Chapter 3

Audit of Transactions

Audit of transactions of the Government Departments, their field formations as well as that of the autonomous bodies brought out several instances of lapses in management of resources and failures in the observance of the norms of regularity, propriety and economy. These have been presented in the succeeding paragraphs under broad objective heads.

3.1 Non-compliance with the Rules

For sound financial administration and financial control, it is essential that expenditure conforms to financial rules, regulations and orders issued by the competent authority. This not only prevents irregularities, misappropriation and frauds, but helps in maintaining good financial discipline. Some of the audit findings on non-compliance with rules and regulations are hereunder:

LABOUR DEPARTMENT

3.1.1 Release of grant-in-aid without observance of procedure

Action of the Directorate of Employment and Training to admit 16 private Industrial Training Institutes to grant-in-aid before completion of the mandatory seven year period resulted in violation of the Grant-in-Aid Code and irregular payment of grant-in-aid of Rs 1.12 crore.

The Grant-in-Aid Code for private Industrial Training Institutes, 1997 (GIA Code) which came into force from 1 November 1997 provided that all private Industrial Training Institutes (ITIs) affiliated to National Council for Vocational Training, New Delhi (NCVT) were eligible for Grant-in-Aid (GIA) subject to the condition that all trades and units were functioning continuously for a period of not less than seven years after their affiliation to NCVT.

The GIA admissible in the form of salary grants at the rate of 75 *per cent* of the gross salary was payable to the staff of eligible institutions and the remaining 25 *per cent* was to be borne by the concerned institutions/ management. The GIA was reduced to 70 *per cent* from 1 April 2001 and later enhanced to 85 *per cent* with effect from 16 January 2007 and 100 *per cent* from 1 October 2007.

Records of the Joint Directors of Employment and Training of Bangalore, Mysore, Hubli and Gulbarga Divisions and the Directorate of Employment and Training, Bangalore revealed (May 2009) that 16 private ITIs were admitted (November 1997-April 2001) to the GIA scheme before completion of seven years from the date of their affiliation to NCVT. Two trades in one private ITI in Gulbarga were admitted to GIA even before the affiliation of the ITI to NCVT.

Salary grant of Rs 1.12 crore was paid to these institutions against the posts sanctioned under the respective trade/unit for ineligible period (**Appendix-3.1**) which was irregular. The incumbents were also allowed the benefit of the increment with reference to the pay fixed during the ineligible period. The irregular payment of GIA on this account up to the end of March 2009 worked out to Rs 8.58 lakh (**Appendix-3.2**). Action of the departmental officers to admit the ITIs to GIA scheme before their affiliation to NCVT/ completion of seven years had a recurring effect on the pay and allowances of the incumbents in future also and as such needed immediate rectificatory action.

The Government in reply accepted (August 2009) the audit findings in respect of Bangalore, Mysore and Hubli divisions. Confirmation of audit findings in respect of Gulbarga division communicated separately was awaited (December 2009).

PRIMARY AND SECONDARY EDUCATION DEPARTMENT

3.1.2 Non-compliance with the Planning Commission guidelines leading to diversion of funds

In violation of Planning Commission guidelines, the Director of Vocational Education diverted Rs 1.97 crore earmarked to provide extra coaching and to supply study material to students belonging to Scheduled Castes and Scheduled Tribes to meet salary expenditure for regular staff.

Special Component Plan (SCP) and Tribal Sub Plan (TSP) are designed to channelise the flow of funds from the general sector to schemes for development of Scheduled Castes (SC) and Scheduled Tribes (ST). According to the guidelines issued (October 2005) by the Planning Commission, the State Government was to formulate action plans for schemes which would directly benefit individuals or families belonging to SC and ST. Funds under the schemes were not to be diverted or allowed to lapse.

Scrutiny (December 2008) of records of the Director of Vocational Education (Director) revealed that Rs 2.47 crore was released (April 2007) by the Government to the Director under SCP (Rs 1.76 crore) and TSP (Rs 0.71 crore) for the year 2007-08. Out of this, Rs 1.97 crore was payable towards honoraria to the teachers who imparted extra coaching to SC and ST students and to supply study material to the students so as to enable them to perform better in the examinations. The balance was earmarked for improvement to infrastructure in schools.

