



## ACC implicates six in construction of Gelephu domestic airport

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The Anti-Corruption Commission (ACC) has implicated six people in connection to suspected bribery, fraudulent practices and tax evasion amounting to more than Nu 42.767 million (M) in the construction of Gelephu domestic airport in 2011-12.

The investigation findings were forwarded to the Office of the Attorney General (OAG) last week for probable prosecution in the court of law.

The alleged suspects include a civil aviation engineer from Department of Air Transport (DoAT), a contractor, an accounting consultant, a non-Bhutanese and two women.

The commission recommended the OAG to charge Dago Tshering of Tashi Kunzom Construction and Hiring Ltd based in Thimphu, who carried out the construction of Gelephu domestic airport, for one count of active bribery of public servant, one count of tax evasion by inflating expenses on wages and iron and steel to the tune of Nu 46.274M, two counts of solicitation for instructing his two employees to prepare fictitious muster rolls, and one count of deceptive practice for claiming 75 percent secured advance by using manipulated invoice of Global Traders.

### Tax evasion

While investigating the suspected bribery and collusion between Department of Civil Aviation's engineer Gyem Dorji and the contractor, ACC established that Tashi Kunzom Construction had willfully evaded Corporate Income Tax through the manipulation of certain expenses while filing taxes for 2012. The investigation determined that the contractor had fraudulently inflated its expenses on labour wages and iron and steel in order to reduce its taxable income and hence evade tax liability.

The report stated that Dago Tshering, who is the managing director of Tashi Kunzom Construction, which is owned by his wife, had engaged his employees to fabricate series of muster roll sheets and falsely expensed Nu 41.302M and additional Nu 15.957M under iron and steel before filing tax return.

The investigation also revealed that all personal drawings by Dago Tshering from the business account were alleged to have expensed by adjusting with fictitious muster roll payments. "This fraud was carried out with the help of a local accounting firm, Leo Consultancy, who was hired to compile and consolidate financial statements for the tax filling purpose," the ACC findings stated. "These fictitious expenses reduced the taxable income by Nu 56.732M thereby depriving the government of Nu 10.099M in tax revenue."

During the investigation, Dago Tshering did not contest the elements of fraud in his company's tax return. He stated that he lacked financial discipline and whatever his staff may have done, he will bear full responsibility since they would have done only under his instruction.

In its prosecution referral, the commission recommended the OAG to criminally prosecute the contractor as per the Income Tax Act of Bhutan 2001 and restitute to the state Nu 42.767M with 24 percent penalty interest. Since Dago Tshering has been implicated for tax fraud involving huge sum of money to be restituted to the state, the commission also forwarded a list of properties he and his wife are currently in possession of so that the prosecuting authority may consider filing a motion to the court at the earliest for restraining order to preempt further transactions or change in ownership to a third party.

The ACC also implicated Mon Bahadur Mongar, proprietor of Bright Life Institute of Management and Leo Consultancy, for solicitation as he instructed his employee Kaushila Bista to prepare fictitious muster rolls for various months in 2012. Kaushila Bista is charged for 19 counts of forgery and one count of forgery on Radhika Pradhan of Bhutan Ventures Pvt. for preparation of fictitious muster rolls. Samir Sharma of Jaigaon married to a Bhutanese woman has been implicated on six counts of forgery as he prepared fictitious muster rolls for the months of January to June 2012.

### **Bribery and collusion**

The commission implicated the deputy executive authority engineer of civil aviation in Paro, Gyem Dorji, for one count of passive bribery of public servant as he is alleged to have accepted Nu 1.5M from Dago Tshering in exchange for manipulating the contract documents to win the contract worth Nu 192.22M.

The report stated that ACC initially received a complaint in 2013 from the Royal Audit Authority (RAA) but upon preliminary review, the former declined to investigate the matter as the issue in consideration appeared to be of administrative nature.

However, in August 2016, the RAA referred the matter back to the ACC with certain piece of additional information, which implied possible existence of fraudulent practices surrounding the supply of certain items. In addition, there was already an anonymous complaint lodged with the commission indicating corrupt payment of Nu1.50M to the engineer by the contractor in exchange for manipulating the contract documents to win the contract. After extended review, the commission decided to open a full-fledged investigation on November 29 last year.

In June 2011, the MoIC, through open tendering, awarded the construction of Gelephu Domestic Airport to Tashi Kunzom Construction for a contract worth Nu 192.222M with scheduled date of completion set for April 2012. At the end of the project, the total cost escalated to Nu 271.556M.

Gyem Dorji, who was the site engineer and project coordinator, was involved in preparing the cost estimates for the construction of Gelephu domestic airport.

### **Controversy over the concertina wire**

The project was soon mired in controversy after the RAA detected series of irregularities underlying the escalated cost, triggering protracted arbitration and legal tussle between the Ministry of Information and Communications (MoIC) and the contractor. One of the irregularities on which the RAA invited

the attention of the commission pertained to suspected collusion surrounding the estimation and measurement adopted by the engineer in relation to supplying, fixing and laying of concertina wire over the 2206.66 m perimeter wall.

ACC report stated that the investigation was carried out to establish whether or not there existed any corrupt practices in steering the work to the contractor or affording the latter with privileged information, specifically, the estimate rate of concertina wire from which the contractor dubiously profited over Nu 22M.

Although investigation could not prove that Gyem Dorji transmitted the privileged information to the contractor at the time of tender, evidence showed that he knew about the market price of concertina wire at the time of preparing cost estimate contrary to his claim that he did not make an effort to conduct price inquiry. “Despite his knowledge that concertina wire cost only Nu 75 per metre, Gyem Dorji had inflated his estimate using Nu 450 per metre as per BSR 2009,” the report stated.

As alleged in the complaint, the commission’s investigation revealed that sometime in early July 2011, a month after the project started, the contractor drew two consecutive cheques of Nu 0.8M and Nu 0.7M out of its business Over Draft (OD) account. These two cheques were drawn in the name of its employee Pema Wangchen (now deceased), who was the finance director but instructed by Dago Tshering to be paid to Gyem Dorji.

The investigation looked into possible instance or circumstance how Gyem Dorji might have directly or indirectly favored the contractor before or after having received illicit financial gains.

The investigation revealed that sometime in December 2011, Gyem Dorji certified for payment of a forged invoice of Global Trader, Kolkata for purchase of concertina wire at an inflated rate of Rs 200 per meter. In reality, the contractor bought this material from another manufacturer Shiva Engineering Co Pvt Ltd, Kolkata at Rs 5.95 per meter. The forged invoice was passed with an intent to advantage the contractor in obtaining Nu 6.619M secured advance when the contractor would have been otherwise entitled to claim only Nu 196,944.

### **Rinzin Wangchuk**