

Nilgiris Nelikolu Micro & Small Tea Growers and Farmers' Development Society

(Reg.No.101/2013)

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10.04.2018

Representation submitted on behalf of Small Tea Growers of Nilgiris District during the Stake Holders Meeting held on 10.04.2018

We submit the following on behalf of the Small Tea Growers (herein after referred as STGs).

The major Stake holders in the Tea Industry are as follows

1. Buyer.
2. Brokers.
3. Manufacturers, (which included the Brought Leaf factories) (BLFs).
4. Growers, (which includes the Small Tea Growers.(STGs)

The Buyers and Brokers, with all probabilities, may not be attending today's meeting, obviously for the reason that they are not part of the District Green Leaf Price Monitoring Committee (herein after referred to as DGLPMC). The present conflict of interest is only between the BLFs and STGs of the Nilgiris District.

BACKGROUND

Originally, during 1980 when the crises in the tea industry arose it was addressed as a global phenomena due to Globalisation and fall of International Tea Market. Whereas over the years down fall in the International Market and export of Tea by India was effectively addressed by the Government of India and Tea Board. International Market condition had improved. But for the small tea growers, condition of all other stake holders had improved. Tea Market has become a profitable industry to the Buyers, Brokers & Manufacturers. The BLFs, particularly from the Nilgiris District alone continued to sustain loss throughout the last 30 years, which is to be noted at first instance.

In the above circumstances, having left with no other option the W.P No. 39192 of 2002 was filed on behalf of STGs. On the basis of the orders passed in the said case, the Union of India appointed ICWAI to study the costing structure of the Tea Industry. Ultimately on the basis of the report submitted by the said Committee, admitting that there was no procedure exists for the purpose of fixation of price for the Green tea leaf, the Price Sharing Formula (PSF) was introduced for the first time. In spite of that conditions of the STGs never improved. Which lead to the subsequent cases, the W.P Nos. 8780 and 10091 of 2008. After elaborate arguments, the Hon'ble High Court by the Judgement dated 12.10.2012 had upheld the following points;-

- a) that it is the Brokers and Buyers who control the market. (Para 23)
- b) large number of Small Tea Growers are left high and dry. (Para 23)
- c) since the monopoly power is vested on the Government of India, in this regard, it requires a scientific **human approach** and should not be dictated by the artificial market forces. (Para 24)
- d) that the endeavour of Government of India must be to provide a **realistic price** in respect of the green leaf produced by the small tea growers and must based upon ground reality regarding the cost of production of such green leaf (Para 24).

FORMATION OF DGLPMC AND ITS ROLE

Pursuant the Judgement, the Union of India in addition to the report submitted by ICWAI, appointed the IIPM for a field study. IIPM had consulted all the stake holders including the members of BLFs and submitted its report dated March, 2013, almost endorsing the earlier findings of ICWAI. The summary of findings by the above committees regarding the quality of Tea are as follows;-

Summary of findings against STGs :-

- ☞ that compare to quality of green leaf absorbed over the study made in 2003 in Nilgiri Tea Area there has been improvement in the quality of green leaf produced y STGs
- ☞ Low price realisation of green leaf is the major deterring effect for STGs towards producing good quality of leaf.
- ☞ The average price realisation was lower than the average cost of production of the green leaf the same was of the great and common concern of all STGs.
- ☞ Compare to the incoserve in the sale price of made tea, the benefit of margin is not in rational proposition in favour of STGs.
- ☞ STGs adopt coarse plugging as the price they get from the leaf does not encourage them to go for fine plucking.
- ☞ STGs have been encouraged by the BLFs, who are accepting poor quality green leaf at lower price.

Summary of findings against BLFs :-

- ☞ The serious limitations in the plant infrastructure and technical know-how in the BLFs are the major cause for the quality of made tea.
- ☞ There is an imbalance in the capacities of the different machines at different process stages.
- ☞ BLFs are handling Green leaves in a poor manner due to the shortage of their trough capacity and improper withering which are major cause of damage on the quality.
- ☞ BLFs are accepting poor quality green leaf at lower price.

