



FIFTEENTH KERALA LEGISLATIVE ASSEMBLY

COMMITTEE

ON

**PUBLIC UNDERTAKINGS
(2023-26)**

FORTY EIGHTH REPORT

(Presented on 21st March, 2025)

**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM**

2025

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On

Malabar Cements Limited

**(Based on the Report of the Comptroller and Auditor General of India for the
year ended 31st March, 2017)**

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**COMMITTEE ON PUBLIC UNDERTAKINGS
(2023-26)**

COMPOSITION

Chairperson:

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Members:

Shri A.P. Anilkumar

Shri Anwar Sadath

Shri Ahammad Devarkovil

Shri T. V. Ibrahim

Shri P. Mammikutty

Shri K. P. Mohanan

Shri D. K. Murali

Shri P. Nandakumar

Shri Kadakampally Surendran

Shri P. Ubaidulla

Legislature Secretariat:

Dr. N.Krishna Kumar, Secretary

Shri Venugopal R, Joint Secretary

Shri Anil Kumar B, Deputy Secretary

Shri Mohanan. O, Under Secretary

INTRODUCTION

I, the Chairperson, Committee on Public Undertakings (2023-26) having been authorised by the Committee to present the Report on its behalf, present this 48th Report on Malabar Cements Limited based on the report of the Comptroller and Auditor General of India for the year ended 31st March, 2017 relating to the Public Sector Undertakings of the State of Kerala.

The aforesaid Report of the Comptroller and Auditor General of India was laid on the Table of the House on 19-06-2018. The consideration of the audit paragraphs included in this report and examination of the departmental witness in connection thereto were made by the Committee on Public Undertakings (2021-2023) at its meeting held on 20.06.2023.

This Report was considered and approved by the Committee (2023-26) at its meeting held on 18.03.2025.

The Committee place 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 thanks to the officials of the Industries Department of the Secretariat and the Malabar Cements 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, Industries Department and Finance Department and the officials of the Malabar Cements Limited who appeared for evidence and assisted the Committee by placing their views before the Committee.

Thiruvananthapuram,
21st March, 2025.

E. CHANDRASEKHARAN,
Chairperson,
Committee on Public Undertakings.

**REPORT
ON
MALABAR CEMENTS LIMITED
(2016-17)**

Malabar Cements Limited

4.1 Procurement management

Introduction

4.1.1 Malabar Cements Limited (Company) was incorporated in April 1978 with the main objective of manufacturing cement using limestone available at the mining area leased to the Company by the Government of Kerala (GoK). The Company manufactures three types of cement, viz., Pozzalana Portland Cement, Ordinary Portland Cement and Portland Slag Cement and markets them in the brand names ‘Malabar Classic’, ‘Malabar Super’ and ‘Malabar Aiswarya’ respectively. Besides limestone, laterite, gypsum, clinker and fly ash are the major raw material used for production of cement. During 2014-15 to 2016-17, the Company issued 104 purchase orders for procurement of material at an aggregate value of ₹371.85 crore. The value of raw material purchased ranged from 41.15 *per cent* (2014-15) to 50.98 *per cent* (2015-16) of the total expenditure.

Audit reviewed the procurement of material by the Company, with the following audit objectives:

- Whether procurement of material was properly planned taking into account the overall requirements; and
- Whether the prescribed guidelines/regulations for tendering and procurement were duly adhered to and the material procured was as per the quality standards.

Audit examined 21 out of 40 tenders and 49¹ purchase orders (POs) valuing ₹190.88 crore out of 104 purchase orders issued during 2014-15 to 2016-17.

Audit Findings

4.1.2 The procurement process of the Company is governed by Purchase Policies and Procedures 2010 of the Company, provisions of Stores Purchase Manual 2013 (SPM) issued by GoK, the Central Vigilance Commission (CVC) guidelines and Government orders. According to the Purchase Policies and Procedures of the Company, procurement process in the Company shall start with user departments raising purchase indents to meet targeted production of cement during the ensuing year. The purchase indents shall be approved by the Chief Engineer (Instrumentation). Thereafter, tenders shall be invited and POs issued for procurement.

Audit observations on the above are discussed below.

Purchase Policy and Procedure

Time frame for procurement process

4.1.3 Procurement process included different stages like budgeting, raising of purchase indents, inviting and finalisation of tenders and issue of Purchase Orders. Clause 1.3(i) of the SPM stipulated that to reduce delays, each department should prescribe appropriate time frame for each stage of procurement; delineate the responsibility of different officials and agencies involved in the purchase process and delegate, wherever necessary, appropriate purchase power to the lower functionaries with due approval of the competent authority. Clause 6.1 of SPM also stated that purchasing authority should estimate material requirements for a year as far as can be foreseen. At the end of each financial year, each department should realistically assess its requirements of stores and equipment during the next financial year based on the consumption during the previous three

¹ All 17 POs with value above ₹5 crore, 19 POs out of 37 POs with value between ₹1 crore and ₹5 crore and 13 POs out of 50 POs with value below ₹1 crore. Out of the 49 POs, 27 POs were direct procurement from Central/State PSUs.

to five years and with reference to factors, if any, which justify an increase or decrease compared with the average.

Audit observed that:

- Against the stipulation that material requirement for the next financial year should be assessed at the end of current financial year i.e., 31 March, the Company assessed requirement for 2014-15 on 28 June 2014 (delay of 89 days), for 2015-16 on 20 May 2015 (delay of 50 days) and for 2016-17 on 04 October 2016 (delay of 187 days).
- The non-compliance of provisions of SPM also resulted in fixation of different time periods for bids' validity and avoidable delays in the procurement of material as detailed in **Paragraph 4.1.5**.

