shri A Bijli – The then Asstt. Manager(F), Damagoria colliery*

- (5) *Shri C K Bandopadhyay – The then CM (Min)/Project Officer, Damagoria colliery, presently posted as AGM, CV Area*
- (6) *Shri S Sutar, the then Area Survey Officer, CV Area*
- (7) *Shri B B Saharai, the then CM (Fin.)/CVArea*
- (8) *Shri B Chakraborty, the then Sr.Manager (Fin.), CV Area*
- (9) *Shri B C Nayak, the then GM (Min)/GM, CVArea*
- (10) *Shri S K Das, the then GM (Min)/GM (CMC), BCCL, HQ*

(b) *The following Board members were present in the 306<sup>th</sup> meeting of the BCCL Board held on 05.04.2014 in which the foreclosure of Contract was approved:-*

- (1) *Shri T K Lahiry – the then CMD, BCCL (Retired)*
- (2) *Shri N Kumar – the then Director (T), CIL (Expired)*
- (3) *Shri S K Shahi – Representative of Ministry*
- (4) *Shri P Joseph – Independent Director*
- (5) *Shri B. Ramesh Kumar – Independent Director*
- (6) *Dr. B B Biswal – Independent Director*
- (7) *Shri S B Ghoshdastidar – Independent Director*
- (8) *Shri P R Mandal – Independent Director*
- (9) *Shri D C Jha, the then D (Tech/Op) (Retired)*
- (10) *Shri Amitava Saha – the then D (F) (Retired)*
- (11) *Shri Ashok Sarkar, the then Director (T) (P&P) (Retired)*
- (12) *Shri B K Panda, the then Director (Pers.) (Retired)*
- (13) *Shri G K Mohanty, Permanent Invitee*

*As mentioned above, loss if any, has not been ascertained as yet."*

34. The Committee, thereafter, specifically desired to know, as to whether the foreclosure of the Contract without imposition of any penalty with the condition of execution of 3,35,822.850 cum of dumped loose OB and 70,53,501.194 sum of insitu OB and 17,88,192.70 MT coal up to 14 May, 2014, having a total value of Rs.49,40,69,876.95 was attained by the Contractor. The Ministry of Coal, in their written reply, submitted:-

*"Yes, 3,35,822.850 cum of dumped loose OB and 7053501.194 cum of insitu OB and 17,88,192.70 MT of coal was executed by the Contractor up to 14 May, 2014 having a total value of Rs.49,40,69,876.95."*



35. The Committee desired to know as to under what circumstances, the Management of the BCCL approved the foreclosure of the Contract on the sole ground of 'Contractor's reluctance to pay the wages to the workmen working under them as per the rate recommended by the High Power Committee. The Ministry of Coal, in their written reply, submitted that, the foreclosure of the Contract was proposed for the reasons as given under:-

- i) *"Work was disrupted due to frequent dispute and strike by Unions for implementation of the High Power Committee wages.*
- ii) *M/s. Mahalakshmi Infra Contract Pvt. Ltd. was reluctant to continue to pay the wages to the workmen working under them as per the rate recommended by the High Power Committee in line with fulfilment of the clauses enumerated in the Office Order issued in the Office of Director(P&P), BCCL dated 12/13.05.2013.*
- iii) *M/s. Mahalakshmi Infra Contract Pvt. Ltd. expressed their inability for implementation of recommendation of the High Power Committee for the subject Contract.*

*The Contractor had not applied for any ad hoc one-time advance as in the Office Order. The Contract under reference was awarded much before the Order for implementation of the High Power Committee recommendations brought out by the CIL in February, 2013 and the subsequent Orders by the BCCL. Therefore, the Contractor was ought to pay wages only as per provisions of NIT and Tender Document. On their part, Contractor tried to sustain the Contract by paying HPC recommended wages from August, 2013 onwards, but were faced with frequent disruptions and hence requested for foreclosure of Contract expressing their inability to pay the wages to the workmen working under them as per the rates recommended by the High Power Committee."*

36. On being enquired by the Committee about the financial implication of the differential of paying the wages to the workmen under the Contractor, i.e., M/s. Mahalakshmi Infra Contract Pvt. Ltd., as per the rate recommended by the High Power Committee and the wages already paid with effect from February, 2013 up to the date of completion of the Contract, i.e. 11 December, 2015, the Ministry of Coal, in their written reply, submitted:-

