

## **Query No. 29**

**Subject: Investment in subsidiary - held for sale and applicability of Ind AS 110, under Ind AS framework.<sup>1</sup>**

### **A. Facts of the Case**

1. A company (hereinafter referred to as ‘the Company’) is a wholly owned subsidiary of a listed public sector undertaking established by the Government of India (GoI) under the administrative control of the Ministry of Power (MoP). The Company is engaged primarily in the business of engineering consultancy services, execution of work in transmission & distribution sector, bid process coordinator for tariff based competitive bidding projects in transmission & renewable energy etc.

2. The querist has stated that the Company has been appointed by the Ministry of Power to act as Bid Process Coordinator (BPC) for carrying out bidding process for major transmission projects (inter and intra state) so allocated from time to time in the country through Tariff Based Competitive Bidding (TBCB) route by inviting bids through global tendering. The task of the Company as Bid Process Coordinator is selection of developer as Transmission Service Provider (TSP) through Tariff Based Competitive Bidding process whereas the responsibility of development of independent transmission project is of selected developer and not that of the Company.

3. The Ministry of Power, Government of India, has issued specific guidelines in this regard under section 63 of the Electricity Act, 2003. The guidelines cover the details for conduct of bid process, selection of developer, recovery of expenses incurred & recovery of professional fee, etc. In order to initiate development of each transmission project, the Company incorporates a project Special Purpose Vehicle (SPV) as its wholly owned subsidiary company and after the selection of successful bidder through Tariff Based Competitive Bidding Process notified for transmission projects, the respective project specific SPV along with all its assets and liabilities are transferred to the successful bidder. According to the querist, *as per guidelines of Ministry of Power, the projects/SPVs are to be sold within approx. 95 days from the date of notification by the Government.* (Emphasis supplied by the querist.)

4. The expected return from involvement with these SPVs are also *fixed*, as reproduced below:

- (1) BPC shall charge a professional fee @ 1% of the estimated cost of the project subject to minimum of Rs. 5 crore and a maximum of Rs. 15 crore for each project, and
- (2) All the expenditure incurred by the BPC in the process of selection of the developer in accordance with the provisions of these guidelines shall be recovered from the developer who is finally identified and assigned the task of developing that project.

5. Following steps are involved in the process of creation and selling of the SPVs:

- Project is notified by the GoI / State Government.

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<sup>1</sup> Opinion finalised by the Committee on 22.11.2024.

- The Company initiates the Request for proposal (RFP) process. The Notice Inviting Tender (NIT) is published in newspaper and website for sale of RFP document of the project.
- Creation/incorporation of SPVs and investment of Rs. 5 lacs in the respective SPVs.
- After the completion of RFP process, bid is submitted.
- Reverse auction is done to select the final bidder for the project.
- All the formalities of licensing under section 68 of the Electricity Act and other right acquisitions are complied with correspondingly.
- Approval from Ministry is taken for transfer of SPV.
- SPV is transferred to the selected bidder.
- The successful bidder pays the final price (reimbursement of expenses and professional fee) for purchase of SPV.

*Accounting practice followed by the Company in its books of account:*

6. The querist has stated that the investment made in SPVs is made as per the mandate from the Government of India (GoI) and the parent company (the Company) does not have the practical ability to direct the relevant activities of these companies (SPVs) unilaterally. Further, the Company has no rights to variable returns (the Company gets fixed return as highlighted above) from its involvement with these SPVs and has no ability to affect those returns through its power over the SPVs. The parent company (the Company) therefore, considers its investment in respective SPVs as associates despite holding 100% of their paid-up equity share capital.

7. The querist has further stated that the ultimate purpose of creation of these SPVs is to sell the same to selected bidder and then to get payment of professional fee and reimbursement of cost from the selected bidder. Accordingly, the Company has adopted Indian Accounting Standard (Ind AS) 105, 'Non-current Assets Held for Sale and Discontinued Operations' for reporting and accounting for the interest in respect of SPVs, which are to be sold in competitive bidding process.

