



THIRTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC UNDERTAKINGS
(2014-2016)**

SIXTY EIGHTH REPORT
(Presented on 23rd March, 2015)

SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM

2015

THIRTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC UNDERTAKINGS
(2014-2016)**

SIXTY EIGHTH REPORT

On

**The Action Taken by Government on the Recommendations contained in
the Twenty Third Report of the Committee on Public Undertakings
(2001-04) relating to Kerala Minerals and Metals Limited based on
the Report of the Comptroller and Auditor General of India
for the years ended 31st March 1997, 1999 (Commercial)**

328/2015.

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COMMITTEE ON PUBLIC UNDERTAKINGS (2014-2016)

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Shri M. K. Surendra Lal, Joint Secretary

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Shri P. S. Selvarajan, Under Secretary.

INTRODUCTION

I, the Chairman, Committee on Public Undertakings having been authorised by the Committee to present the Report on their behalf, present this Sixty Eighth Report on the Action Taken by Government on the recommendations contained in the Twenty Third Report of the Committee on Public Undertakings (2001-04) on the working of the Kerala Minerals and Metals Limited based on the Report of the Comptroller and Auditor General of India for the years ended 31st March 1997, 1999 (Commercial).

The Statement of Action Taken by the Government included in this Report was considered by the Committee constituted for the years (2008-11) and (2014-16).

This Report was considered and approved by the Committee at the meeting held on 11-2-2015.

The Committee place on record their appreciation of the assistance rendered to them by the Accountant General (Audit), Kerala, in the examination of the statements included in this Report.

Thiruvananthapuram,
23rd March, 2015.

K. N. A. KHADER,
Chairman,
Committee on Public Undertakings.

REPORT

The Report deals with the Action Taken by Government on the recommendations contained in the Twenty Third Report of the Committee on Public Undertakings (2001-04) relating to Kerala Minerals and Metals Limited based on the Report of the Comptroller and Auditor General of India for the years ended 31st March 1997 and 31st March 1999 (Commercial).

The Twenty Third Report of the Committee on Public Undertakings (2001-04) was presented to the House on 20th February, 2003. The Report contained four recommendations and the Government furnished replies to all the recommendations. The Committee considered the replies received from the Government at its meetings held on 16-12-2009 and 6-8-2014. The Committee accepted the replies to the recommendation Nos. 2(11), 3(14), 4(15) without remarks. These recommendations and their reply furnished by Government form Chapter I of the Report.

The Committee accepted the reply to the recommendation No.1(10) with remarks. This recommendation, its reply furnished by Government and the remarks of the Committee form Chapter II of the Report.

CHAPTER I

REPLY FURNISHED BY GOVERNMENT ON THE RECOMMENDATION
OF THE COMMITTEE WHICH HAS BEEN ACCEPTED BY THE
COMMITTEE WITHOUT REMARKS

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| <i>Sl. No.</i> | <i>Para No.</i> | <i>Department concerned</i> | <i>Conclusions/ Recommendations</i> | <i>Action Taken by Government</i> |
|----------------|-----------------|-----------------------------|--|--|
| (1) | (2) | (3) | (4) | (5) |
| 2 | 11 | Industries | <p>The Committee is constrained to point out that Government have not furnished the notes showing remedial action taken on the audit paras 4.1.8.1 and 4.1.8.2 till date. The report of the Comptroller and Auditor General of India for the year ended March 31, 1999 was presented to the House on March 31, 2000. As per the Handbook of instruction, the notes showing remedial action on the paras contained in the Comptroller and Auditor General's Reports are to be furnished to the Committee on Public Undertakings within 3 months of the presentation of the Report. But the Industries Department have neither</p> | <p>The Government admit with regret that there was delay in furnishing the Action Taken Statement to the Committee. This was not done deliberately. It happened since the audit paras included in the report of the Comptroller and Auditor General of India were dealt in various sections in the Industries Department in the Secretariat and due to the delay in getting the report from the Company. The Officers who dealt with the matter during the period are seen transferred to other Sections in the Secretariat. Special care will also be taken to avoid delay in future.</p> |

