

Query No. 36

Subject: *Creation of liability in respect of and disclosure of interest income on CUF (Composition User Fee) charges collected from customers under Ind AS framework.¹*

A. Facts of the Case

1. A company (hereinafter referred to as ‘the Company’) is a Mini Ratna Public Sector Undertaking and 100% subsidiary of a government company. The Company is mainly engaged in mining, production and marketing of raw coal required for power, cement and other sectors. The Company also operates coal washeries to reduce the ash content of coal with an aim to improve its heating value so that cooking washed coal required for steel and other sectors may also be produced.

2. *CUF (Composition User Fee) Charges*

The Jharkhand Highways Fee (Determination of Rates and Collection) Amendment Rules, 2021 was notified vide gazette notification dated 26/10/2021 and Composition User Fee (CUF) was levied for use of any state roads or part thereof or commuting in mining areas. The relevant provisions are reproduced as under:

As per Rule 3A:

1) Notwithstanding anything contained in rule 3 of these rules; the State Government may, by a notification in the Official Gazette, in addition to the amount of user fee payable under these Rules; provide for a scheme for payment of composition user fee for such period, and payable by all such mechanical vehicles, which are liable to pay user fee for use of any state roads or part thereof or commuting in mining areas as the case may be, subject to such conditions and such restrictions, as may be specified and or as prescribed in this behalf.

2) The levy of such composition user fee shall be based on to and fro basis, and such user fee shall be such amount for one way, or such amount(s) as may be specified in this behalf; and such amount(s) may be revised after such intervals, as may be notified in this behalf.

3) Any such mechanical vehicle liable to pay the composition user fee under this rule contravenes any of the provisions of this rule for the payment of the specified composition user fee, shall be liable to pay penalty, thrice the amount of such composition user fee payable.

4) The composition user fee may be based on the “to and fro” basis. Such user fee shall be Rs. 600/- for each way. For this purpose, the base year shall be the year 2021. Provided such user fee rate may be revised yearly at the rate not exceeding 10% per year, on every first of April, each year.

Further, as per new sub-rule (8) in Rule 6

¹ Opinion finalised by the Committee on 28.1.2025.

(8) In addition to the user fee collection through toll plaza(s), the state government may by *notification*, implement the payment of such user fee or the composition user fee (CUF), on-line / off-line, from such mechanical vehicles or from such other commercial vehicles for the use of state roads and or for transporting the minerals and or other commercial goods, and the payment of such user fee or the composition user fee shall be mandatory for the issuance of e-challan/challan, by the authority authorised for issuance of such challan for transportation of such goods.

As per the above notification, the liability for payment of CUF has been casted on the commercial vehicle owners / *transporters* using state roads, bridges including interchanges, flyovers, ROB/RUB, bypasses and tunnels in the mining area.

(Emphasis supplied by the querist.)

3. *Procedure adopted by the Company and its accounting treatment*

There are three modes of sale of coal in the Company i.e. auction sales, RCR (i.e. road cum rail) and railway mode.

- (a) In auction sale, the coal from heap is being transported by the customers by deploying their own means. Accordingly, there is no obligation of the Company for payment of CUF charges neither towards state government nor towards transporters.
- (b) In RCR mode, the coal from heap is being transported by the customers by deploying their own means. Accordingly, there is no obligation of the Company for payment of CUF charges neither towards state government nor towards transporters.
- (c) In third case, i.e. rail sale mode, the Company is transporting the coal from heap / mines to railway siding by hiring vehicles through transporters for the said purpose and as per the terms of transport contract, the Company is liable to honour all duties, taxes, levies etc. payable by the transporter / contractor and applicable on the last date of submission of bid or levied after submission of bid documents on production of documentary evidence.

Other important events in the said matter

4. The Director Mines, Jharkhand after the notification of Jharkhand Highways Fee (Determination of Rates and Collection) Amendment Rules, 2021 vide its letter dated 28/12/2021 has mandated the generation of challan through on-line portal of the States and further it has been notified that the transporter / vehicle owner will use their login id and pin for the generation of the challan and payment of the CUF.