*"The financial implication in this respect has not been calculated and subsequently, it cannot be ascertained since the Contractor was compelled to employ many other persons beyond their requirement due to prevailing local socio-political environment and the Contractor has pleaded for not continuing the work in terms of their inability to pay the High Power Committee recommended wages to all the workers engaged in*

*practice by them for the subject Contract and they requested for the foreclosure of the Contract."*

37. Further, on being specifically asked by the Committee as to whether any financial accounting was undertaken by the BCCL to analyse the differential of paying the wages to the workmen working under the Contractor, i.e., M/s. Mahalakshmi Infra Contract Pvt. Ltd., as per the rate recommended by the High Power Committee and the wages already paid with effect from February, 2013 up to the date of actual completion of the Contract, i.e. 11 December, 2015 even if borne by the BCCL would be financially viable rather than foreclosing the Contract and subsequently again awarding the Contract to the same Contractor at 27 percent more cost in spite of the fact that 70% of the total target in Coal and 62 percent of total target in OB were already achieved till the foreclosure on 14 May, 2015, the Ministry of Coal, in their written reply, submitted:-

As per available record, there is no record of financial accounting conducted by the BCCL, however, they provided clarifications on few points on this aspect, which are given as under:-

- (1) *The BCCL was left with no option but to foreclose the Contract as the work was frequently disrupted due to frequent dispute and strike by Unions and the Contractor was reluctant to pay wages to workmen as per the rate recommended by the High Power Committee.*
- (2) *Provision of NIT and Tender Document for the subject Contract has been absolutely clear transparent in respect of the payment of wages to the workers engaged by the Contractor.*

38. The Committee, thereafter, desired to know the details of deliberations held on the observations of the CVO, BCCL and comments of the Ministry of Coal thereon. The Ministry of Coal, in their written reply, submitted:-

*"CVO, BCCL has stated in the factual report submitted to the Ministry of Coal in connection with the allegations raised by Shri Subhash Kumar Singh that the foreclosure of the Contract and awarding the remaining work to the same Contractor on re-tendering, has led to a loss of Rs.87.57 crore to the company. The observation/suggestion of CVO was not given to the BCCL Management either before foreclosure of the Contract or after award of the Contract to the same Contractor on re-*

tendering. As such the observation of CVO, BCCL has not been deliberated by the BCCL Management.

Ministry has observed that the initial proposal was approved for Rs.145.87 crore at a diesel price of Rs.43.30 per litre. The revised proposal of Rs.186.20 crore was approved at diesel price of Rs.61.55 per litre. It has further been observed in 80<sup>th</sup> Meeting of CMDs held under the Chairmanship of Chairman, CIL that wherever feasible the Contract may be foreclosed without penalizing the Contractor in the event of Contractor failing to produce valid claims against enhanced wages and also not willing to continue the work at the existing terms, fresh tenders may be floated against the said work."

39. The Committee wanted to know the details of the action taken by the BCCL on the observations/Report of the CVO in the matter. The Ministry of Coal, in their written reply, submitted:-

"The Ministry had requested CVO, BCCL to forward a factual report on the Representation of Shri Subhash Kumar Singh, Secretary, Janta Dal United. The CVO, BCCL forwarded the report through CMD, BCCL. The Report was examined in the Ministry and it was found that allegations of excess payment has not been substantiated by the facts on record hence the matter was closed with the approval of the competent authority. Hence, there was no further action needed by the BCCL on the observations/Report of the CVO in the matter."

