



FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC UNDERTAKINGS
(2019-2021)**

NINETY SEVENTH REPORT

(Presented on 1st July, 2019)

**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM**

2019

FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
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PUBLIC UNDERTAKINGS
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NINETY SEVENTH REPORT

On

**THE PHARMACEUTICAL CORPORATION (INDIAN MEDICINES)
KERALA LIMITED**

**(Based on the Report of the Comptroller and Auditor General of
India for the year ended 31st March, 2007)**

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COMMITTEE ON PUBLIC UNDERTAKINGS (2019-2021)

COMPOSITION OF THE COMMITTEE

Chairman :

Shri C. Divakaran.

Members :

Shri K. B. Ganesh Kumar

Shri C. Krishnan

Shri Thiruvanchoor Radhakrishnan

Shri P. T. A. Rahim

Shri S. Rajendran

Shri Raju Abraham

Shri Sunny Joseph

Shri C. F. Thomas

Shri M. Ummer

Shri P. Unni.

Legislature Secretariat :

Shri C. Jos, Secretary- in- Charge

Shri P. B. Suresh Kumar, Joint Secretary

Shri G. Harish, Deputy Secretary

Smt. Reji D.O., Under Secretary.

INTRODUCTION

I, the Chairman, Committee on Public Undertakings (2019-2021) having been authorised by the Committee to present the Report on its behalf, present this Ninety Seventh Report on The Pharmaceutical Corporation (Indian Medicines) Kerala Limited based on the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2007 relating to the Public Sector Undertakings of the State of Kerala.

The aforesaid Report of the Comptroller and Auditor General of India for the year ended 31st March, 2007, was laid on the Table of the House on 26-2-2008. The consideration of the audit paragraphs included in this Report and the examination of the departmental witness in connection thereto was made by the Committee on Public Undertakings constituted for the years 2016-2019 at its meeting held on 18-4-2018.

This Report was considered and approved by the Committee (2019-2021) at its meeting held on 19-6-2019.

The Committee places on record its appreciation for the assistance rendered to them by the Accountant General (Audit), Kerala in the examination of the Audit paragraphs included in this Report.

The Committee wishes to express its thanks to the officials of the Ayush Department of the Government Secretariat and The Pharmaceutical Corporation (Indian Medicines) Kerala Limited for placing the materials and information solicited in connection with the examination of the subject. The Committee also wishes to thank in particular the Secretaries to Government-Ayush and Finance Departments and the officials of The Pharmaceutical Corporation (Indian Medicines) Kerala Limited who appeared for evidence and assisted the Committee by placing their views before it.

Thiruvananthapuram,
19th June, 2019.

C. DIVAKARAN,
Chairman,
Committee on Public Undertakings.

REPORT
ON
THE PHARMACEUTICAL CORPORATION (INDIAN MEDICINES)
KERALA LIMITED

AUDIT PARAGRAPH

4.3 Delay in placement of purchase order

Failure of the Company in placement of purchase order within the stipulated period resulted in avoidable extra expenditure of ₹ 10.52 lakh

The Company invited tenders (November 2004) for purchase of Ayurvedic raw materials required for the year 2005-06. As per the tender conditions firm rates were to be quoted for 60 days from the date of opening (January 2005) of the tender. Out of 10 bids received, the offer of Bharat Trading Company (BTC), Mumbai was lowest in respect of three items* and second lowest in respect of two other items* which were emergent in requirement.

The Company, however, failed to place the order within the validity period. Subsequently, after expiry (March 2005) of the validity period, order was placed (April 2005) on BTC for the procurement of five items. BTC took advantage of the delay on the part of the Company in placing the order within the validity period and withdrew (April 2005) their offer for one of the ordered items ('Kachuri'). While the Company insisted on supply at the ordered rates, BTC did not respond.

