

From: Abhijit Bhattacharjee
Sent: 01 June 2019 18:46
To: editor@moneylife.in
Subject: FW: Query on NDDB Subsidiaries

Dear Yogesh,

The article – Mother of Dairy Sham, Where have NDDB's 16 subsidiaries vanished dated 22 May 2019 - is misleading with factually incorrect allegations. The true position and facts with regard to the substantiated allegations are given below to rebut any wrongful impression created by the article.

1. FINANCIAL NUMBERS

The article throws up a lot of numbers and also makes many unfounded allegations. It has a statement that NDDB's annual reports show that between 2004-05 and 2017-18 -

It lent Rs.18,185 crore, of this

Rs.9,469.3 crore was lent to dairy cooperatives

Rs.3,897.9 crore was lent to oilseed cooperatives

Rs.4,817.7 crore was lent to own subsidiaries

According to the NDDB records between 2004-05 and 2017-18 -

It lent Rs.4,477.95 crore, of this

Rs.2,424.47 crore was lent to dairy cooperatives

Nothing was lent to oilseed cooperatives

Rs.2,053.48 crore was lent to own subsidiaries

The article further states that this is in addition to grants and grant equivalent assistance of Rs.1000 crore.

According to NDDB records between 2004-05 and 2017-18:

Total grants disbursed was Rs.201.15 crore.

And no terminology like "grant equivalent assistance" has been used in NDDB annual reports.

From the above, it is clear that the numbers in the article have been exaggerated and on the basis of which many unwarranted allegations have been made. Even at other places in the article it is not clear as to how the financial numbers have been arrived at?

2. SUBSIDIARIES

The article then states that what seems astonishing is that subsidiaries themselves seem to vanish without any explanation.

The details of the subsidiaries formed by the NDDB are given below:

A. NDDB subsidiaries

The following six subsidiaries were formed during the tenure of Dr. Kurien as Chairman NDDB:

1. Hindustan Packaging co. Ltd.
NDDB's shareholding was sold to partner at profit.
2. Bhavnagar Vegetable Products Ltd.
NDDB's shareholding was sold at par to a NDDB subsidiary Dhara Vegetable Oil and Food Company Ltd.
3. IDMC Ltd.
Continues as a subsidiary
4. Bharat Aseptic Packaging Industries Ltd. (Polar Chem)
Amalgamated with IDMC Ltd.
5. Indian Dairy Board Overseas Pte Ltd.
Wound up
6. Kriya Milk Industries of Lanka Ltd.
NDDB's shareholding sold to partner at par

The following subsidiaries were formed during Dr. Patel's tenure as Chairman NDDB

1. Indian Immunologicals Ltd.
Continues as a subsidiary
2. Mother Dairy Fruit & Vegetables Pvt. Ltd.
Continues as a subsidiary
3. Dhara Vegetable Oil and Foods Co.
Amalgamated with Mother Dairy Fruit & Vegetable Pvt. Ltd.
4. NDDB Dairy Services
Continues as a subsidiary
5. India Gen Ltd. was incorporated by subsidiary company IIL. Shareholding was acquired by NDDB for technical reasons in 2008 and transferred back to Indian Immunologicals in 2008 and was later amalgamated with IIL.

In the process of amalgamation/disinvestment, there has been no financial loss to the NDDB.

All the decisions with regard to formation/amalgamation are taken by the competent authority. From time to time NDDB is called upon to carry out activities which call for

formation of subsidiaries and then based on the progress/changed circumstances decisions are taken to continue/sell stake/amalgamate with another subsidiary.

NDDB's Annual report makes the related party disclosures as per Accounting standard-18. If a subsidiary has ceased to exist, it would not appear in related party disclosures in the NDDB Annual report. Therefore to state that the subsidiaries vanished is baseless and misleading.

B. MDFVPL subsidiaries

Around 2002 MDFVPL decided that keeping in view the liberalized competitive environment and the need to sustain the gains achieved from the Operation Flood programme there was a need to launch a fresh marketing initiative and also collaborate with state milk marketing federations. This would result in increase in sale of milk and milk products, thereby ensuring procurement of milk from producers in the villages continues to grow.

To protect the interests of both MDFVPL and state cooperative federations a concept of marketing joint ventures was developed. As a holding company, MDFVPL set up two wholly owned subsidiary companies as given below:

- i) Mother Dairy Foods Processing Ltd (MDFPL) – to take care of the entire processing operations.
- ii) Mother Dairy Foods Ltd. (MDFL) – to take care of the entire marketing operations.

Mother Dairy Foods Ltd. (MDFL) in order to broad-base the marketing operations formed four joint ventures with four state dairy federations namely, Aanchal Milk Foods Limited (Uttaranchal), Parag Milk Foods (Uttar Pradesh), Milma Milk Foods Ltd. (Kerala) and Maathasri Milk Products Ltd (Andhra Pradesh) for marketing under four different joint brand names.