5. The querist has stated that post the letter dated 28/12/2021 issued by Director Mines, there was hindrance in the coal movement for rail mode sales due to strict compliances for the collection of CUF from transporter and the same impacted business revenue adversely. Hence, the Company's management agreed to pay an adhoc payment of ₹ 35 crore on behalf of transporter and revisited the pricing of the coal. Accordingly, the Company has started collecting ₹ 60 per tonne from rail mode consumer towards the CUF charges as there was contractual obligation towards the transport contractors engaged by the Company.

6. The Company notified the price of coal on run of mine basis; and other expenditure incurred by the Company after mining operation is further being collected from consumers on estimation basis. This includes evacuation charges (i.e. infrastructure built by the Company for evacuation of coal from mines), surface transporter charges (i.e. transportation of coal from stock to railway siding in case of rail sale mode) etc. Accordingly, apart from surface transporter charges, the Company has also started the collection of composition user fee from consumer being contractual obligation towards the awarded contract. All such collections, i.e. evacuation charges, surface transport charges and collection towards composition user fee from consumers are recognised as revenue from operations.

7. Against the above amendment Rules 2021 and letter of Director Mines, numerous writ petitions were filed by the transporters engaged in coal, iron and stone mining challenging the said levy before Hon'ble High Court of Jharkhand. All such petitions were clubbed for hearing being similar issues involved. The petitioners alleged that without any specific notification in the said matter, the letter issued by Director, Mines is contrary to the provision of Rules notified. Further, the mechanism of whole levy and collection is contrary, being arbitrary and violation of Articles 14 and 19 (1) (g) of the Constitution.

8. In the ROP (Record of Proceedings) dated 30/03/2022, the learned AG of State of Jharkhand informed the Hon'ble High Court that issues raised in the said matter are being examined by the concerned authorities and hence, no coercive action will be taken against the petitioners for realisation of Composition User Fee.

9. Keeping in view the said ROP, the Government is not forcing the generation of CUF challan mandatorily and thereafter, all the commercial vehicles used in auction sales / RCR mode are not being forced by State Authorities for the payment of CUF till date. The said case matter is still under sub-judice before High Court. However, the Company continues to collect the CUF @ Rs. 60 per tonne as contractual obligation towards transporters and the same is being shown as liability in the financial statements.

10. In the financial statements of the Company, the following disclosure note has been given in the matter of CUF as additional disclosure note 3.5:

The Jharkhand Highways Fee (Determination of Rates and Collection) Amendment Rules, 2021 notified vide gazette notification dated 26/10/2021 that the State may provide for a scheme for payment of composition user fee payable by all such mechanical vehicles, for use of any state roads or part there of or commuting in mining areas as the case may be. The composition user fee may be based on the "to and fro" basis. Such user fee shall be Rs. 600/- for each way. Till date no such scheme has been notified in the gazette. However, Director Mines vide its letter No. 2089 dated 28.12.2021 has communicated payment of CUF through JIMS Portal.

The prime responsibility towards the payment of said CUF is on the transporter. Sale in the Company is being effected through auction, RCR, Rail and Road mode. In Rail mode, coal is being transported to railway siding through hired vehicles and as per the applicable contract, the CUF being the tax will be reimbursed on its claim. The matter of levy of CUF is sub-judicial before High Court on account of petition filed by transporters and further there is no claim for the same from any transporter. The Company is collecting the same from customers and the same is being shown as Other

Financial Liability (Current). The total amount collected till 31.03.2024 is Rs. 765.37 crore (upto 31.03.2023 - Rs. 441.45 crore).

Matter of Dispute

11. During supplementary annual accounts audit for the financial year (F.Y.) 2023-24, the Comptroller and Auditor General of India (C&AG) audit raised the following observations:

Provisional Comments

The Government of Jharkhand notified (26.10.2021) levy of Composition User Fee (CUF) payable for use of any state roads or part thereof or commuting in mining areas as the case may be. Thus, the Company is collecting the CUF from customers and the same is being shown as Other Financial Liability (Current). The matter of levy of CUF is sub-judice before the Honourable High Court of Jharkhand on account of petition filed by transporters.