The Director instead of proposing an action plan to utilise these funds as per the guidelines submitted (August 2007) a proposal to utilise an amount of Rs 1.43 crore under SCP and Rs 54 lakh under TSP to meet the salary/remuneration expenditure in respect of selected courses although the expenditure on this account was to be met out of general budgetary provisions. The State Government approved (August 2007) the proposals of the Director and funds were released (September-November 2007) to the concerned

colleges resulting in diversion of funds earmarked for providing extra coaching and study material to SC/ST students.

In view of decline in the pass percentage of SC/ST students from an average 74.10 *per cent* (2002-04) to an average 57.72 *per cent* (2005-07), it was all the more essential for the department to ensure extra coaching and additional study material to the SC/ST students.

The Government in reply stated (July 2009) that the funds under SCP and TSP were utilised, as sufficient funds were not available, during the early period of 2007-08 in the regular budget. The reply was not justifiable as these funds were meant for imparting extra coaching and to provide study material to the SC/ST students and their diversion resulted in denial of the direct benefits contemplated by the schemes.

FOREST, ECOLOGY AND ENVIRONMENT DEPARTMENT

3.1.3 Non-compliance with CAMPA directions leading to non-recovery of Net Present Value

Net Present Value of Rs 13.97 crore was not recovered from user agencies by two forest divisions on transfer of 157.32 hectares of forest land for non-forest purposes.

As per Forest Conservation Act, 1980, prior approval of Government of India (GOI) is required for diversion of forest land for non-forest purpose which is given in two stages *i.e.,* "in-principle approval" and "final approval". GOI issued guidelines (September 2003) for collection of Net Present Value (NPV) from user agencies at the rates ranging from Rs 5.80 lakh to Rs 9.20 lakh per hectare (ha) of forest land diverted where "in-principle approval" was granted after 30 October 2002. Later, the Compensatory Afforestation Fund Management and Planning Authority (CAMPA)[1] clarified (October 2006) that the NPV should be recovered in all cases of diversion of forest land where "final approval" was granted on or after 30 October 2002.

Scrutiny of records (January 2008 and February 2009) of Deputy Conservator of Forest, (DCF)[2] revealed that in two cases "in-principle approval" for diversion of forest land *viz.,* 129.60 ha to Karnataka Niravari Nigam Limited (KNNL) and 27.72 ha to Karnataka Power Transmission Corporation Limited (KPTCL) was granted before 30 October 2002. The "final approval" for diversion of forest land was granted during March 2004 and June 2004 respectively. However, NPV of Rs 13.97 crore (Rs 11.92 crore from KNNL and Rs 2.05 crore from KPTCL) from these two user agencies was not recovered even though final approval was granted after 30 October 2002.

KNNL stated to DCF (October 2008) that it was exempted from payment of NPV as per the orders[3] issued by the State Government while KPTCL

[1] An ad-hoc body constituted by the Supreme Court of India
[2] Dharwad and Kundapur respectively
[3] GO dated 24 January 2005 for granting final approval and corrigendum dated 7 January 2006 exempting from payment of NPV

maintained that NPV was payable only in cases where "in-principle approval" was granted after 30 October 2002. The reply is not acceptable since the "final approval" for diversion of forest land was granted only after 30 October 2002. Hence, both the agencies *i.e.,* KNNL and KPTCL were liable to pay NPV of Rs 13.97 crore. In view of clarification (October 2006) issued by CAMPA, the State Government was required to withdraw the corrigendum earlier issued in respect of KNNL to facilitate recovery of the amount. In respect of KPTCL, a demand notice was issued by DCF after being pointed out by Audit.

Thus, failure of the Department to comply with CAMPA guidelines resulted in non-recovery of NPV of Rs 13.97 crore from the user agencies.

The matter was referred to the Government in February 2009; reply had not been received (December 2009).