The Company prepares consolidated accounts as well just for requirement of its ultimate holding company, R Limited which is a listed company. However, since the investment is categorised as held for sale, no such process of consolidation is being done and the figures of standalone as well as consolidated accounts are same.

8. The querist has relied on the extracts from Ind AS 105 and Ind AS 110, 'Consolidated Financial Statements' as follows:

*Ind AS 105*

**“6 An entity shall classify a non-current asset (or disposal group) as held for sale if its carrying amount will be recovered principally through a sale transaction rather than through continuing use.**

7 For this to be the case, the asset (or disposal group) *must be available for immediate sale in its present condition* subject only to terms that are usual and customary for sales of such assets (or disposal groups) *and its sale must be highly*

*probable*. Thus, an asset (or disposal group) cannot be classified as a non-current asset (or disposal group) held for sale, if the entity intends to sell it in a distant future.

8 For the sale to be highly probable, the appropriate level of *management must be committed to a plan to sell the asset* (or disposal group), and an *active programme to locate a buyer and complete the plan must have been initiated*. Further, the asset (or disposal group) must be *actively marketed for sale at a price that is reasonable in relation to its current fair value*. In addition, the sale should be expected to qualify for recognition as a completed sale within one year from the date of classification, except as permitted by paragraph 9, and actions required to complete the plan should indicate that it is unlikely that significant changes to the plan will be made or that the plan will be withdrawn. The probability of shareholders' approval (if required in the jurisdiction) should be considered as part of the assessment of whether the sale is highly probable."

"11 *When an entity acquires a non-current asset (or disposal group) exclusively with a view to its subsequent disposal, it shall classify the non-current asset (or disposal group) as held for sale at the acquisition date only if the one-year requirement in paragraph 8 is met (except as permitted by paragraph 9) and it is highly probable that any other criteria in paragraphs 7 and 8 that are not met at that date will be met within a short period following the acquisition (usually within three months).*"

**"15 An entity shall measure a non-current asset (or disposal group) classified as held for sale at the lower of its carrying amount and fair value less costs to sell."**

(Emphasis supplied by the querist.)

In line with above, the investment of SPVs or receivable from SPVs (i.e. expenditure incurred by the holding company on behalf of SPVs) is accounted for as 'Held for Sale' assets and shown separately on the face of balance sheet.

#### *Ind AS 110*

This Ind AS deals with presentation and preparation of consolidated financial statements. Paragraph 4(a) of Ind AS 110 provides certain exemptions from preparation of consolidated financial statements to the Company. The conditions mentioned therein are:

"4 ...

(a) A parent need not present consolidated financial statements if it meets all the following conditions:

(i) it is a wholly-owned subsidiary or is a partially-owned subsidiary of another entity and *all its other owners*, including those not otherwise entitled to vote, *have been informed about, and do not object to, the parent not presenting consolidated financial statements*;

- (ii) its debt or equity instruments are *not traded in a public market* (a domestic or foreign stock exchange or an over-the-counter market, including local and regional markets);
- (iii) it did not file, *nor is it in the process of filing, its financial statements with a securities commission* or other regulatory organisation for the purpose of issuing any class of instruments in a public market; and
- (iv) its *ultimate or any intermediate parent produces consolidated financial statements* that are available for public use and comply with Ind ASs, ...”

In line with para 4(a)(i), consolidated accounts have been prepared as it has been asked by the Company’s ultimate holding company, which is a listed entity.

(Emphasis supplied by the querist.)

9. The querist has cited the reasons for submission of query and for necessary clarification by the Expert Advisory Committee (EAC) as follows:

- (i) The statutory auditor of the Company has raised concern on presentation of the investment/ interest in SPVs as associates and asked to show it as subsidiary.
- (ii) The statutory auditor of the Company also says that there is no need to prepare the consolidated accounts as the investments in these SPVs are treated as held for sale and practically, no consolidation process has been done and figures for standalone as well as consolidated accounts are same. Quote has also been made from earlier Accounting Standard (AS) 27<sup>2</sup>, which says that the consolidation is not required, if the subsidiary is held with a view for disposal in near future.