40. The Committee further wanted to know the observation of the CVO, BCCL on the aspect of the foreclosure of the Contract and then re-tendering and awarding the work again to the same Company has led to a loss of Rs.87.57 crore to the BCCL. The Ministry of Coal, in their written reply, submitted:-

"As evident from the factual report submitted by the CVO, BCCL, it is observed that that the loss of Rs.87.57 crore has been calculated as given below:-

Description	Scope of Work	Value (Rs. in crore)
Balance to be executed by the Contractor as per work order dated 14/19.12.2012	131.87 LCM OB 11.14 LCM Loose OB 32.05 LMT Jhama/Coal	98.63
Work Order No. 35 dated 28.01.2015 for the executing the	138.51 LCM OB 31.99 LMT Coal	186.20

balance work.		
Excess amount incurred in awarding fresh Contract		186.20 – 98.63 = 87.57

The BCCL Board in its 306<sup>th</sup> meeting held on 05.01.2014 had administratively approved the foreclosure of the work awarded to M/s. Mahalakshmi Infra Contract Pvt. Ltd. Thereafter, it was decided that fresh tendering of revised work shall be done based on approved revised estimate. Subsequently, open tendering was done on the basis of revised estimate of Rs.1,62,12,51,522/- vide NIT dated 30.06.2014 for the remaining portion of the work. After processing the tender, M/s. Mahalakshmi Infra Contract Pvt. Ltd. emerged as the L-1 bidder and accordingly the BCCL Board in its 312<sup>th</sup> meeting awarded the work to the same Contractor for removal of 138.51 LCM OB and for extraction and transportation of 31.99 LMT coal, for a period of 24 months at a cost of Rs.1,86,20,10,296/-. The Contractors who took part in retendering process of Hired Patch Chaptoria OC of Damagoria Colliery, CV Area and their status with respect to estimate value is given below:-

Sl. No.	Name of Contractor	Name of Working Patch	Estimated Value BCCL in Rs.	Bid/Awarded Value in Rs.	% above/ below estimated cost
1	Mahalakshmi Infra Contract Pvt. Ltd.	Chaptoria OC of Damagoria Colliery, CV Area	1621251522	1862010296	14.85
2	Ambey Mining Pvt. Ltd.			1872258127	15.48
3	AT-Libra BPL(JV)			1984875125	22.43
4	NCC Ltd.			2364787449	45.86

Thus, the firm was awarded the Contract for the remaining work through a transparent process at the revised rates. Thus, there is no financial loss to the BCCL as opined by CVO, BCCL.

CVO, BCCL has indicated a loss of Rs.87.57 crore in the factual report submitted to the Ministry of Coal. He did not give his observation/suggestion to the BCCL Management before foreclosure of the Contract. The decision of foreclosure was taken by the BCCL Board, which is the competent authority, after considering the Minutes of 80<sup>th</sup> meeting of CMDs and the directions given by the then Director (T), Shri Ashok Sarkar."

41. The Committee further desired to know the reasons for not letting the Company continue the work with a few changes as per the extant guidelines thereby saving money of the BCCL. The Ministry of Coal, in their written reply, submitted:-

*"Ministry has observed that the initial proposal was approved for Rs.145.87 crore at a diesel price of Rs.43.30 per litre. The revised proposal of Rs.186.20 crore was approved at diesel price of Rs.61.55 per litre. It has been observed that in 80<sup>th</sup> Meeting of CMDs held under the Chairmanship of Chairman, CIL that wherever feasible the Contract may be foreclosed without penalizing the Contractor in the event of Contractor failing to produce valid claims against enhanced wages and also not willing to continue the work at the existing terms, fresh tenders may be floated against the said work. The Coal India Ltd. vide its circular dated 18.02.2013 recommended for implementation of wages as per recommendation of the High Power Committee even for the Contracts awarded from 01.01.2013.*

*Shri Ashok Sarkar, the then Director (T) circulated an office order detailing the methodology of implementation of wages as recommended by the High Powered Committee of CIL. In brief, it was informed that the difference of wages would be compensated/reimbursed. Moreover, in the Agenda Note of the 306<sup>th</sup> Board Meeting, the following fact has been brought to the notice of the Board of Directors regarding the directions of Director (T). During the deliberation of the 306<sup>th</sup> Meeting, it was stated that M/s. Mahalakshmi Infra Contract Pvt. Ltd. is reluctant to pay the wages to the workmen working under them as per the rate recommended by the High Power Committee and in accordance with the office order issued from the office of the Director (T) P&P, BCCL. As the Company itself was reluctant to continue working there was no possibility of letting the Company continue work with modifications."*