GoK replied (November 2017) that majority of suppliers/prospective bidders dealt with private sector only and that they were not inclined to the procedural practice of PSUs. The reply of GoK was not acceptable as procedures to be followed by the Company was internal to the Company and did not have any relation with the prospective suppliers.

Updation of Purchase Policies and Procedures

4.1.4 GoK directed (October 2012) all Public Sector Undertakings (PSUs) to make e-procurement mandatory for all purchases having value above ₹25 lakh with effect from 31 March 2013 to enhance transparency in public procurement. In June 2013, GoK amended the Stores Purchase Manual (SPM), making e-procurement mandatory for all purchases with value above ₹25 lakh². Further, as per the directions (October 2013) of GoK, re-tender was to be resorted to in case of single bid.

Audit observed that the Company did not make any changes in its Purchase Policies and Procedures in order to incorporate the changes on mandatory e-

² GoK (May 2015) lowered e-procurement slab from ₹25 lakh to ₹5 lakh

procurement. Audit also observed that after the amendment (June 2013) of SPM, the Company invited three³ e-tenders for transportation of fly ash. In violation of the directions of GoK, the Company, however, resorted to conventional tendering (September 2015) in one work for collection and transportation of dry fly ash from Hindustan Newsprint Limited, Velloor, Kottayam (HNL) to Cement Grinding Unit, Cherthala/ factory at Walayar even though the estimated value of the work was ₹1.15 crore. In the conventional tendering, the Company received only one offer from Jayalakshmi Enterprises and the work order was placed on the lone bidder without going for re-tender. Thus, the Company's decision to award the work to Jayalakshmi Enterprises was irregular. Approval was also not obtained from GoK for the deviation.

GoK replied (November 2017) that conventional tendering was resorted to as directed by the Board of Directors in order to get competitive rates and there was price reduction ranging from ₹141/MT to ₹40/MT for transportation of dry fly ash in the conventional tender floated. Further, this was a one-time deviation in order to elicit more response and to reduce cost. The reply was not acceptable as even the Board of directors was not empowered to permit violation of Government order. Further, as conventional tender floated by the Company also received only a single bid, the claim of the Company that the Company was benefited with reduction in price was not verifiable. Moreover, the transparency as envisaged in the Government order was not ensured.

Invitation of tenders and issue of purchase orders

Fixation of validity of tenders

4.1.5 Clause 7.33 (x) of the Stores Purchase Manual issued by GoK stipulated that the tender for procurement of material should specify a period of firmness during which bidders should keep their rate firm. The time fixed for firmness of offers should be enough to cover the normal delay expected in placing supply orders

³ Tender Nos. 684/2013 dated 13 August 2013, 695/2014 dated 24 April 2014 and 696/2014 dated 24 April 2014.

after going through all the formalities. Further, as per Clause 9.58 of the SPM, the entire process of scrutiny and evaluation of tenders, preparation of ranking statement and notification of award must be done within the original tender validity period. The validity period should not be unreasonably long as keeping the tender unconditionally valid for acceptance for longer period entails the risk of the tenderers demanding higher prices. As per Clause 9.58 of SPM, generally, the validity period should not be more than three months from the date of tender opening.

Audit observed that:

- The Company did not follow the provisions of SPM regarding validity period for tenders. Out of 21 tenders selected for scrutiny, the Company insisted for longer tender validity period of four months in respect of seven tenders⁴. As such, the Company did not ensure the period of firmness envisaged by the SPM.
- Out of 21 tenders test checked, in one⁵ tender (March 2016) for procurement of 40,000 MT of imported coal, the Company did not issue PO within the offer validity period of 60 days from the date of opening of the tender. The rate of ₹6,344 per MT quoted by Mohit Minerals Private Limited, the lowest bidder, was firm and valid upto 2 July 2016. The Company issued Letter of Intent (LoI) only on 20 July 2016, after expiry of validity of offer. Accepting the LoI, the supplier demanded modifications like change of port of unloading, splitting of bill of lading instead of single bill of lading insisted by the Company, etc. Accepting these conditions, Managing Director of the Company directed (05 September 2016) to issue POs to Mohit Minerals Private Limited. But, the direction was not complied with by Company officials.

4 Tender Nos. 692 dated 07 February 2014, 707 dated 30 July 2014, 718 dated 13 October 2014, 725 dated 13 December 2014, 737 dated 12 September 2015, 740 dated 26 November 2015 and 744 dated 11 January 2016.

5 Tender No.750 dated 04 March 2016

The Company cancelled (October 2016) the above tender and procured 7,459 MT of imported coal (3,773 MT in November 2016 and 3,686 MT in January 2017) from the State Trading Corporation of India Limited (STC) without inviting tenders, at the rate of ₹8,689 per MT, in order to meet the emergency requirements. Thus, the Company incurred an extra expenditure of ₹1.75 crore on procurement of 7,459 MT imported coal due to non-issue of PO within the validity period of the offer, which subsequently resulted in cancellation of tender.

Apart from the extra expenditure, there was non-availability of imported coal for production of cement until its emergency procurement from STC. As a result, the Company stopped production of cement at Walayar plant from 23 September 2016 to 19 November 2016. The production loss of cement was 1.33 lakh MT, with resultant loss of contribution⁶ of ₹2.16 crore. Thus, by failing to finalise the bids within the validity period as envisaged in SPM, the Company incurred a net loss of ₹3.91 crore.

The Company admitted (August 2017) the delay in issue of PO and stated that extra expenditure was due to unpredicted hike in the price of imported coal as price in the global market was in the upward trend. The reply of the Company was not acceptable as despite knowing the upward trend in price of the product, the Company did not issue PO within the validity period.

