

## Deals, Dubious

**Soumik Dutta**, Gangtok (Sikkim)



**Private developers, who have got projects through joint venture routes, are enriching themselves at the cost of the people. Indeed, who owns the lucrative hydropower projects in Sikkim?**

A lot of money is being pumped into companies developing hydropower projects in Sikkim ever since the Central Government allowed 100 per cent FDI in the power sector through the direct route. Ironically, an in-depth analysis of these investments show that the finances are being pumped in from tax haven countries like Singapore, Mauritius, and so on by companies registered in these countries by venture capitalists and hedge funds.

The best case study in this connection is TeestaUrja Limited (TUL), an SPV (Special Purpose Vehicle) set up by Athena Projects Pvt Ltd for developing the 1200 MW Teesta Stage III HEP near Chungthang in North Sikkim. The Singapore-based Asian Genco Pvt Ltd is owned by TV Vijaykumar, an erstwhile close aide of the late YSR Reddy (former chief minister of Andhra Pradesh), the late CV Balayogi (former Speaker, Lok Sabha, also from Andhra), Jagan Mohan Reddy (YSR's son, now in jail) and KVP Ramachandra Rao (close associate of the Reddys), and is currently the owner of the 1200 MW Teesta Stage III being developed by TUL. It holds close to 50 per cent equity in the project.

A clique of investors, led by Morgan Stanley Infrastructure Partners, bought close to 49 per cent stake in power generation and engineering services firm Asian Genco for \$425 million in 2010, the biggest private equity (PE) transaction in India in the power sector. The deal is also the first one of over \$300 million since 2008. The last PE deal of this size was when Providence Equity Partners invested \$428 million in Aditya Birla Telecom in 2008.

The group of investors in Asian Genco includes Everstone Capital, General Atlantic, Goldman Sachs Investment Management and Norwest Venture Partners, among others. Asian Genco, to which the former power secretary of Delhi, RV Shahi, is learnt to be a consultant, had earlier raised funds from other investors like power trading firm PTC and its finance offshoot, PTC Financial Services, besides global investors such as Tiger Global Management.

This has been a trend for many of the Independent Power Producers (IPPs) developing projects in Sikkim, wherein, as per the clauses in their Memorandum of Understanding (MoU) with the state government, land is mortgaged in lieu of huge project finances picked up by the developers with the state government standing as a guarantor (as per the MoU, the government of Sikkim owns either 26 per cent or 11 per cent equities in these projects).

The best example is TUL, which, in 2008, took Rs 4,500 crore as loan from REC and a consortium of seven nationalised banks and parked the funds in Asian Genco. Lanco projects did the same with investments in coal mines in South Africa, Griffin mines in Australia and a coal mine and a thermal power plant in Chhattisgarh, all with the help of finances from land mortgaged in Sikkim.

Coastal Projects Sikkim has sold shares at a premium to Baring Asia Equity Group at 65 times the face value; such value addition is fully and only attributable to their ownership of the concerned hydropower project they are executing in Sikkim. Had this organisation executed the required Shareholder Agreement (Share Subscription Agreement) and allotted the Sikkim government 26 per cent equity within 180 days of the agreement, the state government, as minority shareholder, would have got first preference to dilute and could have decided to off-load parts of its equity at 65 times the face value. In this way, the state government is denied its dues and gains which the private developers tactfully and wrongfully embezzled (Source: Coastal Annual Report).

**Analysis of these investments show that the finances are being pumped in from tax haven countries like Singapore, Mauritius, and so on by companies registered in these countries by venture capitalists and hedge funds.**

Private developers who have got projects through joint venture (JV) routes, are enriching themselves at the cost of the state and its people. This was the case in Jal Power Corporation Limited, a wholly owned subsidiary of Coastal Projects Private Limited, Hyderabad. In the 75:25 debt equity ratios of Coastal Projects in the JV, the Sikkim government has, at the rate of 26 per cent equity, Rs 50.40 crore.

Likewise, the Luxembourg-based Greenko Energy Ventures Private Limited controls the shares in the 96MW Dikchu Hydropower Project, a JV between the Sikkim government and Sneha Kinetic Power Projects Private Limited (an SPV). The Sikkim government is entitled to 26 per cent equity in it. Greenko has raised \$46.3 million in allotting its preference shares (Source: Greenko Annual Report).

In the remand report of Jagan Reddy, the Central Bureau of Investigation (CBI) has clearly stated that in his Sandur Power Company Limited (SPCL), the Lanco group has purchased considerable shares. Lanco is doing the Teesta Stage VI project in Sikkim.

The Singapore-based River Valley Hydro Venture owns 75 per cent stake in Secunderabad-based Amrit Jal Ventures (Source: The Economic Times), worth Rs 300 crore. Amrit Jal has floated three SPVs, Gati Infrastructure, Gati Infrastructure Bhasmey and Gati Infrastructure Sada Mangder for three projects in Sikkim. According to an Economic Times report (February 19, 2009), the owners of Amrit Jal Ventures were not clearly known.

In TUL, Mauritius-based Varuna Investments Private Limited holds 100 per cent preference shares of Singapore-based Asian Genco, owned by TV Vijay Kumar. Asian Genco owns 50.9 per cent equity of TUL, leaving 49.1 per cent equity for the consortium partners of Athena Power Projects Limited (APPL) and the Sikkim government which is supposed to hold 26 per cent equity in the JV.

The MOU signed by the Sikkim government with every IPP, modelled on the standard agreement it signed with TUL, stipulates on the issue of equity subscription that, „The company shall not change the constitution of the company’s board without prior permission from the government.“ If there is a violation of this clause, the Government of Sikkim (GoS) can unilaterally terminate the agreement. In reality, the GoS under Chief Minister Pawan Chamling chose not to disturb the status quo, despite gross illegality, violation of the MoU, quid pro quo benefits enjoyed by the troika of politicians, bureaucrats and businessmen, not to mention huge losses to the state exchequer.

In reply to an RTI application, the private hydropower developers said that, as a private limited company, they are outside the purview of the RTI Act, 2005, and it is not applicable to them; signatories to the MoU have no rights under the implementation agreement with the company.

From this response it becomes clear that none of the companies that have been awarded projects by the GoS consider themselves to be in a joint venture and thus are not answerable. To top it all, in many cases, the original owners are untraceable or have become minority shareholders, having sold or transferred their equity to third parties who have nothing to do with the MoU or the GoS. Indeed, this raises serious legal issues.

Source: <http://www.hardnewsmedia.com/2013/03/5854?page=show>