The amount of CUF so collected is placed with the surplus sales realisation amount which is available for investment with the Company and is earning interest on such accumulated amount. The Company has not created liability against the interest so earned on the CUF amount collected from consumers.

This has resulted in understatement of Other Non-Current Liabilities by ₹ 78.14 crore with corresponding overstatement of Profit by the same amount.

Final Comments - Comments on Disclosure:

Additional note to the Standalone Financial Statements (Note -16)

Ind AS 1, Paragraph 118² stipulates that it is important for an entity to inform/disclose the measurement basis or bases used in the financial statements because the basis on which an entity prepares the financial statements significantly affects users' analysis.

The Government of Jharkhand notified (26.10.2021) levy of Composition User Fee (CUF) payable for use of any state roads or part thereof or commuting in mining areas as the case may be. Thus, the Company is collecting the CUF from customers and the same is being shown as Other Financial Liability (Current) amounting to Rs. 765.37 crore (as on 31st March 2024). The matter of levy of CUF is sub-judice before the Honourable High Court of Jharkhand on account of petition filed by transporters. The amount of CUF collected is parked in bank accounts of the Company and is earning interest on such accumulated amount. The Company has not created liability against the interest so earned till March 2024 on the above CUF amounting to Rs. 78.14 crore and is treating the same as its own income. The fact has not been disclosed which is in deviation of the provisions of Ind AS 1.

Thus, the Note No. 3.5 of Additional note to the Standalone Financial Statements (Note No. 16) is deficient to the above extent.

² Paragraph 118 of Ind AS 1 was not notified under the Companies (Indian Accounting Standards) Rules, 2015.

12. Against the observation raised by C&AG, the management submitted the following reply:

There is no legal liability on the Company to pay CUF Charges as the Company on its own is nowhere using state roads, bridges including interchanges, flyovers, ROB/RUB, bypasses and tunnels in the mining area. However, in the matter of transport contract awarded by the Company, the toll taxes, parking charges and other such nature of expenditure etc., is a matter of contractual liability. With an aim to protect the business interest, the same is being collected from consumers to honour the claim from transport contractors, if any received in the said matter. All such contractual liability of business (i.e. machine, manpower and other expenses) is collected through the fixation of price.

Under the price determination methodology, all applicable charges of production and sales (i.e. material, labour and other overheads etc.) including the tax implication whether arising on account of the direct tax law or indirect tax law is billed / charged to customer as a part of price of the product. Any amount collected as a part of the price is not required to be deposited in the separate bank account. It is purely a business decision to invest surplus realisation including how and when.

Further, it may also be noted that there is no taxation liability in the present matter. There is no taxation or legal requirement to park the said collection separately. The Company's liability is limited to contractual obligation to the reimbursement of CUF charges claimed by its transporter contractors as per the contract awarded. Being a matter of larger quantity of coal off-take resulting in revenue realisation, transporters remain crucial stake holders from the perspective of the Company's business environment.

At the last, it is worth to submit that the audit observation for creating a liability equal to interest earned on such collection is not supported by any statute/law/any contractual obligation, hence, remains a matter of preciseness with the different point of view, which is not supported by any statute/law/any contractual obligation.

13. But, reply submitted by the management was not accepted by C&AG and C&AG audit team has concluded the final comments by pointing out the deficiency on the disclosure requirement (as produced hereinabove). In the said matter, during the C&AG audit team discussion, a conclusion was arrived to refer the matter to Expert Advisory Committee (EAC) of the Institute of Chartered Accountants of India (ICAI) for their opinion.

14. The querist has also separately informed the following:

- As per agreement with transporters, there is no contractual obligation that any interest is to be paid for the period for which the CUF is not reimbursed/paid to the transporter.
- Sale price of coal to the customers is determined on the basis of ROM coal price (i.e. price of cost of production at mine) and further, all other expected expenditure till the point of despatch, such as, surface transportation cost, evacuation charge etc. are recovered as a part of sale price from the customer. The sales invoice presently contains separate line item w.r.t. all such recoveries. If there is no such obligation / charge on the Company, then the said element is not charged to a particular customer.

