

Date of Reply: 03 /04/2018

Matter under Rule-62 raised by Sh.Rakesh Singha, Hon'ble MLA regarding Rs.3,000/- Crore Tax Scam

Regarding the Rs.3,000/- Crore Tax Scam he will draw the attention of the house to know the steps that are being taken to recover the money and investigate the matter.

Hon'ble Speaker Sir,

The factual position and steps taken in the matter are as under:-

The firm M/s Indian Technomac Company Pvt. limited was registered as M/s Arsh Casting Pvt. Ltd. with registration number SIR-III-4641/8015 under the Himachal Pradesh Value Added Tax Act,2005 and the Central Sales Tax Act,1956 on **10-01-2008** with liability to pay tax w.e.f. **05-05-2008**. The Company changed its name on 02-12-2008 to M/s Indian Technomac Company Ltd. The Company was manufacturing steel and raw material, ferro alloys and steel ingots.

2. Sh Rakesh Sharma was not the sole owner of the Company. The Company had four Directors namely Sh. Rakesh Kumar Sharma resident of 4512, Sector-B, 5-6, Vasant Kunj, New Delhi-110070, Mr. Vinay Sharma, S/o Sh. M.L.Sharma, Retd. IAS, HP Cadre, resident of VPO Pir Sluhi, Tehsil Dehra,Distt.Kangra,176001, Himachal Pradesh, Sh. Ranganathan Srinivasan, resident of A/V/32 N.M.L. Quarters, Agrico Area, Jamshedpur East, Singhbhum, 831007, Bihar and Sh. Aswini Kumar Sahoo, resident of Jagannath Lane,

Arunodaya Nagar, Badambadi, Cuttack, 753012, Orissa. The evasion of sales tax is Rs. 2200 crores (aprox).

3. The original case for the year 2009-10 was assessed by the concerned Assessing Authority on 17.12.2013 and an additional demand of Rs.7.33 Lac under VAT and Rs.2.39 Lakh under CST Act was created. In the year 2014 officials of Economic Intelligence Unit of the Deptt. were scanning the Management Information System(MIS) reports when they noticed gross irregularities with respect to the Company. Consequent to the same the Company was assessed for the Years from 2010-11 to 2013-14 on 20.6.2014 by the Assistant Excise and Taxation Commissioner (Economic Intelligence Unit) and thereby an additional demand of Rs. 2100.87 Crore was imposed with the directions to deposit the same within 15 days and also to initiate recovery proceedings under “Sections 25 to 27 of the HP VAT Act, 2005”.

4. The aforesaid Company on 5.7.2014 filed civil writ petition in the Hon’ble High Court of Himachal Pradesh with prayer to quash and set aside the order vide which the demand was created. The Hon’ble High Court dismissed the writ petition citing the alternative remedy was available. The Company moved the Hon’ble Supreme Court of India against the Judgment of lower court. The Hon’ble Supreme Court also dismissed the SLP on the similar ground of availability of alternative remedy of appeal before the Appellate Authority i.e. Addl. Excise and Taxation Commissioner(SZ) Shimla. The Company accordingly filed appeals before the Appellate Authority, who directed the Company to deposit the conditional amount of Rs.210 Crore before admission of appeals. Against this interim order the Company filed second appeal before the Ld. HP Tax Tribunal. Since no one represented the appellant Company the Ld. Tribunal dismissed the appeals in default for non-prosecution. Consequently the first appellant authority also dismissed the appeals for non-deposit of conditional amount. The dealer did

not deposit the said demand into the Government treasury by the due date. The demand having remained unpaid after the due date, it was obligatory to recover the outstanding dues as arrear of land revenue as mandated by Section 25 of the HP VAT Act, 2005.

5. The Asstt. Excise and Taxation Commissioner, Sirmour declared the amount recoverable from the company as arrears of Land Revenue on 12.8.2014. Thus the effort to secure Government Revenue was made timely.

6. On 16.10.2014, the Asstt. Excise and Taxation Commissioner, Sirmour having powers of Collector U/S 75 & 76 of the HP Land Revenue Act, 1954 issued a Writ of Demand No.19258 to the defaulter M/s Indian Technomac Co. directing it to pay into the Government account/treasury the said arrear of Rs.2100.87 Crore on or before 31.10.2014.

7. On 17.10.2014, the Asstt. Excise and Taxation Commissioner, Sirmour having powers of Collector U/S 75 & 76 of the HP Land Revenue Act, 1954 issued warrant for attachment to Tehsildar Paonta Sahib.