Thereupon, the Company locally procured all the five items (July 2005 to March 2006) at rates higher (5 to 111 per cent) than the rates offered by BTC. The additional expenditure on the local purchase worked out to ₹10.52 lakh. Thus, failure of the Company to place purchase order within the validity period resulted in avoidable extra expenditure of ₹ 10.52 lakh.

Kachuri, Peralam and Cheenathippali

* Amalporiveru and Kudakappalayani

Management's reply endorsed by the Government, stated (June 2007) that the processing of tenders was delayed since the company had to analyse the implications of Value Added Tax (VAT) and the Company had issued (2 March 2005) a letter within 60 days of offer to BTC inviting them for negotiation. It was further stated that the Company is taking steps to recover the loss from the contractor. The reply is not tenable since rates were firm and valid for 60 days with effect from 4 January 2005 as stipulated by the Company. Further, VAT was applicable only from 1 April 2005. The claims raised (September 2006) against the contractor also did not receive any response till date (June 2007).

(Audit Paragraph 4.3 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March 2007)

Notes furnished by Government on Audit Paragraph is given in Appendix II.

Discussions and Findings of the Committee

The Committee enquired about the unfairness in dealings on the part of Oushadhi felt in the purchase of raw materials on the basis of observations made by the Audit.

The witness submitted in defense that even though the tender was opened on January 4, 2005, owing to the situation of VAT coming into effect it was not possible to compare different rates of quotes and different rates attained only in April last, and that it was due to lack of clarity in implementing VAT and clarification regarding input tax credit that a delay in placing orders mentioned by Audit occurred. He further added that it was vital to take into consideration the input tax credit before finalising tenders in order to avoid huge economic losses to the Corporation.

The Committee was given to understand that Company was advised by the tax consultant to await further guidelines from the Government on VAT before finalising the tender process. The witness in this connection, informed that Bharat Trading Company (BTC) was invited for negotiations on finalising the tender for the supply of the five items in the tender. It was also informed that the previously quoted rates would be deemed to be accepted by the Corporation in the instance of BTC being absent from the negotiations.

The Committee remarked that the delay in issuing purchase order has to be viewed as a lapse on the part of the Company. The Committee refuted the explanation of the witness regarding the effect of VAT in hindering the whole purchase process as VAT came to existence only from 1st April, 2005 whereas the validity period for placing orders are seen to have expired in March 2005.

The witness replied that Oushadhi carried out negotiations with BTC on 2nd March, 2005, but BTC informed on 18th March, 2005 that they have to quote a higher rate for one of the items required by Oushadhi; which being higher than the market rate, was unacceptable to the Corporation. BTC later withdrew also from the supply of the remaining four items in the order. Consequently, the Corporation had to procure all the five items through alternative arrangement from outside sources and as a result suffered economic loss.

The Committee noted that the Corporation had taken initial steps to recover the losses from BTC and enquired about the measures being taken to recover the full amount.

The witness explained that the Corporation had issued a notice to BTC for recovery of its losses. The witness further informed the Committee that the Corporation sustained a loss of ₹ 15 lakh and had initiated revenue recovery proceedings against BTC and an amount of ₹ 1.75 lakhs had been adjusted by forfeiting the Earnest Money Deposit (EMD). The BTC also filed a case against the Corporation later in the Thrissur Sub Court. The Court order was in favour of BTC to return the forfeited EMD amount, coupled with interest on the forfeited amount, to BTC. The witness informed the Committee that a review petition had been filed in this regard at the Hon'ble High Court.

The Committee rebuked the action of the Corporation in forfeiting EMD from BTC without executing purchase agreement with it. The Committee remarked along with that chances of obtaining a High Court order in favour of the Company would be very remote under the circumstances.

The Committee criticised the witness for spending public money in unnecessary legal processes and remarked that there was lapse on the part of the company to forfeit the EMD of BTC without executing purchase agreement which

was illegal. The Committee at this point enquired about the identity of the responsible official at the time of this purchase.

The Committee was given to understand at this point that the then Managing Director had been identified as the official responsible for this.