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| | | | <p>furnished the notes within the stipulated time nor have they submitted the notes to the Committee even before the examination of the audit paragraph. In spite of reminders, the Department is yet to furnish the notes. The Committee feels that this is a serious issue and consider this as a disregard to the Legislature itself. Hence the Committee desires that appropriate action should be taken against those responsible for the non-submission of notes to the Committee.</p> | |
| 3 | 14 | Industries | <p>The Committee observes that this is yet another instance for the poor financial management prevailing in the Company. Because of the failure on the part of the Finance Wing of the Company in carrying out timely reconciliation of accounts with that of the Bank, an over</p> | <p>Even though the production of Titanium Dioxide Pigment Plant of KMML was commissioned in January 1985, the company could stabilize its operation only in the year 1998. The accumulated loss of the company mounted to ₹ 99.22 crore due to lower capacity utilization and other teething problems. This had culminated into the erosion of the entire net worth of the company, which resulted in referring the company to BIFR in July 1992.</p> |

| (1) | (2) | (3) | (4) | (5) |
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| | | | <p>remittance of ₹ 26.92 lakh towards penal interest had to be made. Moreover, there was no compulsion to clear the loan in a hurry since the period of repayment was spread over up to April 2000 and that also when the company was running on loss. Hence by unnecessary haste in clearing the dues, the company had ended up by paying around ₹ 27 lakh to the Banks as penal interest. Had the Company invested the money for productive purpose, they could have assured returns from the same.</p> | <p>The BIFR appointed IDBI as the operating agency in February 1993. KMML had to pay ₹ 143.32 crore to financial institutions from April 1993 to April 2000 as per the BIFR package dated 1-6-1994. The schedule of payment in view of expected cash flow was prepared based on performance of the company in those days.</p> <p>As per the payment schedule, KMML had to settle the dues in 28 equal instalments and the payments by the company was appropriated by financial institutions in accordance with their accepted guidelines as shown below:—</p> <p>(1) First against interest dues and if defaulted, against age wise overdue and higher to lower rate of interest bearing accounts.</p> <p>(2) Secondly against principal dues and if defaulted, against overdue of defaulted principal.</p> <p>(3) Thirdly, against premature instalment of principal from the last instalment due as per schedule.</p> <p>But the performance of the company has improved substantially thereafter, which was beyond earlier expectations and started generating cash surpluses.</p> |

| (1) | (2) | (3) | (4) | (5) |
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| | | | | <p>This situation has helped the company to settle the high interest bearing loans to the financial institutions prematurely in April 1996 instead of waiting till 2000. The payments made by the company has been adjusted by the financial institutions in accordance with their accepted guidelines. Once the Comptroller and Auditor General raised the issue of appropriation of payment, the matter was once again taken up with IFCI by the company and they again confirmed that the payment by the company has been appropriated in line with their laid down rules.</p> |
| | | | | <p>The only other option available with the company at that period was to park the funds in bank deposit or treasury account. The surplus funds could not be used for any other purpose, as intended by the company, unless the entire dues to the financial institutions were settled. Depositing the funds in banks/treasury would have resulted in further loss to the company. The following points may also be considered in this regard and the audit para may be dropped:</p> |
| | | | | <p>(1) The interest rate payable to the financial institutions was between 12.22 and 18%. The rate for fixed deposit available in banks and treasury were much below the above rates.</p> |

| (1) | (2) | (3) | (4) | (5) |
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| | | | | <p>(2) The premature settlement of loan was effected as per the advise of IDBI, the operating agency.</p> <p>(3) It is true that the company would have saved an amount of ₹ 26.85 lakh, if the appropriation of payment had been done as pointed out by the C&AG. However, this is only hypothetical as once the company opted to pay prematurely; the only way is to get it appropriated as per the financial institutions procedures.</p> <p>(4) The savings by the company, by liquidating the entire dues in April 1998, instead of waiting till 2000, was to the tune of ₹ 10 crore.</p> <p>(5) The surplus funds could not be invested for any development purpose intended by the company, unless the entire dues to financial institutions are fully settled.</p> |
| | | | | <p>As per the BIFR package dated 1-6-1994, the company had to pay the loan amount of ₹ 143.32 crore from April 1993 to April 2000. The above schedule was prepared based on the anticipated cash flow during that period. However, due to higher profitability, the actual cash flow had improved substantially and hence the</p> |

