

Sub.: Delay in closure of contract pertaining to NIT-XXX related to work of Hiring of HEMM (Shovel, Drill etc) for transfer and transportation materials in various strata including drilling, excavation, dumping, spreading dozing and other allied works at XXX Project and non withholding of penal amount due to contractor's failure and subsequent recovery of the same, regarding.....

Brief of the Case :

Substantial delay was observed during a regular investigation regarding Closure of Contract pertaining to NIT-XXX of XXX OCP, work of which was completed on 31.03.14. The contract period of the work against NIT-XXX was w.e.f. 24.11.2010 to 23.11.2013 with time extension w.e.f 24.11.2014 to 31.03.2014. The contractor discontinued the work w.e.f. 20.12.2013 and the contractor could execute only 27,06,387.00 M³ against awarded quantity of 70,00,000.00 M³ i.e. 38.66% of the awarded quantity within the contract period including the extended period.

Irregularities Observed:

In the instant case the closure of the contract got delayed mainly due to non-availability of Hindrance Register at the Project. Three Project Officers and four Colliery Managers had worked in the XXX OCP during the aforementioned contract period. Further, it was also observed that the Bank Guarantee submitted by the contractor towards Security Deposit was allowed to lapse by the Area Authorities. The investigation led to two major lapses pertaining to the delay in closure of the instant contract.

- (i) Non-availability of the Hindrance Register which was misplaced thereby non-finalisation of the penal amount due to failure of the contractor.
- (ii) The non-availability of recoverable amount with the authorities arising out of failure to extend the validity of Bank Guarantee (BG) or to en-cash the BG.

On 25.12.2015, during a surprise visit of the vigilance team, the xerox copies of the misplaced original hindrance register pertaining to the NIT-XXX w.e.f. 24.11.10 to 30.09.11 was traced from the Project Office of XXX OCP. All the Project Officers & Colliery Managers, on being asked for their versions, later submitted xerox copies of the Hindrance Register along-with their submissions. The xerox copies, as submitted made it quite clear that the old hindrance registers might have been misplaced/removed

during the tenures of some of them. Further a Hindrance Register of the same contract w.e.f. 01.05.2012 to 17.12.2013 was traced by the mine management along with other documents in (Mine Time Keeper) MTK Office and was deposited to the vigilance secretariat on 11.02.2016.

The Hindrance Register (w.e.f. 01.05.2012 to 17.12.2013) which was traced in the MTK Office was scrutinized and it was observed that a total shortfall quantity in the tune of 3,27,200 M³ had been recorded as failure due to the contractor's fault. Against the above mentioned shortfall quantity, deduction had been made only for 26249 M³ amounting `3,42,090.00 which had been withheld in the 20th on a/c bill of the contractor.

The date-wise entries into the Hindrance Register (w.e.f. 01.05.2012 to 17.12.2013) during the months of July-12 to Sept-12 contradict the 'No-Penalty' certificates issued every month by the then Project Officer and Colliery Manager for payment of monthly on a/c bills. In those three months, in-spite of there being entries indicating failures due to contractor's fault, no penalty had been deducted and subsequently 'No Penalty' certificates had been issued by them. Considering base rate at that time as 45.00/M³, the financial implication for this lapse comes to about ` 20,32,000.00.

Outcome:

After investigation, the vigilance secretariat made the following recommendations:

- a) Introduction of official hand over of the Hindrance Registers, Site Order Books of major works during charge handover of Colliery Managers and Project Officers.
- b) From the deposited copies of the Hindrance Registers it was observed that the proper recordings of the hindrances, especially failure quantity due to contractor's fault, have not been mentioned clearly leaving scope for malpractices. Uniform format as appended below was advised for implementation :

Date	TPD	Actual Execution	Actual Shortfall	Shortfall due to contractor's fault	Shortfall due to other than contractor's fault	Reason of shortfall	Remark if any

- c) Recovery of the penalty amount from M/s YYY for the unexecuted quantities during July-12 to Sept-12 (approx-2,25,768 M³) which had been recorded as the contractor's failure in the available Hindrance Register considering the facts that the final bill had already been paid and the BG had lapsed.

d) Disciplinary action was initiated against the then SO(Min) & AFM, both of XXX Area for the lapses on their part by allowing the expiry of BG pertaining to NIT-XXX and against the then Project Officer & Colliery Manager of XXX OCP for not withholding penalty amount.

Later-on the penalty amount was finalised by a committee constituted by the management. Subsequently, as per the report submitted by the committee, recovery of ₹21,90,408.53 was made during July-2016 from other work of the contractor at other area with competent approval.