Observations/Recommendations

1. The Committee observes that the failure of the company in issuing purchase order to Bharat Trading Company (BTC) within the stipulated time for the purchase of Ayurvedic raw materials during the year 2005-06 was a serious lapse which led the Company to purchase the items from the local market with an extra expenditure of ₹ 10.52 lakh. The Committee recommends to initiate revenue recovery proceedings against the then Managing Director of the Company, who was found responsible for the delay in processing of the tender and consequent delay in issuing purchase order to the contractor - Bharat Trading Company (BTC), Mumbai.

2. The Committee demands to know the measures taken by the Company to recover the extra expenditure of ₹ 10.52 lakh from BTC for its withdrawal from the supply of ordered items in the tender to the Company.

3. The Committee criticizes the Company for wasting public money and demands to furnish the current status of the review petition filed by the Company at the Hon'ble High Court of Kerala against the Court order issued for the refund of Earnest Money Deposit forfeited by the Company to BTC.

Thiruvananthapuram,
19th June, 2019.

C. DIVAKARAN,
Chairman,
Committee on Public Undertakings.

APPENDIX-1

SUMMARY OF MAIN CONCLUSIONS / RECOMMENDATIONS

Sl. No.	Para No.	Department concerned	Conclusions/Recommendations
(1)	(2)	(3)	(4)
1	1	Ayush	The Committee observes that the failure of the company in issuing purchase order to Bharat Trading Company (BTC) within the stipulated time for the purchase of Ayurvedic raw materials during the year 2005-06 was a serious lapse which led the Company to purchase the items from the local market with an extra expenditure of ₹ 10.52 lakh. The Committee recommends to initiate revenue recovery proceedings against the then Managing Director of the Company, who was found responsible for the delay in processing of the tender and consequent delay in issuing purchase order to the contractor-Bharat Trading Company (BTC), Mumbai.
2	2	Ayush	The Committee demands to know the measures taken by the Company to recover the extra expenditure of ₹ 10.52 lakh from BTC for its withdrawal from the supply of ordered items in the tender to the Company.
3	3	Ayush	The Committee criticizes the Company for wasting public money and demands to furnish the current status of the review petition filed by the Company at the Hon'ble High Court of Kerala against the Court order issued for the refund of Earnest Money Deposit forfeited by the Company to BTC.

APPENDIX II

NOTES FURNISHED BY GOVERNMENT ON THE AUDIT PARAS AUDIT REPORT 4.3 (2006-07)

Sr. No. 4.3

Reply furnished by the Government

ഓൺലൈൻ ക്ലിംഗർമാർക്കുള്ള വിവിധ അനുമതികൾ വന്യമായി ടെണ്ടറുകൾ ക്ഷണിച്ചാണ് ഉറപ്പിച്ചു വരുന്നത്. മെറ്റീരിയൽ വിവിധ ഭാഗങ്ങൾ നിന്നും ടെണ്ടറുകൾ ലഭ്യമാകാറുണ്ട്. എല്ലാ നികുതികളും അടയ്ക്കേണ്ടതു ക്ലിംഗർമാർ ചെയ്യുവാനാണ് ഓൺലൈൻ ക്ലിംഗർമാർക്കുള്ളത്. ചുമതല എല്ലാ ടെണ്ടറുകളും അടയ്ക്കും ചെയ്യേ ഉള്ളവരുടെ ഗുണമേന്മ പരിശോധിച്ച് സ്വീകാര്യമായവയിൽ നിന്നും ഏറ്റവും കൂടുതൽ ക്ലിംഗർമാരുടെ ചുമതലയെ **negotiation** നു വിട്ടുകൊടുക്കുകയും, സ്വീകാര്യമായവയിൽ കരാർ ഉറപ്പിച്ചുകൊടുക്കുകയാണ് ചെയ്യുന്നത്. കരാറുകൾ ഏപ്രിൽ 1 മുതൽ അടുത്ത വർഷം മാർച്ച് 31 വരെയാണ് ഉറപ്പിച്ചു വന്നിരുന്നത്.