GoK replied (November 2017) that the delay was due to request for changes in terms and conditions of contract by the supplier. After acceptance of the conditions of the supplier, PO was not issued because the Managing Director of the Company was removed and consequently, there was vacuum in decision making. Further, the sudden spurt in coal prices could not be predicted. The reply of GoK was not correct as the Company already accepted the conditions of supplier and decision was also taken to issue purchase orders. Non-issue of PO

⁶ Contribution is the difference between selling price and variable cost of cement. Contribution per MT for 2016-17 was ₹1,621.32

within the validity period of offer also resulted in extra expenditure on alternate procurement and production loss.

Splitting of Purchase Orders

4.1.6 According to the directions of CVC⁷ and provisions of SPM (Clause 9.50), tendered quantity should be split among bidders other than the lowest bidder only if the lowest bidder is incapable of supplying the full quantity. Items of critical or vital nature can be sourced from more than one source if the ratio of splitting is pre-disclosed in the tender itself. CVC has also emphasised that conditions in the tender did not authorise tender accepting authority to take decisions in an arbitrary manner.

Audit observed that:

- In 4 out of 21 tenders selected for detailed scrutiny, the Company divided the tendered quantity to multiple bidders at L1 rate even though L1 bidder was ready to supply the entire quantity as shown in **Table 4.1:**

Table 4.1: Details of splitting up of tenders

Sl. No.	Tender No	Name of item	Tendered quantity	Quantity to L1 bidder	Quantity to other bidders
1	736/2015	Imported Clinker	1.20 lakh MT	0.60 lakh MT	0.60 lakh MT
2	694/2014	Imported Coal	0.40 lakh MT	0.20 lakh MT	0.15 lakh MT
3	707/2014	Unlaminated Bags	60 lakh bags	54 lakh bags	6 lakh bags
4	720/2014	Laminated Bags	60 lakh bags	45 lakh bags	15 lakh bags

(Source: Purchase orders issued by the Company)

- In the tender for supply of 0.40 lakh MT of imported coal (serial number 2 of Table 4.1), Quantum Coal Energy Private Limited, the L1 bidder did not agree (June 2014) to supply part quantity of 0.20 lakh MT citing that the price quoted by them was based on the tendered quantity of 0.40 lakh MT. The Company, subsequently purchased (August 2014) the item from other suppliers at L1 rate.

⁷ Circular No.4/3/2007 dated 03 March 2007.

- There was no recorded reason for splitting the tendered quantity.

This resulted in non-compliance to provisions of SPM and deviation from CVC guidelines and thus, transparency in the procurement process was not ensured.

GoK replied (November 2017) that the provision regarding the splitting of quantity was mentioned in the tender. The reply of GoK was not acceptable since such clause for splitting of orders can be incorporated in tenders only for critical or vital item, that too after specifying the ratio of splitting. The Company incorporated clause for splitting of tender in all the 21 tenders examined by Audit instead of limiting this to critical items. Moreover, the Company did not specify the formula to be adopted in case of splitting of tendered quantity as required under Clause 9.50 of SPM.

Collection of Earnest Money Deposit (EMD)

4.1.7 Clause 8.2 of SPM stipulated the bidders to furnish EMD at the rate of one *per cent* of the total cost of the articles tendered when the Probable Amount of Contract (PAC) is ₹1 lakh or more. However, in the Purchase Policies and Procedures of the Company, EMD was limited to three lakh rupees when the value of PAC exceeded ₹1 crore. Limiting the amount of EMD was in violation of provisions of SPM. The Company restricted collection of EMD to ₹3 lakh in all 13 tenders⁸ having PAC above ₹3 crore test checked, resulting in short collection of EMD to the extent of ₹1.67 crore.

GoK accepted the observation and replied (November 2017) that it was decided to follow the EMD conditions as per SPM without any deviation with immediate effect.

Safeguards for ensuring performance of the contract

4.1.8 SPM envisages collection of security deposit for ensuring due performance of the contract. The SPM also provides for levy of liquidated damages and

⁸ Tender No. 694 dated 21/03/2014, 696 dated 24/04/2014 707 dated 30/07/2014, 709 dated 02/08/2014, 720 dated 07/11/2014, 722 dated 19/11/2014, 723 dated 01/12/2014, 725 dated 13/12/2014, 736 dated 24/08/2015, 737 dated 12/09/2015, 750 dated 04/03/2016, 753 dated 07/11/2016 and 766 dated 30/01/2017.

invocation of risk and cost for delay and failure to supply. Noncompliance of the Company to these requirements is discussed below.

Collection of security deposit

4.1.9 In order to ensure due performance of the contracts, Clause 8.19 of SPM, specified collection of the security deposit equivalent to five *per cent* of the total value of the contract. Further, as per Clause 8.30 of SPM, the security deposit shall be forfeited in the event of breach of contract.

Audit observed that:

- In violation of SPM, Clause 16(d) of the Purchase Policies and Procedures of the Company stipulated collection of security deposit at five *per cent* of three months' order value for annual contracts. As a result, in 11 out of 21 tenders selected for scrutiny, there was short collection of security deposit to the extent of ₹2.03 crore⁹ as detailed in **Table 4.2:**

Table 4.2: Details of short collection of security deposit
(₹ in lakh)

Sl. No.	Tender No.	Name of contractor	Security deposit to be collected as per SPM (a)	Security deposit collected (b)	Short collection (a-b)
1	698 dated 29/05/2014	SK Transports	23.88	5.97	17.91
2	718 dated 13/10/2014	Velmurugan Transport	25.01	6.25	18.76
3	725 dated 13/12/2014	Uzhavan Lorry Transport	12.11	3.03	9.08
4	737 dated 12/09/2015	Uzhavan Lorry Transport	15.31	4.05	11.26

⁹ Security deposit to be collected as per SPM was ₹2.52 crore. Actual collection of security deposit was ₹0.49 crore. Hence, the short collection of ₹2.03 crore.