## **B. Query**

10. On the basis of the above, the querist has sought the opinion of the Expert Advisory Committee on the following issues:

- (i) Whether consideration of investment/receivable from SPVs as associate is correct and is in line with the applicable Ind ASs.
- (ii) Whether there is no requirement for preparation of consolidated accounts considering investments in these SPVs are treated as held for sale and practically, no consolidation process has been done.

## **C. Points considered by the Committee**

11. The Committee notes that the basic issues raised in the query relate to classification of special purpose vehicles (SPV) as ‘associate’ or ‘subsidiary’ and whether or not the financial statements of SPVs should be considered for consolidation considering that they are held for

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<sup>2</sup> The Committee notes that there is no such requirement in the present or earlier AS 27; instead such requirement is present in Accounting Standard (AS) 21, ‘Consolidated Financial Statements’ and was also present in earlier International Accounting Standard 27, which was superseded by IFRS 10, as discussed in paragraph 14 herein.

sale. The Committee has, therefore, considered only these issues and has not examined any other issue that may arise from the Facts of the Case, such as, write off/impairment of the investments/loans in/to SPV, appropriateness of the disclosure of SPV under related party transactions as subsidiary considering the stance taken by the Company to treat SPV as associates, appropriateness of presentation of expenses which have been allocated to the SPV as a reduction from ‘Other expenses’, appropriateness of policy for recognition of expenses in case of SPVs, accounting policy of revenue recognition and accounting for receivables in respect of SPVs, presentation and disclosure as per Ind AS 105 requirements in the financial statements of the Company, accounting in the separate financial statements of the Company, etc.

The Committee has also not examined whether the Company is acting as an agent of the Ministry of Power (MoP) and whether all the activities are carried out for and on behalf of the MoP or not. Further, since the Company has not raised this issue and sufficient details for examining this aspect are not available, the Committee has presumed from the Facts of the Case that the Company is not acting as an agent of MoP. The Committee also wishes to point out that the opinion expressed hereinafter is in the context of Indian Accounting Standards, notified under the Companies (Indian Accounting Standards) Rules, 2015 as amended from time to time. Further, the opinion expressed hereinafter is purely from accounting perspective and not from the perspective of legal interpretation of various legal enactments, such as, Goods and Services Tax Act, Indian Contract Act, Companies Act, 2013, Electricity Act, 2003 or Guidelines issued thereunder, etc.

12. The Committee notes from the facts supplied and the annual report of the Company for the financial year 2023-24 that for achieving the objective of the Guidelines issued by the Ministry of Power in regard to major transmission projects (Inter & Intra State), the Company has set up various special purpose vehicles, transferred some of the SPVs to the successful bidders and liquidated/ impaired some of the SPVs basis the progress of the projects.

13. The Committee further notes the following requirements of Ind AS 110:

- “5 An investor, regardless of the nature of its involvement with an entity (the investee), shall determine whether it is a parent by assessing whether it controls the investee.**
  
- 6 An investor controls an investee when it is exposed, or has rights, to variable returns from its involvement with the investee and has the ability to affect those returns through its power over the investee.**
  
- 7 Thus, an investor controls an investee if and only if the investor has all the following:**
  - (a) power over the investee (see paragraphs 10–14);**
  - (b) exposure, or rights, to variable returns from its involvement with the investee (see paragraphs 15 and 16); and**
  - (c) the ability to use its power over the investee to affect the amount of the investor’s returns (see paragraphs 17 and 18).”**

“10 An investor has power over an investee when the investor has existing rights that give it the current ability to direct the *relevant activities*, ie the activities that significantly affect the investee’s returns.