2005-06 വർഷം മുതൽ VAT നിലവിൽ വരുന്നതിനാൽ ടെണ്ടറുകൾ 4.1.2005 ൽ തുറന്നുവെക്കിലും മുൻവർഷം നടത്തി വന്നിരുന്നതു പോലെ ചുമതല നികുതികൾ അടയ്ക്കും ചെയ്യുവാൻ കഴിയുമായിരുന്നു.

2005 ഏപ്രിൽ 1 മുതൽ VAT നിലവിൽ വന്നുവെങ്കിലും Input tax credit നേടുന്നതിനും വിവിധ നികുതികളെക്കുറിച്ചും മറ്റും വ്യക്തത വന്നത് ഏപ്രിൽ അവസാനം മാത്രമാണ്. ടെണ്ടർ ഉറപ്പിച്ചുവെക്കുന്നതിനു മുമ്പ് Input tax credit പരിശോധിക്കാതിരുന്നതിനാൽ കോർപ്പറേഷൻ വലിയ നഷ്ടം സംഭവിക്കുമായിരുന്നു. വിവിധ വിവരങ്ങൾ അറിയാൻ പ്രമുഖ ടാക്സ് കൺസൾട്ടന്റായ M/s Johny & Company, Chartered Accountant, Ernakulam, M/s Abraham

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& Jos Chartered Accountants, Thrissur
 തുടങ്ങിയവരെ സമീപിച്ചുവെങ്കിലും സമീഹത്തിൽ നിന്നുള്ള
 നിർദ്ദേശങ്ങൾക്കു മേൽ കഠിനമായി നിരീക്ഷിക്കുന്നതാണ് അവർ
 അവസ്യപ്പെട്ടത്. (പകർപ്പ് ഇതിനോടൊപ്പം **Annexure** ആയി
 വരുന്നു) മുൻവർഷങ്ങളിൽ ട്രൈബ്യൂണൽ ഉറപ്പിച്ചുകൊടുത്ത **input tax credit**
 പരിഗണിക്കാതെ ട്രൈബ്യൂണൽ ഉറപ്പിച്ചിരുന്നവെങ്കിൽ
 കോർപ്പറേഷൻ വലിയ സാമ്പത്തിക നഷ്ടം ഉണ്ടാകുമായിരുന്നു.
 മാത്രമല്ല ഏറ്റവും കുറഞ്ഞ നിരക്കുകൾ **quote** ചെയ്ത
 സപ്ലൈർമാർക്ക് ഓർഡർ കൊടുക്കുമായിരുന്നാൽ സാമ്പത്തിക
 നഷ്ടത്തിനു പുറമെ നിയമനടപടികളും ഓഷധി നേരിടേണ്ടി
 വരുമായിരുന്നു. ഓഷധിക്ക് 500 ൽ പ്പരം അസംസ്കൃത
 ഉൽപ്പന്നങ്ങളും 75ൽ പരം പാക്കിംഗ് മെറ്റീരിയലിനും ട്രൈബ്യൂണൽ
 ഉറപ്പിക്കേണ്ടതുണ്ട്. ഇതിൽ പലതിന്റെയും നികുതി നിരക്കുകൾ
 പല വിധത്തിലുമാണ് (ചിലപ്പോൾ ഒരു ഗ്രൂപ്പായാണ്
 കൊടുത്തിരുന്നത്) 2005-06 മുതൽ നിലവിൽ വന്നത് പ്രസ്തുത
 നിരക്കുകളെല്ലാം ശരിയായ രീതിയിൽ പരിഗണിച്ചില്ലായെങ്കിൽ
 കോർപ്പറേഷൻ നിയമനടപടികൾ നേരിടുന്നതിനു പുറമെ
 വളരെയേറെ സാമ്പത്തിക നഷ്ടവും വരുമായിരുന്നു.