- Further, in the case of any decision of Hon'ble High Court, Jharkhand to not levy any CUF, the same is required to be refunded back to the customer. However, there should not be any interest liability in the absence of contractual obligation. Moreover, such refund would only be due, if there is no outstanding balance from a respective consumer.

B. Query

15. On the basis of above facts and considering the provisions of gazette notification along with contract agreements entered into by the Company, the opinion of Expert Advisory Committee of the Institute of Chartered Accountants of India is sought as to whether the Company is required to make disclosure of non-parking the funds collected on account of CUF, computation of notional interest on the basis of average rate of return earned and not creating a liability against interest so earned in spite of the fact that there is no legal / contractual liability with consumers to park the said fund separately and create the obligation for the interest earned on the said collection.

C. Points Considered by the Committee

16. The Committee notes that the basic issue raised by the querist relates to whether any liability needs to be created for interest earned on CUF charges collected by the Company from customers and disclosure (if any) required in respect thereof. The Committee has therefore, considered only this issue and has not examined any other issue that may arise from the Facts of the Case, such as, accounting treatment of CUF charges incurred, accounting for sales made through auction sale mode, RCR mode and rail sale mode, appropriateness of collections i.e. evacuation charges, surface transport charges and collection towards composition user fee from consumers as revenue from operations, accounting for tax implications (including direct tax and indirect tax), accounting for adhoc payment made on behalf of transporter, accounting for CUF charges (including any interest) to be paid to transporter and any liability in respect thereof, recognition of revenue from customers including on account of collection of CUF charges, accounting for liability recognised against CUF charges collected from customers, presentation requirements as per Schedule III to the Companies Act, 2013, whether in future, there could arise a legal obligation or liability on the Company to make payment of interest earned on CUF charges, any change in the current position due to High Court judgement, etc. Further, the opinion hereinafter is purely from accounting perspective and not from legal perspective, such as, legal interpretation of the Jharkhand Highways Fee (Determination of Rates and Collection) Amendment Rules, 2021, Letter of Director of Mines, Writ Petitions filed, Order of Hon'ble High Court of Jharkhand, Gazette Notifications (if any) in relation thereto and contract/agreement with the transporter and customers, etc. Further, the Accounting Standards referred hereinafter are Indian Accounting Standards, notified under the Companies (Indian Accounting Standards) Rules, 2015, as amended/revised from time to time.

17. The Committee notes from the Facts of the Case that under rail sale mode, the Company transports the coal from heap / mines to railway siding by hiring vehicles through transporters for the said purpose and as per terms of transport contract, the Company is liable to honour all duties, taxes, levies etc. (including CUF levied under the Jharkhand Highways Fee Amendment Rules and letter of Director of Mines) payable by the transporter/contractor. Therefore, the

Company is collecting the CUF @ Rs. 60 per tonne from the customers as the same is contractual obligation towards transporters. However, the matter of levy of CUF is sub-judice before the Honorable High Court of Jharkhand on account of petition filed by transporters. Hence, as of now, the transporters are not being forced to pay CUF to the State authorities and the same is also not being charged by the transporter from the Company. Further, the Company continues to charge the same from the customers and the same is being shown as liability in the financial statements. The Company has parked the amount of CUF so collected in the bank account and is earning interest on the same. The issue that has been raised by the C&AG audit is that the Company should have created a liability against the interest so earned from the customers and the same has not been disclosed in the financial statements citing the disclosure requirements of measurement bases as per Ind AS 1, 'Presentation of Financial Statements'.

At the outset, the Committee wishes to point out in the context of paragraph 118 of Ind AS 1 as referred by the C&AG and the querist in the Facts of the Case that the said paragraph did not exist in Ind AS 1, notified under the Companies (Indian Accounting Standards) Rules, 2015 and hence, the same is not applicable in the extant case. Further, the Committee wishes to clarify that the measurement bases as per the requirements of Ind AS are in regard to the basis of measurements used for various types of assets and liabilities, such as cost or revaluation model, net realisable value, recoverable amount, fair value, etc. and not in the context of whether an item, such as, interest in the extant case should be included in the measurement of liability in the financial statements or not. Whether or not an item should be a part of liability or not depends on whether or not that item meets the definition and recognition criteria of liability as per the requirements of Ind AS.