5	740 dated 26/11/2015	NSS Logistics (India) Pvt. Ltd.	1.55	0.39	1.16
6	744 dated 11/01/2016	Muthaiya Transport	12.34	5.00	7.34
7	691 dated 22/02/2014	Vijayalakshmi Transports	18.00	7.15	10.85
8	686 dated 18/01/2014	Raja Transports	18.66	0.00	18.66
9	759 dated 10/10/2016	Sri. Balaji Mines & Minerals	22.50	0.00	22.50
10	707 dated 30/07/2014	Sri Shanmuga Polimers (P) Ltd.	53.73	8.96	44.77
11	720 dated 07/11/2014	Brocade India Polytex Limited	48.95	8.16	40.79
Total			252.04	48.96	203.08

(Source: Details furnished by the Company)

In 3 out of the 11 above tenders, the contractors did not supply the ordered quantity of material and consequently, in two cases (serial numbers 7 and 8 of **Table 4.2**), the Company had to procure the same from alternate sources at extra expenditure of ₹1.10 crore. In the remaining one case (serial number 9 of **Table 4.2**) there was production loss of ₹7.27 crore. The Company did not collect any security deposit against two tenders (serial numbers 8 and 9 of **Table 4.2**). Due to short-collection of security deposit against the provisions of SPM, the Company did not make good the loss to the extent of ₹52.01 lakh by forfeiting the same.

The Company replied that security deposit at the rate of five *per cent* of three months' order value was fixed to obtain more offers. However, the Company realised that this was not enough to recover the penalty in case of breach of contract. Therefore, the Company started following the provisions of SPM since

April 2017. The reply that the security deposit at the rate of five *per cent* of three months' order value was fixed to get more offers was not acceptable as it was a violation of SPM.

GoK replied (November 2017) that the Company modified the security deposit clauses in line with provisions of SPM.

Levy of liquidated damages and invoking of risk and cost purchase clause

4.1.10 In case of delay in delivery of goods, Clause 10.31 of the SPM provided for levy of liquidated damages (LD) at the rate of 0.50 *per cent* to 1.00 *per cent* of the value of the delayed stores for each week of delay up to a maximum of 10 *per cent* of the contract price of the delayed stores. Once the maximum is reached, the purchaser may consider for termination of the contract at the risk and cost of the contractor.

Audit observed that the Company included different LD clauses in different tenders/POs. In case of six tenders¹⁰ for transportation, the Company fixed rate of liquidated damages at the rate of ₹10 per MT, which was too meagre compared to transportation cost which ranged from ₹622 to ₹1,940 per MT. In case of 13¹¹ tenders for supply of raw material, levy of LD for delayed delivery was specified at the rate of 0.50 *per cent* per week subject to a maximum of 5.00 *per cent* on the value of unexecuted portion of supply.

Audit also observed that the POs contained provisions to terminate the orders in case of default. But, the Company did not terminate the contract to recover extra cost of procurement from the delinquent supplier in four tenders as discussed in

Paragraph 4.1.11.

¹⁰ Tender Nos. 698 dated 29/05/2014, 718 dated 13/10/2014, 725 dated 13/12/2014, 737 dated 12/09/2015, 740 dated 26/11/2015 and 744 dated 11/01/2016.

¹¹ Tender Nos. 692 dated 07/02/2014, 694 dated 21/03/2014, 705 dated 25/07/2014, 709 dated 02/08/2014, 722 dated 19/11/2014, 733 dated 27/07/2015, 736 dated 24/08/2015, 745 dated 14/01/2016, 749 dated 01/03/2016, 750 dated 04/03/2016, 753 dated 07/11/2016, 759 dated 10/10/2016 and 766 dated 30/01/2017.

Non-termination of contract

4.1.11 Against four tenders for procurement of laterite II and III and transportation of limestone, the Company issued purchase orders to the respective L1 bidders. These parties supplied only meagre quantity within the scheduled time as shown in **Table 4.3:**

Table 4.3: Details of short supply of material

Sl. No.	Particulars	Ordered Quantity (MT)	Name of L1 bidder	Short Supplied Quantity (MT)	Impact
1	Supply of Laterite II (Tender No. MCL/02/PRT/733/2015 dated 27/07/2015)	5,000	Vikraam Enterprises	4,896.76	The Company incurred extra expenditure of ₹92.52 lakh for alternate purchase.
2	Supply of Laterite III (Tender No. MCL/BM/759/2016 dated 10/10/2016)	12,000	Sri. Balaji Mines & Minerals	11,745.92	Due to non-supply of material, the Company purchased lower grade laterite from other sources and there was production loss of cement to the extent of 54,283 MT and contribution loss to the extent of ₹7.27 crore.
3	Transportation of limestone (Tender No. MT/02/PRT/686/2013 dated 01/10/2013)	60,000	Raja Transports	59,609.00	Incurred extra expenditure of ₹41.41 lakh due to alternate procurement.
4	Transportation of limestone (Tender No. MT/02/PRT/691/2014 dated 30/01/2014)	50,000	Vijayalakshmi Transports	24,846.61	Incurred extra expenditure of ₹68.33 lakh due to alternate procurement.

(Source: Details furnished by the Company)

Audit observed that due to non-supply of material, the above contracts were required to be terminated by the Company as per provisions of SPM when maximum Liquidated Damages (10 *per cent*) leviable was reached. The Company did not terminate the contract to recover risk and cost amount of ₹2.02 crore¹² incurred in procurement from alternate sources in three cases as the necessary clause for invoking risk and cost was not included in the PO.