ഉദാഹരണത്തിന് ഒരു അസംസ്കൃത വസ്തു കേരളത്തിനു
 പുറത്തുള്ള ഒരു **supplier CST** അടക്കം 103 രൂപ **quote**
 ചെയ്യുകയും കേരളത്തിനകത്തുള്ള ഒരു **supplier** അതേ വസ്തു
 4% വാറ്റ് അടക്കം 104 രൂപ **quote** ചെയ്യുകയാണെങ്കിൽ
input tax credit പരിഗണിക്കുമ്പോൾ കൂടുതൽ കൂക **quote**
 ചെയ്ത (104 രൂപ) ആയിട്ട് ട്രൈബ്യൂണൽ ഉറപ്പിച്ചു
 കൊടുക്കേണ്ടതായിട്ടുണ്ട്. ഇതിനു വീപരിക്കുമായി 103 രൂപ
quote ചെയ്ത ആയിട്ട് ട്രൈബ്യൂണൽ ഉറപ്പിച്ചുകൊടുത്താൽ
 കമ്പനിക്ക് 3 രൂപ നഷ്ടം വരുമെന്ന് മാത്രമല്ല **Central**
Vigilance Commission നിർദ്ദേശിച്ച മാനദണ്ഡം ഉപരിയിട്ട്

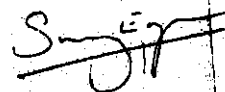
കുറഞ്ഞ നിരക്കുകൾ പരിഗണിച്ചിട്ടുള്ളത് കോർപ്പറേഷൻ കോർപ്പറേഷനെയും നിയമ നടപടികൾ വരുവാൻ സാധ്യതയുണ്ട്.

ഓരത് ട്രേഡിംഗ് കമ്പനി അടക്കമുള്ള എല്ലാ suppliers നും negotiation ന് വരുവാനായി 2.3.2005 ൽ കൺ നലകിയിരുന്നു. പ്രസ്തുത കൺൽ negotiation നിൽ പരാജയപ്പെട്ടിട്ടുണ്ടെന്നുണ്ടെങ്കിൽ അവർ ടെണ്ടറിൽ നൽകിയിരുന്ന നിരക്കുകൾക്ക് മറ്റേതെങ്കിലും എന്ന് പരിഗണിക്കുന്നതാണെന്നും അറിയിച്ചിരുന്നു. ആയതിനാൽ 2.3.2005 ലെ കൺ എല്ലാ suppliers ന്റെയും നിരക്കുകൾ സ്വീകാര്യമായതായി അറിയിച്ചതായി കണക്കാക്കാവുന്നതാണ്. കോർപ്പറേഷൻ ഇത്തരമൊരു നടപടിയാണ് ഇതുവരെ തുടർന്നു പോന്നിരുന്നത്.

എന്നാൽ ഓരത് ട്രേഡിംഗ് കമ്പനി കമ്മ്യൂണിക്കേഷൻ എന്ന ഉൽപ്പന്നം നൽകാൻ കഴിയില്ല എന്നു കോൺട്രി 18.4.2005 ലെ കൺ മുഖേന അറിയിക്കുകയാണ് ചെയ്തത്. പ്രസ്തുത ഉൽപ്പന്നത്തിന്റെ വില വർദ്ധിച്ചുകൊണ്ടാണ് അവർ അതിൽ നിന്നും പിൻമാറൽ തീരുമാനിച്ചത്. അവർ പ്രസ്തുത ഉൽപ്പന്നത്തിന് ഷിപ്പ്മെന്റ് 88.40 രൂപ ആവശ്യപ്പെടുകയും മാർക്കറ്റ് റേറ്റ് അതിലും കുറവായതിനാൽ കോർപ്പറേഷൻ അത് സ്വീകരിക്കുകയും ചെയ്തില്ല. ആയതിനാൽ ഓരത് ട്രേഡിംഗ് കമ്പനി തരംതിരുന്ന ഉൽപ്പന്നങ്ങൾ മദ്ധ്യസ്ഥ നിർമ്മാണാവശ്യത്തിനായി മറ്റുള്ളവരിൽ നിന്നും വാങ്ങേണ്ടതായി വന്നു. അങ്ങനെ വന്ന അധിക തുക ഓരത് ട്രേഡിംഗ് കമ്പനിയിൽ നിന്നും വസൂലാക്കേണ്ടതാണ്. കമ്പനിയുടെ Standing Counsel ആയ M/s Menon & Menon ന്റെ നിർദ്ദേശാനുസരണം ആദ്യപടിയായി അവർ നിരതപ്രവൃത്തി ആയി നൽകിയിരുന്ന 1.75 ലക്ഷം രൂപ അഡ്വേന്റ് ചെയ്തു ബാക്കി തുക