| (1) | (2) | (3) | (4) | (5) |
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| | | | | <p>necessity of making advance payment arose. Company's decision to opt for premature payment was done only with the advice of IDBI, the operating agency appointed by BIFR. The payment made by the company has been adjusted by the financial institutions in accordance with their accepted principles only. The BIFR stipulates that such premature payment will be adjusted against the last instalment due not against the immediate instalment falling due. The difference in the two methods is the reason for higher amount of interest amounting to ₹ 27 lakh pointed out by the Audit.</p> <p>In this connection it may also be noted that the surplus funds cannot be utilized for any other purpose as the company desires until the entire dues of the financial institutions are settled. The options available to the company were either to keep the unutilised funds in bank/treasury deposits earning an interest rate of less than 10% p.a. or pre closing of term loans carrying interest of 12.22% to 18% p.a. Accordingly the company took the prudent decision of pre closing the term loans carrying interest of 12.22% to 18% in the best interest of the organization. However, considering the huge savings to</p> |

| (1) | (2) | (3) | (4) | (5) |
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| | | | | <p>the tune of ~ 10 crore made by the company in the long run by liquidating the entire debt in April 1996 itself instead of waiting till 2000, company's decision to opt for premature payment as per the terms and conditions stipulated by BIFR package, duly approved by IDBI, the operating agency appointed by BIFR, was a prudent one.</p> |
| 4 | 15 | Industries | <p>The Committee therefore, recommends that the finance wing of the Company should be made more effective and efficient in dealing such matters.</p> | <p>The Company and Government have decided to appoint key personnel to head finance wing of the Company and to conduct periodical review of the working of the wing. As per G.O. (Rt.) No. 217/98/ID dated 13-3-1998 Shri M. Vijayan was appointed as General Manager (F) on his retirement from Steel Industries Kerala Ltd. as Director (Finance) on contract basis for a period of 2 years.</p> <p>In the 137th meeting of the Board of Directors held on 6th March, 1999, a post of Deputy General Manager (F) was created subject to the approval of the Government.</p> <p>Again in the 148th meeting of the Board of Directors held on 27th March, 2001 the Board has approved to issue appointment offer to Shri Babu Kunjaria for</p> |

| (1) | (2) | (3) | (4) | (5) |
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| | | | | the post of Dy. General Manager (F). Thereafter, vide G.O. (Rt.) No. 835/01/ID dated 18-9-2001 Shri K. Gandhi, Director (Finance) & Company Secretary in the TRACO Cable Company Ltd. was appointed as General Manager (F) of the Company on deputation basis who joined the Company on 3rd October, 2001. |

CHAPTER II

REPLY FURNISHED BY GOVERNMENT ON THE RECOMMENDATIONS
OF THE COMMITTEE WHICH HAS BEEN ACCEPTED BY THE
COMMITTEE WITH REMARKS

| <i>Sl. No.</i> | <i>Para No.</i> | <i>Department concerned</i> | <i>Conclusion/ Recommendation</i> | <i>Action Taken by Government</i> |
|----------------|-----------------|-----------------------------|---|--|
| (1) | (2) | (3) | (4) | (5) |
| 1 | 10 | Industries | <p>The Committee finds that it was the sheer negligence on the part of the Company that had led to an avoidable payment of ₹ 8.85 crore as income tax between March 1996 and October 1999. The Committee further notes that, had the Company been vigilant the omission of provision for income tax exemption could have been detected at the time of finalisation of the rehabilitation package itself and could have avoided the payment of such a huge amount as income tax. The Company could have invested the money fruitfully. The Committee therefore desires that detailed</p> | <p>The Company was declared as a sick unit under Sick Industrial Companies (Spl. Provision) Act, 1985 by BIFR in 1993 and appointed IDBI (Industrial Development Bank of India) as the Operating Agency (OA). BIFR directed the OA to prepare a rehabilitation package for the company spread over a period of 7-10 years after considering the cash generation capacity and working out a projected Debt service ratio of the company and considering the views of other interested parties of the package viz. Financial Institutions (FI), Banks, Trade Unions and also directed Government of Kerala to extend all standard concessions to the company for its revival. IDBI prepared and circulated among the interested parties two alternative packages called Alternative I and Alternative II. In Alternative I, the total relief was to the tune of ₹ 55 crore whereas in Alternative II, it was only to the extent of ₹ 24 crore. In Alternative I proposal, IDBI</p> |