GoK replied (November 2017) that supply of laterite by Vikraam Enterprises and Sri. Balaji Mines & Minerals was interrupted due to closure of their mine on technical issues. Further, in the absence of suitable bidders/suppliers for laterite and anticipating reopening of their mines at the earliest, so that the Company could be benefited by the low cost of material in comparison to the present procurement rate, the contracts were not terminated. The Company did not make any payment to these parties for the material supplied. Further, in case of transportation contract, legal proceedings were on to collect all dues from these parties. The reply of GoK was not acceptable as the payment withheld by the Company was too meagre (₹11.26 lakh) compared to the extra expenditure and contribution loss incurred by the Company. Further, the suppliers did not have any contractual liability to supply to the Company in future. The only option available with the Company to mitigate loss on account of alternate purchase due to non-supply of material was termination of contract at the risk and cost, which the Company did not do.

Receipt and utilisation of material

Procurement of coal without exercising quality checks

4.1.12 As per Clause 11.1 of the SPM, before accepting the ordered stores, it must be ensured that the stores were manufactured as per the required specification and are capable of performing the functions as specified in the contract. The Company was procuring linkage coal through Fuel Supply Agreement (FSA) with the

¹² ₹92.52 lakh + ₹41.41 lakh + ₹68.33 lakh.

Singareni Collieries Company Limited (SCCL). As per FSA, SCCL will supply coal Grade 7- Crushed Run of Mine coal (G7 CRR) grade and below¹³, which has Gross Calorific Value (GCV) of 5,500 KCal per Kg or less. The price varied with the grade. As per Clause 6.2 of the FSA, coal shall be supplied on 'declared grade basis' from the respective despatch points. It was the responsibility of the Company to check and ensure the quality of coal at the despatch/loading point itself.

Audit observed that the Company did not have any mechanism to check quality of linkage coal at the despatch point. Scrutiny of chemical analysis reports of the Company revealed that during the period April 2014 to March 2017, the Company received 93,240.34 MT of coal from SCCL, out of which, only 11,712 MT was of declared grade. The Company did not check and ensure quality of linkage coal at the despatch point itself, which resulted in extra expenditure of ₹3.89 crore due to payment of higher price for lower grade coal.

GoK replied (November 2017) that the new Fuel Supply Agreement executed (April 2017) with SCCL contained provisions for third party inspection to ascertain the quality of coal loaded. The third party inspection was to be arranged by SCCL and SCCL was in the process of finalising the procedure for third party inspection.

The reply was not acceptable since, as per the existing Fuel Supply Agreement, it was the responsibility of the Company to ensure quality of coal at the despatch/loading point itself. Failure to do so resulted in avoidable extra expenditure of ₹3.89 crore.

The third party inspection envisaged in the new Fuel Supply Agreement was not yet operational. Thus, GoK needs to expedite the placement of the mechanism of third party inspections for procurement of linkage coal.

¹³ In the order of G- 7, G- 8, G- 9, etc.

Non-compliance to BIS standards

4.1.13 As per Clause 3 of the Cement (Quality Control) Order, 2003 issued (February 2003) by Government of India, cement products cannot be sold in market without the standard mark of the Bureau of Indian Standards (BIS). As BIS marking is mandatory for cement, the Company obtained BIS certification mark for its Cement Grinding Unit (CGU) at Cherthala. The approved manufacturing process for production of cement at CGU was inter-grinding of clinker, gypsum and fly ash.

The Company placed (March 2015) a PO to Cement Corporation of India Limited (CCIL) for procurement of 2,577 MT Ordinary Portland Cement (OPC). The OPC procured from CCIL was intended to be sold by the Company in its brand name. CCIL delivered the entire quantity of 2,577 MT in March 2015 and the Company stored the same at Kerala State Warehousing Corporation (KSWC) godown by incurring an expenditure of ₹46.22 lakh. Out of 2,577 MT, the Company sold 399.50 MT of OPC between June 2015 and August 2015.

As there was lack of demand and the storage period exceeded more than three months, the Company utilised 2,138 MT of OPC for re-processing into Pozzalana Portland Cement (PPC) during October 2015 to June 2016 along with imported clinker for inter grinding with other raw material. Audit observed that this process was not an approved manufacturing process. Based on the inspections carried out by BIS authorities from 23 to 25 May 2016, it was ordered to stop marking of BIS standard from 10 June 2016 citing that the production process at CGU was not as per the manufacturing process approved by BIS and sealed one silo¹⁴ containing 527.15 MT of PPC and 49.40 MT of OPC. The Company later utilised these PPC and OPC cement for internal construction work.

The Company stopped production from 11 June 2016 as per directions of BIS authorities and restarted production on 28 July 2016. The failure on the part of the

¹⁴ A silo is a structure for storing bulk materials like clinker, cement, etc.

Company to get approval from the BIS authorities for the use of OPC, which was a deviation from the approved manufacturing process, was not justifiable. Stoppage of factory operations for 45 days resulted in production loss of 27,000 MT of cement at the rate of 600 MT per day. The contribution loss due to stoppage of production worked out to ₹0.64 crore¹⁵.

The Company replied that it did not intend to change the approved manufacturing process as per BIS standard. The use of OPC instead of clinker was less than five *per cent* and cement conformed to all requirements of BIS standards.

GoK replied (November 2017) that inter-grinding of OPC purchased from CCIL was resorted to as a one-time measure to mitigate likely losses to Company. Stoppage of production occurred due to minor procedural variation arising out of contingency. The reply of Company/GoK was not acceptable as there was a deviation from approved production process, which resulted in stoppage of production. Prior approval should have been obtained from BIS for the deviation from approved production process. Failure of the Company to do the same led to forced stoppage of production and the resultant contribution loss.

Conclusion

The Company did not align its purchase policies and procedures in tune with revised Stores Purchase Manual (SPM)/Government Orders and fix any time frame for procurement process. The Company did not comply with SPM provisions relating to e-tender, fixation of validity of tender, splitting of purchase orders, collection of EMD and liquidated damages and inclusion of risk and cost clause in the POs issued. Procurement of coal without exercising quality checks resulted in extra expenditure and non-compliance to BIS Standards in production resulted in production loss.