		<p>വരുമാനത്തിനു നൽകിയ നിരക്കുകൾ നടന്നു വരുന്നുണ്ട്.</p> <p>4.1.2005 ൽ തുറന്ന ഉടമ്പടികൾ 1.4.2005 മുതൽ 31.3.2005 വരെ വിതരണം നടത്തുന്നതിനുള്ള വേണ്ടിയായിരുന്നു VAT 1.4.2005 മുതൽ നിലവിലി വരുന്നതിനാൽ ടെണ്ടർ ഉറപ്പിക്കുന്നതിന് VAT നില നിർദ്ദേശങ്ങൾ പാലിക്കേണ്ടതായി വന്നു.</p> <p>ഇൻപുട്ട് ടാക്സ് ക്രെഡിറ്റ് വഴി, ഓരോ ഏരിയ കമ്പനി നൽകാതിരുന്ന 5 ഉടമ്പടികൾ വാങ്ങിയ വകയിൽ 1,32,000/- രൂപയാണ് കോർപ്പറേഷന് ലഭിച്ചത്. കോർപ്പറേഷൻ 1.4.2005 മുതൽ 31.3.2006 വരെ നടത്തിയ പരിഷ്കരണത്തിന് Input tax credit ആയി ആകെ 41.64 ലക്ഷം രൂപ ലഭിച്ചു.</p> <p>മേൽപ്പറഞ്ഞവയിൽ നിന്നും കോർപ്പറേഷൻ എടുത്ത എല്ലാ നടപടികളും കമ്പനിയുടെ ഉത്തര താൽപ്പര്യ സംരക്ഷിക്കുവാനും, VAT ആക്ട് പ്രകാരം ഉള്ള നടപടികൾ പാലിക്കാനും വേണ്ടിയാണ്.</p>
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Susy Eapen
 Joint Secretary
 Health & Family Welfare Dept
 Govt. Secretariat, Tvpm.

JOHNEY & CO.
Chartered Accountants

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15.05.07

To.

The Managing Director

'Oushadhi',

The Pharmaceutical corporation (IM) Kerala LTD
Thrissur

Sir,

Sub: Audit Query - regarding

Ref: Your letter No. P1438/04 dt 15.05.07

With reference to the above, I would like to inform you that, as per your request, I have conducted a one day workshop at Oushadhi on 28.01.2005 in connection with the implementation of KVAT Act 2003. The VAT was decided to be implemented from 1st April 2005. We came to know that your company had invited tenders for the purchase of raw materials, packing materials etc for the year 2004-2005. The supply period was from 1st April 2005 to 31st March 2006. The Corporation was in a dilemma to finalize the tenders since the tender comparisons had to be done in a different way. The usual practice in the corporation was to compare tenders inclusive of tax rates. But with the implementation of VAT the system had to be worked out in a different way. The Inside Kerala basic prices had to be compared with the outside Kerala tax inclusive rates. Then only the lowest tenderer could be identified for which the tax percentage, schedule etc were to be ascertained. The following points had to be taken into account.