42. In this context, the Committee enquired as to whether the Ministry intends to initiate a structured inquiry on the serious procedural lapse and irregularities on the part of BCCL Authorities for release of payment to M/s. Mahalakshmi Infra Contract Pvt. Ltd., without completion of work, foreclosing of Contract, release of security deposit and again giving the contract to the same Firm at an astronomical rate through a professional investigating Agency like the Central Bureau of Investigation, the representatives of the Ministry of Coal submitted:-

*"Foreclosure of contract awarded to M/s. Mahalakshmi Infra Contract Pvt. Ltd. and thereafter again awarding the same work, on higher rates, through re-tendering was an indication of serious procedural lapse and irregularities on part of the Officers responsible which would not be possible without some kind of connivance between the Contractor and the officers of the BCCL. The earnest money and security deposit of the*

*Contractor should also have been forfeited. The recommendation of the CVO, BCCL to inquire into all the matters related to illegal foreclosure and over/advance payments to the Contractors in all the subsidiaries of CIL including M/s. Mahalakshmi Infra Contract Pvt. Ltd. be handed over to the CBI for detailed inquiry/investigation."*

## OBSERVATIONS / RECOMMENDATIONS

43. The Committee note that the Bharat Coking Coal Limited (BCCL) had awarded a Contract to M/s. Mahalakshmi Infra Contract Pvt. Ltd., for hiring of Heavy Earth Moving Machinery (HEMM) for the removal of Over Burden (OB), extraction and transportation of a total quantity of 47.40 Lakh Metric Ton coal from L-11, L-10 Salanpur C and D seams of Chaptoria Open Cast Mine patch of Damagoria Colliery of CV Area of the BCCL amounting to Rs.145,86,80,000/- vide Work Order dated 14/19.12.2012. Till January, 2014, the Contractor had excavated and transported a total of 12,55,222 Metric Ton of coal and the BCCL paid Rs.45,29,87,670/- to the Contractor instead of Rs.38,91,40,887/- which is Rs. 6,91,40,783/- extra amount.

44. The Committee further note from the submission made by the Ministry of Coal that the work of the Contract under reference was executed up to 14.05.2014 by M/s. Mahalakshmi Infra Contract Pvt. Ltd., and thereafter the Contractor stopped the work stating that in the Notice Inviting Tender (NIT), the payment to workmen was not considered as recommended by the High Power Committee of the Coal India Limited (CIL) and on the demand of wages by workmen, as recommended by the High Power Committee, caused frequent disruptions in work and strikes by the Union. The Contractor was unable to continue the work under the prevailing circumstances and hence requested to foreclose the awarded work, without imposing any penalty.

45. The Committee also note that after the award of Contract to M/s. Mahalakshmi Infra Contract Pvt. Ltd., the CIL enhanced the wages to be paid to workers engaged by the Contractor on the recommendation of a High Power Committee. The CIL had considered the impact of the recommendations of the Committee on ongoing Contracts and in the 80<sup>th</sup> CMDs meet held on 11.11.2013, it was suggested that wherever feasible, the Contract may be foreclosed without penalizing the Contractor in the event the

**Contractor fails to produce the valid claim against enhanced wages and also not willing to continue the work at the existing terms and fresh tender(s) may be floated against the said work. Consequently, the proposal for foreclosure was approved in the 310<sup>th</sup> meeting of the Board of Directors of the BCCL. Further, the Management also did not made any sincere efforts to deduct the Earnest Money and Security Deposit of the Contractor amounting to Rs. 50 lakh and Rs. 247.12 lakh respectively.**

**46. In this regard, the Committee take a very serious note of the fact that the foreclosure of the Contract and awarding the remaining work to the same Contractor on re-tendering, has resulted in a massive loss of around Rs. 87.57 crore to the Company. The Committee further note that the observations/suggestions of the CVO, BCCL was not forwarded to the BCCL Management either before foreclosure of the Contract or after Award of the Contract to the same Contractor on re-tendering. Thereby it is clear that the observations of the CVO, BCCL had not been deliberately taken into consideration before the foreclosure of the Contract by the BCCL Management. The Committee also are of the considered opinion that observations of the CVO, BCCL should have been carefully taken into consideration before the foreclosure of the Contract so that financial irregularities with a malicious intent to cause huge financial loss to a Public Sector Undertaking could have been averted. The Committee, therefore, recommend that any deviation in the execution of Contract after the initiation of the Contracted Work should have been specifically mentioned in the Notice Inviting Tender so that such situation, as in the instant case, could be avoided in future. Further, there should also be specific and unambiguous provisions with respect to forfeiture of earnest money and security deposit as also blacklisting of the defaulting Contractor in the event of foreclosure of the work by the Contractor.**