11 Power arises from rights. Sometimes assessing power is straightforward, such as when power over an investee is obtained directly and solely from the voting rights granted by equity instruments such as shares, and can be assessed by considering the voting rights from those shareholdings. In other cases, the assessment will be more complex and require more than one factor to be considered, for example when power results from one or more contractual arrangements.”

“15 An investor is exposed, or has rights, to variable returns from its involvement with the investee when the investor’s returns from its involvement have the potential to vary as a result of the investee’s performance. The investor’s returns can be only positive, only negative or both positive and negative.”

**“Exposure, or rights, to variable returns from an investee**

B55 When assessing whether an investor has control of an investee, the investor determines whether it is exposed, or has rights, to variable returns from its involvement with the investee.

B56 Variable returns are returns that are not fixed and have the potential to vary as a result of the performance of an investee. Variable returns can be only positive, only negative or both positive and negative (see paragraph 15). An investor assesses whether returns from an investee are variable and how variable those returns are on the basis of the substance of the arrangement and regardless of the legal form of the returns. For example, an investor can hold a bond with fixed interest payments. The fixed interest payments are variable returns for the purpose of this Ind AS because they are subject to default risk and they expose the investor to the credit risk of the issuer of the bond. The amount of variability (ie how variable those returns are) depends on the credit risk of the bond. Similarly, fixed performance fees for managing an investee’s assets are variable returns because they expose the investor to the performance risk of the investee. The amount of variability depends on the investee’s ability to generate sufficient income to pay the fee.”

“27 **A parent shall determine whether it is an investment entity. An investment entity is an entity that:**

- (a) obtains funds from one or more investors for the purpose of providing those investor(s) with investment management services;**
- (b) commits to its investor(s) that its business purpose is to invest funds solely for returns from capital appreciation, investment income, or both; and**
- (c) measures and evaluates the performance of substantially all of its investments on a fair value basis.**

**Paragraphs B85A–B85M provide related application guidance.**

- 28 In assessing whether it meets the definition described in paragraph 27, an entity shall consider whether it has the following typical characteristics of an investment entity:
- (a) it has more than one investment (see paragraphs B85O–B85P);
  - (b) it has more than one investor (see paragraphs B85Q–B85S);
  - (c) it has investors that are not related parties of the entity (see paragraphs B85T–B85U); and
  - (d) it has ownership interests in the form of equity or similar interests (see paragraphs B85V–B85W).

The absence of any of these typical characteristics does not necessarily disqualify an entity from being classified as an investment entity. An investment entity that does not have all of these typical characteristics provides additional disclosure required by paragraph 9A of Ind AS 112, *Disclosure of Interests in Other Entities*.”

**“31 Except as described in paragraph 32, an investment entity shall not consolidate its subsidiaries or apply Ind AS 103 when it obtains control of another entity. Instead, an investment entity shall measure an investment in a subsidiary at fair value through profit or loss in accordance with Ind AS 109.**

32 Notwithstanding the requirement in paragraph 31, if an investment entity has a subsidiary that is not itself an investment entity and whose main purpose and activities are providing services that relate to the investment entity’s investment activities (see paragraphs B85C–B85E), it shall consolidate that subsidiary in accordance with paragraphs 19–26 of this Ind AS and apply the requirements of Ind AS 103 to the acquisition of any such subsidiary.”

14. The Committee further notes the following paragraphs of ‘Basis for Conclusions (BC)’ to International Financial Reporting Standard (IFRS) 10 ‘Consolidated Financial Statements’ (international standard corresponding to Ind AS 110), and BC to IFRS 5 (international standard corresponding to Ind AS 105), issued by the International Accounting Standards Board (IASB) which state as follows:

*BC to IFRS 10*

“BCZ19 Paragraph 13 of IAS 27 (as revised in 2000) required a subsidiary to be excluded from consolidation when control is intended to be temporary or when the subsidiary operates under severe long-term restrictions.