8. The Collector has also attached the vehicles and JCB machines under Section 76 of the HP Land Revenue Act, 1954 on 1st November, 2014, and on 5.11.2014 impounded/taken into possession their original Registration Certificates for securing outstanding arrear accrued under the Himachal Pradesh VAT Act, 2005 and the Central Sales Tax Act, 1956. The attached vehicles also include JCB No.HP-17C-0526 and HP-17C-0527.

9. On 22.11.2014, the Collector (Revenue) moved the Court of the Commissioner (Revenue)/Divisional Commissioner for sanction for sale of immovable properties in accordance with the provisions of Section 81 of the HP Land Revenue Act, 1954, informing that the defaulter has been directed to not to

sell any plant and machinery and that under Section 76 of the HP Land Revenue Act, 1954, the movable property (Trucks, Tippers, JCB, Machines, Dumpers etc) have been attached till recovery of arrears and their Original Registration Certificates have been impounded/taken into possession.

10. The case of the Company for year 2009-10 was revised suo-moto on 20.4.2017 and an additional demand Rs.73.78 Crore was created, thus now the total additional demand created by the Deptt. against the defaulting Company is around Rs. 2200 Crore.

11. In order to effectively recover the dues from the Company the Department hired the services of HIMCON on 31.5.2017 to evaluate the immovable/movable assets of the Company. The Company has submitted the draft evaluation report vide which the evaluation comes to Rs.280 Crore.

12. As regards referring the matter to the Enforcement Directorate the then Government of Himachal Pradesh had directed the Excise and Taxation Department Headquarters on 28.07.2016 to constitute a special committee that would review the recovery progress in the case. The Committee was constituted on 29-07-2016 with the Addl. Excise and Taxation Commissioner(South Zone), Addl. Excise and Taxation Commissioner (Tax Research Unit), Jt. Excise and Taxation Commissioner (IT/Enf), Deputy Excise and Taxation Commissioner (Legal) and Asstt. Excise and Taxation Commissioner Sirmaur as its members. In the meeting of this special committee held on 1-09-2016 it was recommended vide Para 5 of the Minutes of the aforementioned meeting that since the composition of the Board of Directors and shareholders of the Company and their further nominations/shares in various other Companies and the nature of its financial transactions is of inter-State nature and even international also therefore this case can be considered for further reference to the Enforcement Directorate for appropriate enquiry and action in the matter.

The Asstt. Excise and Taxation Commissioner Sirmaur was directed to submit the case to the Excise and Taxation Commissioner for approval/directions in the matter. The Asstt. Excise and Taxation Commissioner Sirmaur sent the request to the Excise and Taxation Commissioner to refer the case to the Enforcement Directorate on 15-09-2016 based on the recommendations of the special committee.

Somehow it was decided at the Headquarters that the Asst Excise and Taxation Commissioner Sirmaur be directed to take up the issue with the Deputy Commissioners of the Districts in other States where the offices /property of the related companies of Indian Technomac Ltd/Directors of the company were situated. The approval to file the FIR in this case has been granted to Asst Excise and Taxation Commissioner Sirmaur on 01.03.2018. An investigation by Central Agencies is necessary due to the fraudulent practices by the owners of the Companies and the presence of its sister concerns in other states resulting in siphoning of Government money.

13. Various other financial institutions and other claimants have filed cases in the Hon'ble High Court of HP and in one case i.e. Company petition No13/2014 titled as M/s Molycorp Minerals Versus Indian Technomac Company Ltd, the Department has already filed its claim as *First Charge* on the property. The Hon'ble High Court of HP vide order dated 20-12-2017 has reserved the Judgement in the matter. Similarly the Debt Recovery Tribunal- Delhi (DRT) in recovery certificates filed by ICICI Bank despite the intervention made by the Department has allowed the Bank to sell two JCBs of the Company. Further in a recovery certificate filed by DBS Bank (Development Bank of Singapore) wherein the Department had also intervened, the DRT Delhi has allowed the bank to take over the possession of the property of the Company. The State is shortly agitating this order of DRT Delhi by way of filing Civil Writ Petition in the Hon'ble High Court of HP.

14. The case was detected by the Economic Intelligence Unit of the Excise & Taxation Department using the MIS report available on the backend office application of HIMTAS software. Ever since the case was detected and assessed in 2014 the property of the Company is in possession of the Department. The recovery has not been effected as the Department and others stakeholders have moved various Courts including the Hon'ble High Court of Himachal Pradesh.

15. From the details elaborated above it is clear that the delay has taken place earlier but now the Excise & Taxation Department is serious to recover the outstanding dues of Rs.2200 Crore from the Company by initiating various actions effectively and by following all possible legal remedies available.
