

REMARKS IN E9 (QV47/14/PKD) 35742/14

The Quick Verification was conducted on the basis of a pseudonymous petition which this Bureau was not authorized to act upon. The QV Officer ought have stopped the verification as soon as he came to notice that it was a pseudonymous complaint. Eventhough verifications were made to check the truthfulness of the allegations, it was ascertained that most of the allegations are unspecific and vague which are unverifiable unless thorough probe is conducted.

The verification in respect of the allegation that the Company official had committed corruption amounting to a tune of ₹525/- crores has been deferred for further probe.

It is seen from the QV report that the Director in his letter dtd. 20.12.2014 had forwarded 16 documents for verification to find out as to whether the allegations leveled in the complaint have a ring of truth. Accordingly, some of those items of documents were confronted with the officials of the MCL in presence of the Audit Officer of the VACB. According to the Audit Officer, VACB, those documents are not capable of ascertaining the existence of corrupt activities of the officials. The documents which were verified during Quick Verification include Audit report of Controller and Auditor General of India for the year ended on 31st March 2010 in which it was mentioned that the failure of the Company to accept the contract for supply of fly ash etc. caused loss of ₹14.49/- crores to the Company. The said cause of actions were aroused during the period of April 2007 to May 2010 which was not during the period of the present MD against whom the allegations are made.

Another loss of ₹2.84/- crores was quantified in the audit report of CAG for the year ended on 31st March 2014 which was occurred due to delay in payment of KVAT. Similarly, in the audit report for the year 2013, a loss of ₹96.32 lakhs was shown which was occurred owing to the delay of the Company to finalize purchase orders for Coal and

resultant loss due to interim procurement of inferior quality of Coal at higher rate. Thus on a verification of the Audit reports of CAG for the last 5 years, it is noticed that the loss to the Company was caused as a result of the negligence or administrative inefficiency of the officials to take appropriate commercial decisions.

When we look at the details of the report, it is quite visible that the findings are reproduction of the irregularities pointed out in the CAG reports. Controller and Auditor General of India being a Constitutional authority and that the Audit report of the authority is subjected to approval of the legislature, the VACB cannot suo motu initiate action on the reports unless the Bureau is authorized to probe into such irregularities on the recommendation of the Legislature Committee.

In this view of the matter, since the findings in the QV are based on the observations of the CAG and that the Bureau have not been authorized or required by any authority to probe into such irregularities, the reports which were obtained in the course of QV cannot be used as an information regarding commission of offence for registration of a Vigilance case. It is a common phenomenon that profit and loss form part of every commercial business and errors in the commercially oriented decisions may sometimes result in loss to a Company. Once it is shown that the loss was caused by willful negligence of an official, case u/s 13(2) r/w 13(1)(d) may survive. But at the same time mere loss in the business owing to error of judgment will not amount to an offence under section 13(1)(d). Thus the material which are supplied in the QV are incompetent to register a case under section 13(1)(d) r/w 13(2) of PC Act as recommended by the I.O and the SP. Hence we had better sent up the QV report to Govt. seeking order of Vigilance Enquiry into the irregularities, pointed out in the CA Reports for the period from 2010 to 2014.

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