**Temporary control**

BCZ20 In 2003 the Board considered whether to remove this scope exclusion and thereby converge with other standard-setters that had recently eliminated a similar exclusion. It decided to consider this question as part of a comprehensive standard dealing with asset disposals. It decided to retain an

exemption from consolidating a subsidiary when there is evidence that the subsidiary is acquired with the intention of disposing of it within twelve months and that management is actively seeking a buyer. The Board's exposure draft ED 4 *Disposal of Non-current Assets and Presentation of Discontinued Operations* proposed to measure and present assets held for sale in a consistent manner irrespective of whether they are held by an investor or in a subsidiary. Therefore, ED 4 proposed to eliminate the exemption from consolidation when control is intended to be temporary and it contained a draft consequential amendment to IAS 27 to achieve this."

#### *BC to IFRS 5*

"BC53 The Board agreed that all subsidiaries should be consolidated and that all assets (and disposal groups) that meet the criteria to be classified as held for sale should be treated in the same way. The exemption from consolidation in IAS 27 *Consolidated and Separate Financial Statements* for subsidiaries acquired and held exclusively with a view to resale prevents those assets and disposal groups within such subsidiaries that meet the criteria to be classified as held for sale from being treated consistently with other assets and disposal groups. ED 4 therefore proposed that the exemption in IAS 27 should be removed.<sup>3</sup>"

From the above, the Committee notes that paragraph 5 of Ind AS 110 states that regardless of the nature of involvement, the parent is required to test whether it controls the investee entity or not. Further, Ind AS 110 does not contain any exemption from consolidation of subsidiaries that meet the criteria to be classified as 'held for sale' as per the requirements of Ind AS 105. Thus, as per the requirements of Ind AS 110, unless, the parent is an investment entity, it is required to consolidate the entities it controls.

15. In the extant case, on a perusal of the Annual Report of the Company for F.Y. 2023-24 and the MoP guidelines, the Committee notes that the special purpose vehicles (SPVs) are incorporated as wholly owned subsidiaries to carry out such activities in regard to the envisaged projects till such time these are transferred to the successful awardee/bidder of transmission project. The Committee further notes from paragraph 3.20 of Material Accounting Policies in the Annual Report of the Company for the F.Y. 2023-24 in respect of 'Recognition of expenses in case of SPVs', that if bid process activity relating to any SPVs is kept in abeyance by the concerned authority, no cost allocation of direct and indirect cost and interest levied for the amounts lent to SPV shall be made. This indicates the existence of uncertainties with regard to recovery of various costs incurred by the Company and professional fees to be charged in respect of SPV and thus, the exposure to variable return from its involvement with the SPVs. Further, the Committee notes that Note 17 of the Annual Report that provides the disclosure relating to Assets and Liabilities of the SPV disclosed as 'Held for Sale' and Note 50 relating to SPV where due to no subsequent developments, the receivables from the subsidiary are being written off as follows:

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<sup>3</sup> The consolidation requirements in IAS 27 were superseded by IFRS 10 *Consolidated Financial Statements* issued in May 2011. IFRS 10 does not contain an exception from consolidation for subsidiaries acquired and held exclusively with a view to resale.

**“17 Assets/Liabilities classified as held for sale**

(In Rs. lakh)

<b>Particulars</b>	<b>As at 31 March, 2024</b>	<b>As at 31 March, 2023</b>
Assets classified as held for sale		
(A) Investment in subsidiaries (refer note 17.1)	90.00	65.00
(B) Amount receivable from subsidiaries (refer note 17.2)	1,925.08	1,339.82
(C) Provision for impairment on assets classified as held for sale	-	(973.35)
<b>Total (A+B+C)</b>	<b>2,015.08</b>	<b>431.47</b>
<b>Liabilities directly associated with assets classified as held for sale</b>		
(D) Payable to subsidiaries (refer note 17.3)	-	1.79
<b>Total (D)</b>	<b>-</b>	<b>1.79</b>
<b>Disposal group (A+B+C-D)</b>	<b>2,015.08</b>	<b>429.68</b>

Note: Refer Note 41 for details related to related party transactions.”