☞ BLFs lack of good technical knowledge of quality management.

A comparison of the above findings of the Expert Committee, it obvious that the STGs alone cannot be blamed for the poor quality of the made tea.

In spite of the above findings our association for the last 4 years had held number of awareness meeting at village level to sensitize the STGs and they were made better quality conscious.

Further regarding Price Sharing the findings of the Ex-parte committee is as follows ;

“the average monthly price realised by the manufacturer (BLF) through Private sale, outside public auction, to be relatively higher. However, price realised through private sale is often not available and hence monitoring has becomes a challenge. The lack of transparency and associated administrative problems often lead to distortion in the distribution of the realised price between STGs and BLFs. As absorbed during the field visit outturn percentage varies significantly between orthodox and CTC factories. This is primarily due to the tea waste generated during the process, which is excluded from production in the case of orthodox factories, whereas in the case of CTC factories tea waste is included as a part of total saleable tea. This essentially has an implication on the quality of tea produced and consequently the price realised by these factories.”

Further, as per the said reports the BLF and STG Scenarios are as follows ;-

Year	BLF Scenario (for Made Tea)				STG Scenario (for Green Leaf)			
	Cost of production	Actual cost of the green leaf	Average cost realised	Additional profit to BLF	Cost of production	Actual cost realised	Loss sustained per kg	Total quantity of green leaf supplied
2002-2003	Rs.14.30	Rs.19.48 (Rs.4.87 x 4)	Rs. 36.35/-	Rs.2.57/- per kg. (Rs. 36.35-33.78)	Rs.5.33/-	Rs.4.87/-	Rs.0.46/-	6,05,000 KGs.
2006-2007	Rs.15/-	Rs.22.08/- (Rs.5.22 x 4)	Rs. 48.65/-	Rs.11.57/- (Rs.48.65-37.08)	Rs.6.45/-	Rs.5.52/-	Rs.0.93	15,31,000Kgs
2013-2014	Rs.29/-	Rs.42.20/- (Rs.10.55 x 4)	Rs. 87.7/-	Rs. 16.58/- (Rs.87.78-71.20)	Rs.15/-	Rs.10.55/-	Rs.4.55/-	1,84,50, 000/-

** (The above facts and figures are on the basis of the report dated 05.05.2008 submitted by ICWAI)

It was only in the above circumstances the Government of India and Tea Board had decided to implement the order of the Hon'ble High Court, Madras dated 20.12.2012 in its letter and sprit. In the above process, the Tea Board by the order dated 21.05.2013 had directed to constitute the present DGLPMC to derive a suitable mechanism for determining the realistic price for green leaf to be payable to Small Tea Growers. All the BLFs and the Estate Factories who engaged in procurement of green tea leaf from STGs were directed to adhere to the various guidelines issued there under. They were further directed to

conform to the green leaf standards prescribed as per the directives of the Chairman dated 22.03.2006.

Annexure -I to the above order provides that the Manufacturer to disclose the quantum of tea sold by them through the Auction Centre as well as through private sale. Annexure -II provides for Price Sharing Formula declaration by the BLFs. Annexure -III provides their weekly green leaf price statement.

Following which, by Gazette Notification dated 15.04.2015 appropriate amendments were introduced to Tea Act, 1953, and the Tea (Marketing) Control (Amendment) Order, 2015 was issued. Under Clause 30-A, the present DGLPMC was constituted under the Chairmanship of the District Collector.

As per clause 30A (5) functions of the DGLPMC are ;-

- a. To monitor the average green leaf price payable to the Small Tea Growers for each succeeding month based on the last month average auction price of brought leaf factories of such district by applying the Price Sharing Formula as notified by the Registering Authority under the provisions of Para 30.
- b. To oversee the compliance of payment of such average price to the Small Tea Growers and bring to the notice of Registering Authority (Tea Board) about the errant Brought Leaf Manufacturer.