¹⁵ Considering the contribution of ₹235.74 per MT achieved during 2016-17.

It is recommended that GoK may also review the provisions of SPM, given the instances of non-compliance to the provisions of SPM, as brought out in paragraphs 4.1.5, 4.1.6, 4.1.7, 4.1.9 and 4.1.10, if required.

[The Audit paragraph 4.1.1 to 4.1.13 contained in the C&AG report on Public Sector Undertakings for the year ended 31st March 2017]

The notes furnished by the Government on the audit paragraph are given in Appendix II

Discussion and findings of the Committee

Para 4.1.3- Time frame for procurement process

As per SPM of Government of Kerala the raw materials for next financial year should be assessed at the end of the current financial year and purchases have to be started with proper planning by PSUs. But Audit observed that the purchases of raw materials from 2014-15 to 2016-17 in Malabar Cements Ltd delayed from 50-187 days. The Committee enquired whether the requirement of raw materials for the next financial year was assessed at the end of current financial year itself for the years 2017-18 to 2022-23. The Managing Director, Malabar Cements replied that from the financial year 2017-18 onwards, the raw materials are being procured as per the Stores Purchase Manual (Revised Edition, 2013) of the State Government and the errors pointed out during the audit had been rectified by incorporating new provisions in the tenders. He added that the requirement of material for the next financial year from 2017-18 had been assessed at the end of the preceding financial year itself.

Noting the audit observation that the procedures were not properly followed in the procurement of raw materials during the period from 2014-15 to 2016-17, the Committee inquired the reason for non-implementation of SPM Rules till 2016-17. The Managing Director informed that the Company procured raw materials as per the Board approved Purchase Policies and Procedures 2010 till the period 2016-17 and admitted that there was a delay in adopting the Stores Purchase Manual till 2017.

To a query of the Committee, the Managing Director replied that the raw materials were procured as per the requirement of the Company and the delay of 187 days did not affect the production or marketing of the Company in any way. He added that the production was maximum during that period.

Conclusions/Recommendations of the Committee

1. The Committee vehemently criticizes the Company for not following the procedures for the procurement of raw materials till 2017 which ended up in avoidable delays. So the Committee recommends that the Company should submit its requirement of stores and equipments after thorough assessment for the next financial year at the end of preceding financial year itself and it should be in accordance with SPM.

Para 4.1.4- Updation of Purchase Policies and Procedures.

As per the SPM 2013 purchases above ₹25 lakh should be routed through e-tender. But Audit observed that conventional tender was carried out for transportation of raw materials at a cost of ₹1.15 crore. The Committee enquired about the audit observation that tenders were called in conventional manner without conducting e-procurement as per Stores Purchase Manual, 2013 and the Company received only a single bid from Jayalakshmi Enterprises and awarded the work to them without re-tendering. The Managing Director replied that no one participated in the first two times when e-tenders were invited and at the third time an offer was received only from Jayalakshmi Enterprises and the work order was given to that Company with the approval of the Board and due to this the Walayar and Cherthala units got a reduction ranging from ₹40 to ₹141 per metric ton respectively.

To a query of the Committee regarding the violation of the direction of GoK, the MD replied that Company had not obtained permission from the State Government to change the tender procedure from e-tender to conventional one. The Principal Secretary clarified that since there was a Government order to implement the Stores Purchase

Manual, the change in the procedure can be altered only after obtaining prior permission from the Government and admitted that there were flaws on the part of the Company in this aspect. The witness also added that the amount quoted during conventional tender was much lower than that received during e-tender and hence there was no loss.

The Committee strongly criticized the Company's decision to change the tendering procedures in violation of the Government order and opined that it cannot be accepted. Then the Committee insisted that whenever there is a Government order stipulating conditions, the Company had to adhere to the guidelines strictly.

Conclusion/Recommendation of the Committee

2. The Committee strongly criticizes the Company's decision to change the tendering procedures in violation of the Government order and insists that whenever there is a Government order stipulating conditions, the Company has to adhere to the guidelines strictly.

Para 4.1.5- Fixation of validity of tenders

On the audit observation that the Company did not follow the provision of SPM regarding validity period for tenders and the Company did not issue purchase order within the offer validity period of 60 days from the date of opening the tender, the Senior Audit Officer added that the Walayar Cement plant had stopped production from 23.9.2016 to 19.11.2016 due to the delay.

The Managing Director replied that since the removal of the then Managing Director from the company due to some vigilance cases on 05.09.2016, the purchase order was not given to the L1 bidder. After receiving the Letter of Intent, the supplier demanded modifications and this matter was not related to the adoption of the Stores Purchase Manual. He added that the Board of Directors had decided to suspend the two responsible officers from service on the charge that they did not comply with the MD's order to issue Purchase Order on time and to conduct a Departmental enquiry. The

Committee directed to furnish a detailed report about the action taken against the responsible officials.

Conclusion/Recommendation of the Committee

3. The Committee observes that the Board of Directors had decided to suspend the two responsible officials from service on the charge that they did not comply with the order of the Managing Director to issue Purchase Order on time and also decided to conduct a Departmental enquiry. So the Committee recommends to furnish a detailed report regarding the actions taken against the responsible officials.

Para 4.1.6-Splitting of Purchase Orders

According to the directions of CVC and provisions of SPM, tendered quantity may be split among bidders other than the lowest bidder only if the lowest bidder is incapable of supplying the full quantity. The Committee sought clarification regarding the audit observation that the Company divided the tendered quantity to multiple bidders at L1 rate even though L1 bidder was ready to supply the entire quantity. The Managing Director replied that the Company took such a step in good faith, on the basis that relying on only one supplier would lead to the scarcity of raw materials, as the production is a continuous process, and hence procured the goods from other suppliers at the rate of L1. He added that since 2017-18 the Company adopted SPM, 2013, the purchase order is being issued to L1 bidder for supply of raw materials in full quantity and at present the orders are being split up only for very critical commodities.