1. Availing of Input Tax Credit
2. Tax Percentage
3. Schedule of raw materials
4. The nature of supplier (Registered, Unregistered, Presumptive, Inside, Kerala, Outside Kerala etc)
5. List of items excluded from Tax
6. Change in Central Sales Tax Percentage

There was no clear guideline for the same and the corporation was required to wait up to 31.03.05 for further clear guidelines under KVAT Act. Had the tenders been finalized in the routine manner it would have resulted in huge loss by non availing of Input Tax Credit. It would have also resulted in selecting wrong tenders and the corporation had to face with litigations.



Cont'd....2

[Handwritten signature]

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It was evident that no inputs were available to the corporation to finalize the tenders in a systematic and transparent way. The corporation had no other way but to wait for further guidelines from the government. In this context the government guidelines on VAT came on the following dates only

- January 17th 2005- White Paper on VAT by the empowered committee
- February 2005 - State Budget
- March 2005 - Publication of Kerala Value Added Tax Rules as per G.O (P) No. 42/2005/TD dt.31.03.05

From the above facts, in my view the corporation had no other way but to wait for governmental action. It was only due to the ambiguity from the part of the government due to new law and the corporation may not be held responsible for this. The corporation is a fully government owned company and it has to abide to the governmental policies and guidelines very strictly. It is observed that the prime intention of the company was to select the lowest tender rates in a lawful and justifiable manner.

I hope the above statements clarifies the situation.

Thanking you,

Yours faithfully,




CA. P.J. JOHNEY FCA
CHARTERED ACCOUNTANT

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 KERALA

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17th May 2007

To:

M/s The Pharmaceutical Corporation (IM) Kerala Ltd.
 Thiruvananthapuram 680001

Dear Sir,

Sub: Kerala Value Added Tax Rules and Procedures

We would like to bring your notice that Kerala Value Added Tax Act is a new enactment passed by the Government of Kerala. Kerala Value-Added Tax Bill was introduced in the assembly and they were lot of discussions regarding the rates of taxes, item wise schedules, rules & procedures and notification. The bill was presented in the assembly in January 2005. After a long discussion Kerala Value Added Tax Act was passed, but the rules and procedures were highly complicated and proper notifications regarding input tax, output tax, tax invoices and procedures were not properly notified.

The Department declared the schedules and published in the official gazette, but the item wise schedules were not properly mentioned. At different rates of tax there were more than 1000 items and was very difficult to distinguish each items. There were various ambiguities in the rates and procedures to be followed by the assesses.

Procedures for availing input tax was not clearly mentioned in the original rules published by the Department on 31.03.2005. There were lot of amendments in the schedules and also procedures. Even after repeated requests and reminders Commercial Tax Department was not giving any proper clarifications and queries regarding the assesses.

In this context M/s Pharmaceutical corporation (IM) Kerala Ltd was finalizing tender procedures for the purchase of raw materials, packing materials etc. for the year 2005-06. The routine practice followed in the corporation was to compare the rates inclusive of all taxes. But with the implementation of VAT from 1st April 2005, the procedure followed until then had to be modified. In order to avail Input tax credit, the basic price of inside Kerala suppliers has to be compared with the outside Kerala Tax inclusive rates. In order to arrive the basic price of inside Kerala supplier, the tax rates schedules, nature of supplier (registered, unregistered, presumptive etc) had to be known.

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There was no clear guidelines regarding the above aspects from the Government. The Government was amending the schedules, Tax rates, procedures etc. on day to day basis and many of the items purchased by Oushadhi did not find a place in any of the schedules published by the Government. In this context the corporation did not finalised the tender.

As the details regarding schedule items, procedure to claim input tax, different forms, different rates of tax and assessment procedures were not finalised. Hence we could not clarify all points raised by the Corporation.

We hope that we have clarified all the points.

Thank you very much.

Abraham & Jose
Abraham
 Partner
 Chartered Accountants

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Kerala Legislative Secretariat