Based upon the guidelines issued by the Tea Board, the Executive Director by his proceedings dated 17.10.2013 for the first time fixed Benchmark Price payable to the Small tea Growers as Rs.14.19/- for the month of Oct,2013. During the subsequent meeting of the DGLPMC it was the case of BLFs that a minimum price should be fixed for the Buyers also. Further it was their case that unless auction price is fixed it

is very difficult to fix the minimum price. On the part of Estate Factories it was contended the District Average Price should include only BLFs sectors and not estate factories due to the variable cost of production. Addressing those queries the Tea Board had stated that the factories fetching more price should give more to the Small tea Growers. The Chairman of DGLPMC had retreated that the aim of the Government is to support the Small Tea Growers for their lively hood.

During the subsequent meetings, the problems expressed by both STGs and BLFs were addressed by the DGLPMC and continuously the bench mark price was fixed. Whereas the BLFs were not inclined to pay the price as fixed by the DGLPMC. Therefore subsequent notice were issued to the defaulting BLFs to show cause for their default. Month after month meetings and discussions were held but ultimately there is no relief to STGs. During the DGLPMC meeting held on 04.10.2017 it was reported that for the period between Dec,2015 to Aug,2017, it was observed that 110 BLFs are defaulters to the tune of Rs.37 crores, which warrants immediate action. For which the Chairperson, DGLPMC had directed the Tea Board to initiate action for recovery of the defaulted amount from the sale proceeds of the BLFs through their Brokers and the same to be paid to the STGs as per para 30(2) of the TMC0,2003.

It was only in the above circumstances, the BLFs Association filed a writ petition in W.P No. 29448 of 2017 before the Hon'ble High Court, Madras challenging para 30-A (5) of the notification dated 15.04.2015. along with the said writ petition, the BLFs had sought for an interim stay of the said provision and also for an interim injunction to restrain the Tea Board and DGLPMC from initiating any recovery proceedings towards the dues as above mentioned. Though the above writ petition was admitted, the Hon'ble High Court was not inclined to grant either the interim stay or the interim injunction as it was prayed by them. Therefore as on date the Tea Board and DGLPMC are fully empowered to

initiate the recovery proceedings as it was ordered as against the defaulting BLFs.

The narration of the above facts as above stated will prove a fact behind doubt that the STGs are struggling for their lively-hood over the period of last 30 years. Whereas, for the BLFs it is their commercial interest. They are asking for more profit margin. Their alleged loss is only a presumptive in view of the findings as recorded by the Expert Committees. As clearly pointed out by the expert committee there is no transparency in their sale transaction. The attempt of the Tea Board, by their order dated 05.08.2013 to make the BLFs more transparent could not be achieved even till date. The BLFs are deliberately refusing to obey the various directives issued by the Tea board and DGLPMC.

In the above circumstances having any number of stake holders meeting will not serve any practical purpose. The order of the Hon'ble High Court dated 10.12.2012 is for a specific purpose to protect the lively-hood of the Small Tea Growers, which the Government of India and Tea Board agreed to implement.

Based upon the judgement various subsequent directives were also issued by the Tea Board to protect the lively-hood of STGs, which cannot be water-downed by having repeated meetings.

The BLFs cannot be permitted to bring the difference of opinion between themselves and the Buyers & Brokers in the present proceedings before DGLPMC. It is reiterated that DGLPMC is constituted with a specific purpose to protect the lively-hood of the STGs. If at all the BLFs have any grievance against other Stake Holders like Buyers & Brokers then there look-out is elsewhere and it is not before this DGLPMC. They can address to Tea Board regarding their issues and it is for the Tea Board to address the same by bringing the Buyers & Brokers

negotiation table. Whereas the Tea Board in dereliction of duties not attempting to shift its responsibilities upon this DGLPMC. The Tea act and TMCO as it exists today does not permit the DGLPMC to intervene any dispute between the BLFs and the Buyers and Brokers.

In the above circumstances, it is respectfully requested that the endeavour of the DGLPMC must be only to implement the directives so for issued by the Tea Board and DGLPMC, in pursuant to the order of the Hon'ble High Court dated 12.10.2012 and to secure the realistic price to the Green Leaf of the STGs.

Thanking you

Yours