The Committee observed that the action on the part of the Company of splitting orders for imported coal from other bidders led to denial of supplying of coal by L1 bidder eventhough they were ready to supply the whole quantity. The Committee viewed that various suppliers quote lower rate on the assumption of supplying large quantity and if the order was split up they will tend to delay the

supply among them it will be detrimental to the interest of the L1 bidder who was ready to supply the item at the lowest rate and the L1 concept become in jeopardy.

Conclusion/Recommendation of the Committee

4. The Committee recommends that suitable conditions for ensuring timely supply of materials from the successful bidder should be included in the tender conditions with the periodic supply of materials within a time frame with risk and cost conditions. The Committee also insists that while entering purchase agreement with the successful bidder, conditions ensuring timely supply of the materials at the risk and cost of the bidder should also be included and if the bidder was unable to supply materials at the outset, an undertaking from them should be collected and forwarded to the Purchase Committee before splitting the order among other lowest bidder/ bidders.

Para 4.1.7- Collection of Earnest Money Deposit (EMD)

The Committee sought explanation regarding the audit observation that the Company had limited the EMD to ₹3 lakh when the Probable Amount of Contract (PAC) exceeded ₹1 crore resulting in short collection of EMD to the extent of ₹1.67 crore. The MD replied that the EMD was reduced with the intention of increasing the participation of bidders. He admitted that there were flaws in the procedure and that the Company has been following the SPM Rules since 2017.

The Principal Secretary, Industries Department, informed that the then Managing Director of Malabar Cements had awarded contracts only to a few suppliers at the rate quoted by them, and due to these lapses he was terminated from the Company. EMD was reduced in order to obtain more participation in tenders.

The Committee opined that the decision to reduce EMD was not correct and was a clear violation of the provisions of SPM. The Committee recommended that the Company should strictly adhere to the provisions of SPM in future.

Conclusion/Recommendation of the Committee

5. The Committee opines that the decision to reduce EMD was a clear violation of the provisions of SPM. The Committee recommends that the Company should strictly adhere to the provisions of SPM in future.

Para 4.1.8 – Safeguards for ensuring performance of the contract & Para 4.1.9 - Collection of security deposit.

The Committee sought clarification regarding the reason for short - collection of Security Deposit. The Managing Director replied that the Security Deposit was collected as per the purchase policies and procedures followed by the Company and there was a shortfall which has been compensated with the implementation of SPM in 2017. The Managing Director informed that as Kerala Clays and Ceramic Products Limited was unable to supply laterite due to local environmental issues, the Company selected Vikram Enterprises and Sri Balaji Mines and Minerals for distribution of laterite. But the said suppliers could not supply the laterite as the mine was shut down due to technical problems. Subsequently, the security deposit collected from Vikram Enterprises was forfeited as compensation and EMD was withheld as penalty from Shree Balaji Mines and Minerals as they had not remitted the security deposit.

The Committee observed that the non collection of security deposit from suppliers and collecting meagre amount of EMD was a serious issue. The Managing Director informed that no payment had been made for the raw materials purchased from Sri. Balaji Mines and Minerals. He further informed that a detailed report on the matter would be furnished before the Committee.

The Committee pointed out that due to non-collection of security deposits from the two contractors, it was not possible to recover the losses and such measures would seriously affect the functioning of Malabar Cements Limited and strongly criticized for not taking action against the erring officials. The Principal Secretary assured that a report containing the exact calculation of the loss due to collection of

meagre amount as EMD and short collection of security deposits would be submitted to the Committee.

The Committee recommended to take action against the officials responsible for the non-collection of security deposits and EMD.

Conclusion/Recommendation of the Committee

6. The Committee observes that due to non-collection of security deposits from the two contractors, it was not possible to recover the losses and such measures would seriously affect the functioning of Malabar Cements Limited. So the Committee recommends to furnish a detailed report containing the exact calculation of the loss due to collection of meagre amount as EMD and short collection of security deposits and recommends to take action against the erring officials responsible for the non-collection of security deposits and EMD.

Para 4.1.10-Levy of liquidated damages and invoking of risk and cost purchase clause &

Para 4.1.11 – Non- termination of contract

The Committee enquired the reason for not imposing fine on suppliers for delayed distribution and about the non termination of the contract. The Managing Director replied that when the tender was invited, only two suppliers had participated and the supply of laterite was interrupted due to closure of their mines on technical issues and if the contract had been cancelled the production of the company would have stopped and also the suppliers assured that the mines would be re-opened soon and would supply laterite without delay. The Managing Director added that a report containing the details of the amount collected from the suppliers would be submitted to the Committee.

The witness informed that there are currently 2 cases related to transportation contract and in one case the hearing will be held soon and in the second case the Company had won in the lower court and then the contractors have filed an appeal in the higher court.

Para 4.1.12- Procurement of coal without exercising quality checks.

The Committee enquired about the audit observation that the Company didn't have any mechanism to check quality of linkage coal at the despatch point which resulted in extra expenditure of ₹3.89 crore due to payment of higher price for lower grade coal.

The Managing Director informed that the Company was buying coal from Singareni Collieries Company Limited, Andhra Pradesh and at that time i.e. from April 2014 to March 2017, third party verification was not mandatory and coal was purchased based on the chemical analysis report of SCCL and if there is a difference in the calorific value of the coal purchased, it will be adjusted through debit/credit note. But SCCL was not ready to compensate the company if the company suffered loss due to quality deficiency.