| (1) | (2) | (3) | (4) | (5) |
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| | | | <p>enquiry should be conducted in this regard and the reasons for such an omission be identified. The Committee also recommend that the Company should be prudent in financial matters and should in no way lose any chance in obtaining the reliefs/concessions that may accrue to it.</p> | <p>included the provision of IT exemption on Income u/s 41(1) and FI/Banks/Government etc. had to forego more money by way of compensation. Since Alternative I was costlier, the joint meeting of interested parties of FI/Banks/Government considered only Alternative II for adopting as a draft proposal. This Alternative II taken as draft proposal did not contain IT exemption on income u/s 41(1) and the draft proposal was circulated to parties in December 1993. The salient features of Alternative I & II of the proposals were reported to the Company's Board of Directors for consideration. Since the Company's effort to obtain maximum reliefs and concession in the rehabilitation package did not get consensus in the BIFR meeting of FI/Banks/Government etc., the Company took the matter directly to BIFR (by avoiding OA). This was evidenced in the Company's correspondence with the BIFR Bench Member under cover of letter TP/GM(F)/BIFR/93-94 dated 31-12-1993.</p> |
| | | | | <p>As recommended a detailed enquiry was conducted by an Independent firm of Chartered Account and reported as follows:</p> <p>Out of the two rehabilitation packages presented for their revival of KMML, by the IDBI,</p> |

| (1) | (2) | (3) | (4) | (5) |
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| | | | | <p>Alternative I package was accepted by the company since this alone will meet the long-term viability of the company. Following the decision of the Board of Directors of the company, the Managing Director, KMML had requested BIFR for accepting Alternative I which contained exemption from the provision of Section 41(1) of the Income Tax Act. But as the reliefs and concession envisaged by Alternative I package were beyond the RBI guidelines as submitted by the IDBI before the BIFR, the Alternative II package was accepted by the BIFR for rehabilitation of the company.</p> <p>The issue of obtaining income tax exemption was not taken directly with the CBDT as the Chartered Accountants opined that it can be considered by the CBDT only if recommended by the BIFR. In response to the copy of the draft scheme received from the OA, the company did not request for exemption under Section 41(1) of the Income Tax Act which was the only anomaly on the part of the Company as pointed out in the enquiry report.</p> <p>Thus the company's request for a better package (including IT exemption) at the joint meeting in the proposal stage request to</p> |

| (1) | (2) | (3) | (4) | (5) |
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| | | | | <p>BIFR in the draft stage etc. did not yield a positive result from OA as well as BIFR and the Rehabilitation order issued in June 1994 did not contain the income tax exemption clause. As per BIFR regulation, any package can be modified only through a review of the package in hand. Accordingly company was allowed to place its request for modification in its first review meeting in September 1995. The company requested BIFR to modify the package by including IT exemption also. But the BIFR rejected the company's request by observing that it can be considered only as need based and if required can be considered in next meeting. In the next review meeting also the company presented its request for IT exemption. But owing to continuous profit making and cash generation and redemption of all dues ahead of schedule BIFR rejected the company's request to grant IT exemption and also listed out the company from BIFR purview. Thus the company took up the issue of grant of IT exemption on income u/s 41(1) to all the appropriate authorities at every forum. But the OA at its draft package stage as well as BIFR at review stage rejected the proposal apparently due to the</p> |

| (1) | (2) | (3) | (4) | (5) |
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| | | | | improved performance of the company and the consequential improved debts servicing capacity of the Company. |
| | | | | Thus the company made all efforts to get the IT exemption included in its revival package. |

Remarks:—The Committee enquires the reason for not taking necessary steps to get Income Tax exemption in time and strictly directs not to repeat such negligence in future.

Thiruvananthapuram,
23rd March, 2015.

K. N. A. KHADER,
Chairman,
Committee on Public Undertakings.

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