**47. Since the Committee are astonished to find that there has been a systemic failure of various apparatus of BCCL responsible for weeding out the nexus of various**



functionaries including the then Board of Directors which has led to blatant plundering of financial resources of a Public Sector Undertaking, they would like to reproduce the main observations of the CVO, BCCL, in this particular case, as follows:-

*"The contention of the management in invoking the suggestions of CMDs' meet appears to lack sanctity as it was a mere suggestion and not a decision of the competent authority. Before considering the case for foreclosure on this ground, the management of the BCCL did not obtain clear cut directive from the competent authority.*

*The guidelines state that instead of going for foreclosure, the management could have used the provisions of the guidelines in executing the Contract and thus saving excess amount being paid to the same Contractor by inviting fresh tender at a substantially higher rates.*

*That foreclosure of the Contract awarded to M/s. Mahalakshmi Infra Contract Pvt. Ltd., and then re-tendering and awarding the work again to the same company led to undue benefit of Rs.87.57 crore to the Contractor at the cost of the BCCL.*

*In the extracts of Minutes of 306th Board meeting, the foreclosure of the Contract was approved with imposition of penalty, if any. However, the amount of penalty was not specifically mentioned. The penalty amount was calculated to be Rs.37,48,674.00 which accrued due to non-achievement of month-wise target."*

48. While fully endorsing the candid observations made by the CVO, BCCL as quoted above, the Committee have no hesitation in expressing that the Management of the BCCL should have obtained clear cut directives from the Competent Authority prior to foreclosure of the Contract. The Committee, therefore, strongly recommend that the Penalty Clause for foreclosure of the Contract should be mentioned in unambiguous terms so that no functionary or any group of functionaries of BCCL should have the leverage of misinterpreting any of the Clause(s) contained in the terms and conditions of the Contract.

49. The Committee note that the irregularities in Awarding the Contract to M/s. Mahalakshmi Infra Contract Pvt. Ltd., came into notice when the Contract was awarded to the Company in December, 2012 for Rs.1,45,86,80,000/- and then, on the unreasonable grounds of increase in wages of labourers as recommended by the High Powered Committee of the BCCL, the Contract was allowed to be foreclosed in April, 2014 and on re-tendering in June, 2014, the same Company, i.e., M/s. Mahalakshmi Infra Contract Pvt. Ltd. was again awarded the contract on a much higher rates, i.e., Rs.1,86,20,10,296/-.

50. The Committee are shocked to note from the submission of the Ministry of Coal that a loss, if any, has not been ascertained as yet. The Committee are of the opinion that the total loss incurred by way of foreclosing the contract - re-tendering - and again awarding it to the same Company on higher rates should have been methodically calculated. The Committee note that the foreclosure of Contract awarded to M/s. Mahalakshmi Infra Contract Pvt. Ltd., and thereafter again Awarding the same work, on higher rates, through re-tendering to the same Company is an indication of serious procedural lapse and a clear case of corruption on part of Senior Functionaries of BCCL could not have been possible without some kind of connivance between the Contractor and the Senior Functionaries of the BCCL.

51. The Committee, therefore, recommend that the Ministry of Coal/BCCL should take necessary steps to avoid such lapses on the part of the Senior Functionaries in future and initiate strict action against all such erring Officials including lodging of FIRs especially under Section 120B of the Indian Penal Code. The Committee also foresee that there could be many more cases relating to illegal foreclosure and over/advance payments to the Contractors by the BCCL which should now be properly investigated by some Independent Investigation Agency. In this regard, the Committee also fully endorse the recommendations of the CVO, BCCL to inquire into all the matters related

to illegal foreclosure of Contract in all the subsidiaries of CIL including M/s. Mahalakshmi Infra Contract Pvt. Ltd., and also to hand over the investigation to the Central Bureau of Investigation for detailed inquiry/investigation. The Committee would like to be apprised of the steps taken in this regard within three months of the presentation of this Report.

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