The Committee enquired whether the company had any mechanism to check the quality of fuel at despatch point. The Managing Director replied that the company did not have any mechanism of its own but as per the new Fuel Supply Agreement, a third party inspection has been made mandatory and Indian Institute of Chemical Technology was appointed as the third party.

The Committee enquired whether any official from Malabar Cements could witness the third party inspection. The Managing Director replied that the inspection was not carried out in the presence of the company representative. He added that as per FSA, SCCL and MCL are bound to accept the report of the third party and if the company rejects the report, SCCL will not supply fuel.

The Committee observed that as per the existing Fuel Supply Agreement, it is the responsibility of the Company to ensure the quality of fuel.

Conclusion/Recommendation of the Committee

7. The Committee observes that as per the existing Fuel Supply Agreement, the Company doesn't have a mechanism to check the quality of Linkage coal at the

despatch point resulted in extra expenditure of ₹3.89 crore due to payment of higher price for lower grade coal. It was the responsibility of the Company ensuring quality of coal at the loading/ despatch point. If any expenditure incurred for that, the Company can't stay away from the responsibility. So the Committee recommends to furnish a detailed report regarding this. If the third party inspection envisaged in the new Fuel Supply Agreement is not yet operational, expedite the placement of third party inspection mechanism for the procurement of linkage coal.

Para 4.1.13- Non – compliance to BIS standards

The Committee enquired about the circumstances that led to the loss of BIS standards and stoppage of factory operations for 45 days resulting in production loss of 27,000 MT of cement at the rate of 600 MT per day and contribution loss of ₹0.64 crore. The Managing Director replied that the Company bought Ordinary Portland Cement (OPC) from Cement Corporation of India and sold some quantity, but due to fall in cement prices, the management decided to mix the remaining OPC with fly ash and sell it as Pozzalana Portland Cement(PPC). After a Public Interest Litigation was filed in the High Court against this, the BIS authorities conducted an inspection and directed to stop stamping the BIS mark. The remaining OPC was then used for internal construction works.

The Committee enquired whether the Board has the authority to change the production process and on what basis the Board had taken such a decision and whether permission had been sought from the Government. The Principal Secretary replied that it was a technical decision to avoid loss in that particular situation. He added that neither the Government nor the Board of Directors could change the prescribed manufacturing process related to BIS.

The Committee observed that there was deviation from approved production process which resulted in stoppage of production and that prior approval should have been obtained from BIS for the deviation from approved production process. So the

Committee recommended that the company should obtain approval for such deviations in future.

Conclusion/Recommendation of the Committee

8. The Committee observes that there was deviation from approved production process which resulted in stoppage of production and that prior approval should have been obtained from BIS for the deviation from approved production process. So the Committee recommends that the company should obtain prior approval for such deviations in future.

**Thiruvananthapuram,
21st March, 2025**

**E.Chandrasekharan,
Chairperson,
Committee on Public Undertakings.**

APPENDIX-I
SUMMARY OF MAIN CONCLUSIONS/RECOMMENDATIONS

Sl No.	Para No.	Department Concerned	Conclusions/Recommendations
(1)	(2)	(3)	(4)
1	1	Industries	The Committee vehemently criticizes the Company for not following the procedures for the procurement of raw materials till 2017 which ended up in avoidable delays. So the Committee recommends that the Company should submit its requirement of stores and equipments after thorough assessment for the next financial year at the end of preceding financial year itself and it should be in accordance with SPM.
2	2	Industries	The Committee strongly criticizes the Company's decision to change the tendering procedures in violation of the Government order and insists that whenever there is a Government order stipulating conditions, the Company has to adhere to the guidelines strictly.
3	3	Industries	The Committee observes that the Board of Directors had decided to suspend the two responsible officials from service on the charge that they did not comply with the order of the Managing Director to issue Purchase Order on time and also decided to conduct a Departmental enquiry. So the Committee recommends to furnish a detailed report regarding the actions taken against the responsible officials.
4	4	Industries	The Committee recommends that suitable conditions for ensuring timely supply of materials from the successful bidder should be included in the tender conditions with the periodic supply of materials within a time frame with risk

			and cost conditions. The Committee also insists that while entering purchase agreement with the successful bidder, conditions ensuring timely supply of the materials at the risk and cost of the bidder should also be included and if the bidder was unable to supply materials at the outset, an undertaking from them should be collected and forwarded to the Purchase Committee before splitting the order among other lowest bidder/ bidders.
5	5	Industries	The Committee opines that the decision to reduce EMD was a clear violation of the provisions of SPM. The Committee recommends that the Company should strictly adhere to the provisions of SPM in future.
6	6	Industries	The Committee observes that due to non-collection of security deposits from the two contractors, it was not possible to recover the losses and such measures would seriously affect the functioning of Malabar Cements Limited. So the Committee recommends to furnish a detailed report containing the exact calculation of the loss due to collection of meagre amount as EMD and short collection of security deposits and recommends to take action against the erring officials responsible for the non-collection of security deposits and EMD.
7	7	Industries	The Committee observes that as per the existing Fuel Supply Agreement, the Company doesn't have a mechanism to check the quality of Linkage coal at the despatch point resulted in extra expenditure of ₹3.89 crore due to payment of higher price for lower grade coal. It was the responsibility of the Company ensuring quality of coal at the loading/ despatch point. If any expenditure incurred

			for that, the Company can't stay away from the responsibility. So the Committee recommends to furnish a detailed report regarding this. If the third party inspection envisaged in the new Fuel Supply Agreement is not yet operational, expedite the placement of third party inspection mechanism for the procurement of linkage coal.
8	8	Industries	The Committee observes that there was deviation from approved production process which resulted in stoppage of production and that prior approval should have been obtained from BIS for the deviation from approved production process. So the Committee recommends that the company should obtain prior approval for such deviations in future.