

Subject: Refund of EMD under e-auction pertaining to XXX OCP during the period 20YY-ZZ and subsequent recovery of excess EMD refunded, regarding...

Brief of case:

In the year 20YY-ZZ a total amount of 2.50 Lakh Te coal was offered from XXX OCP under Forward e-auction as well as Spot e-auction during the months June-20YY, July-20YY & Aug-20YY. EMD amount @ `400/Te which is one kind of 'Security Deposit' against performance of the consumer in lifting the full quantity of coal, is deposited in advance as a part of the full coal value by the successful bidders. The EMD is partly/fully refunded/forfeited after completion of the delivery period taking into consideration of the day to day reasons of non-delivery of coal to the consumers either due to the fault of Management or of consumer or of both or of other causes.

In the instant case the total quantity offered to the different consumers at XXX OCP could not be delivered due to different reasons inclusive of faults from the management's side as well as of the consumer's side or both. Subsequently based on the basic data of each delivery order (DO) like lifted quantity, lapsed quantity, date of submission of DO at the Project, allotted quota received from XXX OCP, a detailed refund statement was prepared by a Junior Officer of S&M. Deptt. of XXX HQ and was vetted by the then GM(S&M). The proposal got recommended by the Director (Tech/Op) & approved by the then CMD in Dec-20XX and accordingly the refund of `4.171 Cr was made to the different consumers.

While calculating the amount to be refunded, various factors had been treated as failure of Management to load coal. Further the refund note, involving a total refund of `4.171 Cr out of the total EMD value of `5.005 Cr, was not vetted by the then GM(Fin) or Director(Fin), rather during the absence/non-availability of the then GM(Fin), only the calculation part of the refund note was vetted by a junior rank officer of E-1 Grade. After initiation of the proposal it was vetted by the then GM(S&M), recommended for approval by the Director(Tech/Op) and recommended by the then CMD without any justified detailed exercise.

Irregularities Observed:

During investigation by the vigilance department it was observed that the statement of refund/forfeiture of EMD had not been prepared in judicious and proper manner with negligence on the part of the concerned executives.

Outcome:

Considering that the officer, who had prepared the proposal and the then GM(S&M), who had agreed and forwarded the proposal had retired on superannuation; the vigilance secretariat advised the management vide note dtd 27.01.2015 for review of the whole case by a committee so as to calculate the exact DO wise amount which could have been actually refunded/forfeited so that the possibilities of deducting/ refunding the amount from/to the DO holders can be explored.

Subsequently a Committee was formed by the Director(Tech/Op) comprising the then GM(Fin), GM(QC), & GM(S&M) as committee members to look into the irregularities pointed out by the Vigilance Secretariat and submit a report. The committee submitted its report to the Director (Tech/Op) recommending for the EMD refund of only ` 2,33,93,483.49 against the already refunded amount of ` 4,17,17,689.71. Thus the total recoverable amount from the consumers was `1,83,24,206.22 (i.e. `41717689.71 minus `23393483.49).

Consequent upon the vigilance intervention, ` 51,55,555.67 was recovered during the months of July-2016. Considering the delay in recovery of the remaining amount of ` 1,31,68,650.55 from the rest of the consumers, and apprehending that MCL may fail to recover the balance recoverable EMD amount as all the officers involved in the instant case of excess EMD refund have already retired on superannuation another advisory was sent to the CMD, XXX on 08.05.2016 advising to undertake appropriate action expeditiously for recovery of excess refund of EMD amount as most of the consumers involved in the instant case may have regular business with MCL while few have entered into FSA with XXX. Subsequently further ₹1,30,10,693.82 has been recovered till Aug-2016.