18. With regard to accounting for interest earned on CUF charges collected by the Company from the customers as liability, the Committee notes the following requirements of Ind AS 115, 'Revenue from Contracts with Customers' as follows:

“Objective

- 1 The objective of this Standard is to establish the principles that an entity shall apply to report useful information to users of financial statements about the nature, amount, timing and uncertainty of *revenue* and cash flows arising from a *contract with a customer*.”**

“Determining the transaction price

- 47 An entity shall consider the terms of the contract and its customary business practices to determine the transaction price. The transaction price is the amount of consideration to which an entity expects to be entitled in exchange for transferring promised goods or services to a customer, excluding amounts collected on behalf of third parties (for example, some sales taxes). The consideration promised in a contract with a customer may include fixed amounts, variable amounts, or both.”**

The Committee notes from the above that Ind AS 115 deals with the revenue and cash flows arising from a contract with a customer. In this regard, the Committee notes from the Facts of the Case that the interest in the extant case is not being received or collected from the customers. Such interest is being received by the Company from the investment out of receipts on account of CUF for the time being till such funds are utilised (for example for refunding to the customers

in case the outcome of the litigation is that the CUF is not to be levied by the State or paying to the transporter if the outcome of the litigation is otherwise). Further, the CUF is collected by the Company as a reimbursement of the CUF, which is in the nature of taxes levied on transportation of goods received by the customer and therefore cannot be considered as transaction price or consideration from customers in exchange of goods and services. The contract with the customer seems to be silent about payment of interest (if any) on CUF collected from the customer. Therefore, the Committee is of the view that payment of interest (if any) is not arising out of contract with the customer and, therefore, Ind AS 115 is not applicable in the extant case.

19. Further, the Committee also notes the following requirements of Ind AS 32, 'Financial Instruments: Presentation':

“A *financial liability* is any liability that is:

(a) a contractual obligation:

(i) to deliver cash or another financial asset to another entity; or

(ii) to exchange financial assets or financial liabilities with another entity under conditions that are potentially unfavourable to the entity; or

...”

From the above, the Committee notes that in the extant case, since the contract with customers appears to be silent about payment of interest, there is no contractual obligation to pay the interest earned on CUF collected. Hence, Ind AS 32 is also not applicable in the extant case.

Accordingly, with regard to recognition of any non-financial liability in this regard, the Committee notes the following requirements of Ind AS 37, 'Provisions, Contingent Liabilities and Contingent Assets':

“A *provision* is a liability of uncertain timing or amount.

A *liability* is a present obligation of the entity arising from past events, the settlement of which is expected to result in an outflow from the entity of resources embodying economic benefits.

An *obligating event* is an event that creates a legal or constructive obligation that results in an entity having no realistic alternative to settling that obligation.

A *legal obligation* is an obligation that derives from:

(a) a contract (through its explicit or implicit terms);

(b) legislation; or

(c) other operation of law.

A *contingent liability* is:

- (a) a possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or
- (b) a present obligation that arises from past events but is not recognised because:
 - (i) it is not probable that an outflow of resources embodying economic benefits will be required to settle the obligation; or
 - (ii) the amount of the obligation cannot be measured with sufficient reliability.”

“14 A *provision* shall be recognised when:

- (a) an entity has a present obligation (legal or constructive) as a result of a past event;
- (b) it is probable that an outflow of resources embodying economic benefits will be required to settle the obligation; and
- (c) a reliable estimate can be made of the amount of the obligation.

If these conditions are not met, no provision shall be recognised.

Present obligation

15 In rare cases, it is not clear whether there is a present obligation. In these cases, a past event is deemed to give rise to a present obligation if, taking account of all available evidence, it is more likely than not that a present obligation exists at the end of the reporting period.”