To distinguish the sales operations of the four JVs from its own marketing, MDFL also incorporated two subsidiaries namely, Mother Dairy Delhi Ltd. (MDDL) for the existing operations in Delhi and Mother Dairy India Ltd. (MDIL) for marketing operations elsewhere under Mother Dairy brand name.

In total MDFVPL formed eight subsidiaries/step down subsidiaries. All these subsidiaries were formed in 2002-2003.

Dr. Kurien who had by then stepped down as Chairman NDDB and was still the Chairman of GCMMF (Amul) opposed this initiative. He wrote to the Central Government and many articles were also published in the newspapers. Finally the then Chairman of NDDB and the then Chairman GCMMF decided that MDFVPL will discontinue this initiative. The incorporation of the eight subsidiaries as indicated above was based on the decision to initiate a specific marketing initiative. Reversing that decision meant there was no longer a need for these subsidiaries/JV's to exist. After discussions with the concerned state cooperative organizations and requisite approval of Board and regulatory authorities, all the eight subsidiaries were amalgamated with the MDFVPL. The eight subsidiaries were formed in 2002/2003 and all of them were amalgamated in MDFVPL by 2006/2007.

It can be seen from above that these subsidiaries were created for a specific purpose and when that decision was reversed they were amalgamated in MDFVPL after 3/4 years.

The forming of all companies were approved by the Board of Directors of the company. The amalgamation was done in terms of scheme of amalgamation sanctioned by Hon'ble High Court, Delhi. Any profit/loss in forming/operating/amalgamating subsidiaries was borne by MDFVPL from its own resources. No funds from NDDDB were utilized for this purpose. However some expenditure was reimbursed by NDDDB towards brand building exercise for this initiative.

MDFVPL formed one more subsidiary - Safal National Exchange to conduct fruit and vegetable auctions at the Safal Market Bangalore. This market was set up by NDDDB at the request of GOI to experiment by setting up an alternate channel to the conventional fruit & vegetable mandis. The objective was to conduct transparent selling/buying of fruit & vegetables by a Clock Auction as against the opaque buying/selling in the conventional mandis. The buyers/sellers started participating in a small way but a majority did not participate stating that they find it difficult to participate in an auction process where their competitors come to know the quantity that they are buying and also the price at which they are buying.

It was then suggested that a spot exchange be established, wholesalers and others can become members and they can buy/sell from a terminal connected to the spot exchange installed in their offices/homes. This way the competitors would not know about the quantity and price of buying/selling.

There were two major spot exchanges operating at that time. NCDEX and MCX. Discussions were held with both and subsequently a JV was formed with MCX. Though considerable effort and time was spent on the project, participation by buyers/sellers did not increase substantially. Thereafter the shares of the other partners were bought by MDFVPL at a consideration of Re.1 and the Safal National Exchange was amalgamated with MDFVPL.

The subsidiaries were formed with approval of the competent authority for specific purpose and later amalgamated into the Holding Company, with proper approvals of the Board/regulatory authorities.

As per the Accounting standards the investments and assets/liabilities of the subsidiaries amalgamated with MDFVPL have been reflected in the accounts of MDFVPL.

All the amalgamation orders sanctioned by the High Court have been filed and registered with the Registrar of Companies Delhi. The amalgamation order becomes effective from the date on which order is filed with the ROC.

All the amalgamations are also mentioned in the respective Directors report filed with the Registrar of Companies.

Central Government approval is not required for amalgamation.

Therefore to state that the subsidiaries have just vanished is baseless and misleading.

The article implies that NDDDB seems to have lost sight of how hundred of crores are regularly transferred to subsidiaries without discussing what happens to them.

NDDDB keeps track of all the funds released to the subsidiaries and what happens to them. Since doubts have been raised in the article about two companies i.e. MDFVPL and NDS, we give below examples of oversight:

NDS

Since some doubts have been raised about the quantum equity given to NDS. We reproduce it's utilization as on March 2018:

No.	Particulars	Amount (Rs. Crore)
1	Cash & bank balance/investment in govt bonds	145.29

2	Loan repaid to NDDDB	25.00
3	Capex investment for semen stations	18.85
4	Pending TDS refund from IT department	5.09
5	Outstanding secured loan to Producer Company	2.83
6	Capex investment for NDS office	2.94

MDFVPL

Loans have been given to MDFVPL from time to time at interest rates equal to or higher to that charged from the cooperatives. Proper records are maintained year-wise of the loan disbursed, loan repayment and the closing balance. Randomly picked up yearly details related to MDFVPL are given below.

In the year 2010-11 Rs.0.54 crore was disbursed to MDFVPL from NDDDB, Rs.25.28 crore was the repaid and Rs.135.52 crore was the closing balance as on 31st March 2011

Similarly in the year 2015-16, Rs.3.89 crore was disbursed to MDFVPL by NDDDB, Rs.81.43 crore was repaid and Rs.33.65 crore was closing balance as on 31 March 2016.

All details of loans/grants to subsidiaries are available and the same are subject to oversight of the Board.