**“50 Other notes**

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- II Government of ...(State) vide its letter dated 21 August, 2017 had nominated the company as Bid Process Coordinator for the development of Intra-State transmission elements of State through Tariff Based Competitive Bidding route. Further, Government of State vide its letter dated 30 September, 2020, has decided to reinstate the bidding process and kept on hold the existing process till further orders. Based on no more development on these projects since past three years, the board of directors of the company in its 109<sup>th</sup> meeting dated 20<sup>th</sup> October 2023 has approved the write off of receivables/ investment pertains to these SPVs ... These companies are now in process of strike off approval from the Ministry of Power.”

From the above, the Committee notes that the Company has written off/ impaired its investment/ receivables from the SPV, which indicate that the Company is both exposed to and has right to variable returns (even though the range of variable return is required to be in consonance with the Guidelines issued by the Ministry of Power). Paragraph B56 of Ind AS 110 (as reproduced above) also supports the view that even the fixed payments are variable returns for the purpose of Ind AS 110 because they are subject to default risk and they expose the investor to the credit risk. Also, the Committee believes that by virtue of the power through Guidelines of MoP and having 100% shareholding in the SPV, the Company shall be able to impact these returns (although to the extent as prescribed in the Guidelines). Therefore, the Committee is of the view that in the extant case, the Company *controls* the wholly owned SPVs till such time they are transferred (presuming that the Company is not acting as an agent of the MoP, as discussed in paragraph 11 above), as per the requirements of Ind AS 110. The Company is also not an ‘Investment Entity’ as defined under paragraphs 27 and 28 of Ind AS 110 and hence no exemption from consolidation as contemplated under paragraph 31 of Ind AS 110 is

available in the extant case. The question of treating the SPVs as associates, therefore, does not arise.

16. The Committee also notes the following disclosure made by the parent company of the Company in its consolidated financial statements for the financial year 2023-24:

- “17.1 Investments in associates  
Xx xx
- 17.2 Loans to associates  
Xx xx
- 17.3 Provision for impairment on assets classified as held for sale  
Xx xx
- 17.4 Liabilities directly associated with assets classified as held for sale  
Xx xx
- 17.5 Management had incorporated these entities with a view to sell them off as per the guidelines of Ministry of Power, through the bid process prescribed by Ministry of Power. There is no possibility that management will have benefits from these entities other than selling them off, hence all these investments (along with the related assets and liabilities) has been classified as ‘held for sale’.”

From the above, the Committee notes that the parent company of the Company has also not consolidated the SPV subsidiary citing the very reason which the Company had mentioned in its Annual Report and accordingly the exemption which is available to intermediate subsidiary in terms of paragraph 4 of Ind AS 110 is also not available to the Company.

Accordingly, the Committee is of the view that the investment in the SPV being classified as ‘Associate’ (though under the category of ‘assets classified as held for sale’) is not in accordance with the applicable Ind ASs. The SPVs being wholly owned subsidiaries, irrespective of the fact that they are incorporated with a view to transfer them to successful bidders, are controlled entities until such time they are transferred and hence, the same should be consolidated as per the requirements of Ind AS 110. Appropriate disclosures, however, of the fact that these SPVs are in the process of being transferred should be given and if they meet the classification as ‘held for sale’ as per Ind AS 105, the presentation and disclosure requirements of Ind AS 105 should be followed.

**D. Opinion**

17. On the basis of the above, the Committee is of the following opinion:
- (i) The investment in the SPV being classified as ‘Associate’ (though under the category of ‘Assets classified as held for sale’) is not in accordance with the applicable Ind ASs.
  - (ii) The SPVs being wholly owned subsidiaries, irrespective of the fact that they are incorporated with a view to transfer them to successful bidders, are controlled entities until such time they are transferred and hence, the same should be consolidated as per the requirements of Ind AS 110.

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