“Past event

17 A past event that leads to a present obligation is called an obligating event. For an event to be an obligating event, it is necessary that the entity has no realistic alternative to settling the obligation created by the event. This is the case only:

- (a) where the settlement of the obligation can be enforced by law; or
- (b) in the case of a constructive obligation, where the event (which may be an action of the entity) creates valid expectations in other parties that the entity will discharge the obligation.

18 Financial statements deal with the financial position of an entity at the end of its reporting period and not its possible position in the future. Therefore, no provision is recognised for costs that need to be incurred to operate in the future. The only liabilities recognised in an entity’s balance sheet are those that exist at the end of the reporting period.

- 19 It is only those obligations arising from past events existing independently of an entity's future actions (ie the future conduct of its business) that are recognised as provisions. ...”
- “23 For a liability to qualify for recognition there must be not only a present obligation but also the probability of an outflow of resources embodying economic benefits to settle that obligation. For the purpose of this Standard, an outflow of resources or other event is regarded as probable if the event is more likely than not to occur, ie the probability that the event will occur is greater than the probability that it will not. Where it is not probable that a present obligation exists, an entity discloses a contingent liability, unless the possibility of an outflow of resources embodying economic benefits is remote (see paragraph 86).”

The Committee notes from the above that liability is a present obligation of the entity arising from past events, the settlement of which is expected to result in an outflow from the entity of resources embodying economic benefits. Further, a provision is a liability of uncertain timing or amount. A provision is recognised when an entity has a present obligation (legal or constructive), for which it is probable that an outflow of resources will be required and a reliable estimate can be made for the same. The Committee notes that paragraph 18 of Ind AS 37 states that “no provision is recognised for costs that need to be incurred to operate in the future” and paragraph 19 of Ind AS 37 states that “it is only those obligations arising from past events existing independently of an entity's future actions (ie the future conduct of its business) that are recognised as provisions”.

In the extant case, with regard to interest on accumulated CUF amount (i.e. amount collected towards CUF from the customers by the Company), the Committee notes that it has been mentioned in the facts supplied that creating a liability equal to interest earned is not warranted under any statute/law/any contractual obligation. Moreover, the facts supplied do not suggest that the customers are seeking any compensation for interest on CUF collected and no past practice or actions of the Company appear to create a valid expectation amongst the customers for such payment of interest. Thus, neither any present obligation (legal or constructive) appears to exist nor there is any probability of outflow of resources embodying economic benefits in the extant case as of now. Accordingly, the Committee is of the view that at present, the Company should not create any provision/liability for the interest amount earned on the CUF charges collected from the customers.

20. The Committee also notes the following paragraphs of Indian Accounting Standard (Ind AS) 1, ‘Presentation of Financial Statements’:

- “31 Some Ind ASs specify information that is required to be included in the financial statements, which include the notes. An entity need not provide a specific disclosure required by an Ind AS if the information resulting from that disclosure is not material except when required by law. This is the case even if the Ind AS contains a list of specific requirements or describes them as minimum requirements. An entity shall also consider whether to provide additional disclosures when compliance with the specific requirements in Ind AS is insufficient to enable users of financial statements to understand the impact of particular transactions, other events and conditions on the entity's financial position and financial performance.”

“112 The notes shall:

...

- (c) provide information that is not presented elsewhere in the financial statements, but is relevant to an understanding of any of them.”**

From the above, the Committee is of the view that the information with regard to any future obligation that may arise in respect of interest earned may be provided by the Company as additional disclosures in the notes to financial statements so as to enable users of financial statements to understand its impact on the entity’s financial position and financial performance.

D. Opinion

21. On basis of the above, the Committee is of the opinion that at present, neither any present obligation (legal or constructive) appears to exist nor there is any probability of outflow of resources embodying economic benefits in the extant case; and accordingly, the Company should not create any provision/liability in its financial statements for the interest amount earned on the CUF charges collected from the customers, as discussed in paragraphs 18 and 19 above. However, the information with regard to any future obligation that may arise in respect of interest earned may be provided by the Company as additional disclosures in the notes to financial statements so as to enable users of financial statements to understand its impact on the entity’s financial position and financial performance, as discussed in paragraph 20 above.