It would be relevant to mention that loans/grants were being given by NDDDB to Mother Dairy Unit even before it was incorporated as a subsidiary.

3. Approval of the Central Government for setting up subsidiaries/step down subsidiaries

The article states that Central Government approval is required for forming subsidiaries and also step down subsidiaries. It further states that NDDDB have not bothered with this requirement.

The factual position in this regard is as under:

a) NDDDB forming a subsidiary:

For NDDDB to form a subsidiary, prior approval of the Central Government is required. NDDDB has always complied with this requirement.

b) NDDDB subsidiary forming a subsidiary

For NDDDB subsidiary to form a subsidiary, no prior Central Government approval was taken as according to legal opinion this was not required.

The legal opinions inter-alia stated that:

- i) Section 43 of NDDDB requiring prior Central Government to form a subsidiary company would be applicable only to NDDDB and would have no application to MDFVPL/IIL if they wish to form further subsidiaries.

- ii) Once MDFVPL & IIL are incorporated under Companies Act 1956, they would be governed by provisions of that Act and their respective Memorandum of Association. This is a fairly well settled position in law.
- iii) Also the approval granted by the Central Government at the time of incorporation of MDFVPL and IIL was an unconditional approval. Since no restrictions were imposed, the respective Memorandum of Association would decide on setting up subsidiary companies.

The Department of Animal Husbandry sought the views of the Department of Legal Affairs who were of the opinion that prior sanction of Government is required for subsidiaries to form other subsidiaries. It also stated that the views of the Department of Company Affairs be taken. The Department of Company Affairs were of the opinion that that the provisions of Companies Act will apply. Since the Memorandum and Articles of Association does not prohibit, there is no legal bar on floating of further subsidiaries.

NDDDB took legal opinion from Shri KK Venugopal, Senior Advocate (now the Attorney General) who supported the same. He further advised, if the Central Government persist on taking actions based on the opinion of the Department of Legal Affairs, NDDDB should approach the appropriate High Court.

In the meantime subsequent to exchange of letter, the DADF wrote to NDDDB that the matter was discussed with the Honourable Agriculture Minister who had desired that NDDDB should take up the matter again in their Board Meeting and seek ex-post facto ratification from DADF which was done.

4. CAG Audit

There is no question of evading the Audit by CAG. The factual position is as under:

- i) In accordance with the provisions of the NDDDB Act, its accounts are audited by auditors appointed with the prior approval of the Central Government.
- ii) Around 1996 Dr. Kurien the then Chairman NDDDB developed serious differences with the then Minister in-charge and the Secretary of Animal Husbandry & Dairying GOI. A CAG audit request was granted by the Minister in-charge.
- iii) NDDDB took to legal recourse and the court granted a stay. The case finally came up for hearing in 2009.
- iv) The court took the view that the different provisions of the CAG had to be read harmoniously and keeping in mind the object and purpose behind the provisions, the CAG can if it wants to, conduct an audit as per provisions of the CAG Act for funds released by the Central Government. The senior advocate representing NDDDB felt that it was a fit case for NDDDB to appeal to the Supreme Court. However NDDDB accepted the High Court's decision and decided not to prefer an appeal.

5. Funding of subsidiaries and cooperatives

NDDDB has supported cooperatives and will continue to do so. Many of the cooperatives are now well established, having the capacity to negotiate for cheaper loans from financial institutions/banks and therefore do not require funds from the NDDDB. Others cooperatives which approach NDDDB with proper loan proposal have been provided loan subject to their meeting eligibility criteria.

However since a provision is there in the NDDDB Act showing the legislative intent, Subsidiaries are also formed by the NDDDB to assist the producers. If one takes the example of its recent subsidiary NDS - it has under the National Dairy Plan set up 5 large milk Producer Companies and as on March 2019 these Producer Companies -

- i) had 7.5 lakh milk producers as members and about 60% of them were small holders (having 3 or less than 3 milch animals). About 40% members were women.
- ii) 100 % payment of milk bills are being made to farmers in their bank account directly.
- iii) procured about 400 crore litres of milk since inception for which the producers received about Rs.14,350 crore as payment.

The Producer Companies supply milk in bulk but also market milk and milk products directly to the consumers under their respective brand names.

Further with the financial assistance from the Central Government's National Rural Livelihoods Mission Program and also from TATA Trusts 11 more Milk Producer Companies have been incorporated.

Therefore the efforts of subsidiaries and cooperatives are complimentary.

The push for forming subsidiaries also came from the fact that NDDDB under its Act had income tax exemption. It was brought out that why should NDDDB have a tax exemption when it runs commercial businesses? Therefore it was decided that commercial operations should be separated from NDDDB by forming subsidiaries and these subsidiaries should pay tax on their profits. Though subsequently NDDDB's tax exemption was withdrawn along with other statutory bodies.

We request you to publish the correct facts in your portal for the benefit of the readers.

Thanks,
Abhijit