

THE STATE TRADING CORPORATION OF INDIA LTD. : NEW DELHIONE TIME SETTLEMENT POLICY (OTSP)**A. BACKGROUND**

STC has a large number of pending legal cases, filed both by and against it. Many of these cases are quite old and pertain to recovery of STC dues from the parties on whose behalf trade transactions are undertaken by it. In most cases, fighting legal battles for recovery of outstanding dues proves to be a very lengthy exercise with recurring and large litigation costs. As on 31.12.2018, STC had recoverable of approx. Rs 4952 crore (including contingent assets - Rs.2316 crore and security deposits - Rs.27 crore). Similarly, as on 31.03.2018, STC had contingent liabilities of approx. Rs 1863 crore.

With a view to expedite the process of recovery of outstanding dues from the parties, save on the high litigation cost due to long drawn legal process and to protect the interests of the Corporation in best possible manner, all settlement offers in respect of overdues of less than Rs 10 crore shall, henceforth, be reviewed by a Dispute Settlement Committee (DSC). The composition of DSC and other relevant details are given below:

I. Composition of Committee

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| 1. Retired IAS (an outsider)
(to be nominated by CMD) | : Chairperson |
| 2. Director (Finance) | : Member |
| 3. Director in-charge of the commodity | : Member |
| 4. General Manager (Law)/Head of Legal Function | : Secretary |

II. Quorum of Committee

Presence of all Committee Members, including Chairperson, is mandatory to form quorum of the meeting.

III. Other invitees to Committee Meetings

The Heads of concerned commodity division along with the head of associate finance shall mandatorily attend the respective meetings to assist the Committee.

IV. Scope of Work

The Committee shall endeavour to resolve and settle all disputes (Except disputes related to service matters), pre, during and post litigation/arbitration and if felt necessary, shall invite parties to disputes for presenting their case.

V. Frequency of Meetings

There shall be no fixed frequency for convening a meeting of the Committee. Meetings of the Committee shall be convened as and when required.

VI. Final Authority to approve recommendation of Committee

FMCOD shall be the final authority to consider and approve the recommendations made by the Committee. However, the Committee shall submit its recommendations to FMCOD only with unanimous consent of all committee members.

B. PROCEDURE TO BE FOLLOWED

I. Procedure

All settlement cases shall be reviewed by DSC and recommended to FMCOD for final decision. The following procedure shall be followed:

- (1) As and when a settlement proposal is received by any commodity division, the division shall examine the proposal and put up the same, in consultation with Legal Division and associate finance, to the concerned commodity director for approval. While putting up the settlement proposal, the commodity division shall take the following factors into consideration:
- a. Amount of outstanding dues.
 - b. Details of direct securities (e.g. stocks) and indirect securities (e.g. PDCs, personal / corporate guarantee, etc.) available with STC, if any, and their value.
 - c. Marketability/enforceability/other encumbrances, etc. of direct/ indirect securities and their net realizable value, wherever applicable.
 - d. Charge of third parties on indirect securities.
 - e. Age of amount recoverable, asset classification and repayment already received from associate.
 - f. Present financial position of the guarantors and the associate.
 - g. Whether any fraud or criminal breach of trust is involved.
 - h. General financial status of Company/Owners/Directors.
 - i. Compromise settlement should be a negotiated settlement under which STC has to recover its dues to the maximum extent possible with minimum expense/sacrifice.
 - j. Whether default is wilful or is due to change in market conditions/Govt. policies/restrictions/natural disasters.
 - k. Action Plan for recovery of dues.
 - l. Whether it would be desirable to obtain the amount available immediately under the offer even at the cost of some sacrifice and deploy it profitably rather than waiting for an indefinite period.
 - m. Latest valuation of the securities not older than one year has to be taken into consideration while considering OTS proposal. Wherever it is difficult to obtain fresh valuation, adequate local enquiry by visiting the place where the property is situated/physical assessment of the stock etc.

shall be made by STC managers or by entrusting the job to a professional agency. While assessing the realizable value of securities, proper weightage has to be given to the location, condition and marketable title and possession thereof.

- n. The Net Present Value (NPV) of the settlement amount should generally not be lower than the estimated cash flow of the realizable value of securities less cost of realisation.
 - o. If any concession is offered than the same should be reasonable with least possible compromise and speedy recovery of the dues be ensured with minimal incidental expenditure.
 - p. The offer should not be forced upon either by STC or by Associate on the other party.
 - q. Where STC's ability to recover the dues through other means are limited and the Associates ability to repay STC's dues may also be taken into consideration.
 - r. Notes on settlement proposal should necessarily record justifications from STC's point of view for making the proposed sacrifice and indicate the factors to ensure that the advantage lies in favour of STC. It shall also be ensured that settlement would be most reasonable and quickest way for realising the possible payment and closing the account.
 - s. Caution to be exercised to ensure that undue advantage is not provided to the associate wherever better ways of higher recoveries are possible.
 - t. Legal proceedings shall continue during the finalisation of the OTS and all the pending cases in the Court/Arbitration shall be withdrawn only after the amount as settled under OTS has been received by STC.
- (2) If deemed appropriate by the division, before putting up the proposal to DSC, the proposal may be forwarded to Vigilance Division for its scrutiny/examination and views.
- (3) After approval of the concerned commodity director, the proposal along with all supporting documents shall be forwarded to GM (LAW)/Head of Legal Division for convening a meeting of DSC.

- (4) DSC shall consider the settlement proposal and after deliberating the proposal, recommend the settlement terms. Minutes of the DSC meeting shall be drawn up by the Secretary of the Committee and the same to be signed by all the Committee members including the Chairman, DSC.
- (5) Once DSC recommends any proposal for settlement, the matter shall be put up to FMCOD for consideration by the concerned Division in consultation with Legal Division.
- (6) After consideration of the proposal by FMCOD, the decision of the FMCOD as regards acceptance or rejection of the proposal shall be conveyed to the party.
- (7) Details of cases exceeding Rs 1 crore settled with the approval of FMCOD shall be put up to Board for information from time to time.
- (8) OTSP to fraudulent Associates

If there is any case where a person/associate has committed a fraud, efforts should be made, as far as possible, to recover the entire outstanding amount. In case it is not possible to recover the entire amount and the Associate is coming forward to offer settlement, STC may consider such settlement proposals. However, it shall be made explicitly clear that the recovery of the outstanding amount and the ongoing criminal action, if any, for the fraud committed by the associate are separate and distinct matters. It shall be ensured that closure of civil liabilities do not affect the continuation of criminal proceedings filed by CBI/other agencies against the associate concerned. STC may, however, intimate CBI/other agencies of any such development for their information.

(9) Time Limit and Future Interest

Normally, offer shall involve one sizable lump sum payment upfront immediately after communication of sanction for settlement. The proposal and the sanction thereof shall categorically determine the time frame of payment and interest rate that may be applicable from the date of communication of sanction. Settlement shall be negotiated with shortest possible time frame for payment of settled amount. The time frame, however, shall be kept to maximum of 6 months in all such cases.

(10) Release of Securities on payment of OTS Amount

Utmost precaution has to be taken while release of securities to the associate on clearing the liability (including the charges, cost if any) in normal course or under compromise settlement. STC shall release the security documents only after obtaining specific approval of Commodity Director, Associate Finance and Legal Division.