PUBLIC WORKS, PORTS AND INLAND WATER TRANSPORT DEPARTMENT (COMMUNICATION AND BUILDINGS) & HOME DEPARTMENT

3.1.4 Violation of codal provision resulting in avoidable expenditure

Stoppage of work without orders from competent authority resulted in an avoidable extra expenditure of Rs 45.42 lakh.

Paragraph 211 (a) of Karnataka Public Works Departmental Code Volume I, lays down that the Public Works Department (PWD) should obtain prior sanction of competent authority for all deviations during execution of works involving additional cost, material modification to original plans and designs for the works, taken up on behalf of other departments.

The work of upgradation of the District Prison, Mangalore to Central Prison was entrusted to the Executive Engineer (EE), PWD, Mangalore as Deposit Work. Based on the perspective plan approved by the Empowered Committee, Stage I involving construction of men's barracks and compound wall was administratively approved (December 2004) for Rs 1.89 crore by the Director General of Police and Inspector General for Prisons, Bangalore. The work was awarded (August 2005) by the EE to a contractor at a cost of Rs 1.79 crore[4] for completion in 24 months.

Records of the Division revealed (April 2009) that during execution, a resolution was adopted in a meeting held (April 2006) by the Minister, District in-charge for relocation of the prison[5] and stoppage of the work by EE as it was located in the centre of city. Based on oral instructions from the Additional Director General of Police and Inspector General of Prisons, the EE stopped the work in April 2006. The contractor was paid Rs 37.46 lakh (June 2006). The action taken by EE to stop the work was not in conformity

[4] At a tender premium of 14 *per cent*
[5] Located in centre of the city

with codal provisions. When the matter was referred (May 2006) by EE, the Government ordered (December 2006) to restart the work on the ground that expenditure had already been incurred thereon. As stoppage of work was for more than six months, a supplementary agreement was concluded (December 2007) at higher rates with the same contractor for Rs 2.18 crore for balance works in terms of the agreement. The additional liability due to revision of rates worked out to Rs 75.99 lakh, out of which, Rs 45.42 lakh (**Appendix-3.3**) had been paid (December 2008) to the contractor.

Thus, the decision to stop the work by EE before referring the matter to Government (Administrative Department) for appropriate orders, in violation of codal provisions, resulted in avoidable extra expenditure of Rs 45.42 lakh.

The matter was referred to Government in PWD (May 2009) and Home Department (September 2009); reply had not been received (December 2009).

REVENUE DEPARTMENT

3.1.5 Diversion of calamity relief funds in violation of prescribed guidelines

Deputy Commissioner, Gadag in defiance of norms prescribed by Government of India diverted Rs 81.60 lakh out of Calamity Relief Fund to construct compound wall around the District office complex, to repair roads and to furnish his official residence.

The guidelines issued (July 2002 and June 2005) by the Government of India on Calamity Relief Fund (CRF) provided that the fund should be used for providing immediate relief to the victims of a natural calamity such as cyclone, drought, earthquake, fire, flood, hailstorm, land slide, *etc.* The emergency works were to be taken up with the prior approval of the State Level Committee (SLC) constituted for the administration of CRF. The guidelines further stipulated that the expenditure on restoration of damaged infrastructure such as roads, bridges, drinking water supply *etc.,* should ordinarily be met from normal budgetary heads.

Scrutiny (February 2009) of records of Deputy Commissioner (DC), Gadag revealed that an expenditure of Rs 81.60 lakh was incurred (March 2007-January 2008) out of CRF for construction of a compound wall (Rs 48.18 lakh), furnishing the DC's quarters (Rs 4.92 lakh), providing water supply and drainage to other residential quarters (Rs 13.63 lakh) and repairs to the road damaged due to rains (Rs 12.22 lakh), besides payment of service charge (Rs 2.65 lakh) to Karnataka Housing Board.

None of the works executed was of the nature of providing immediate relief to the victims of a natural calamity as provided in the guidelines. The expenditure was also not approved by the SLC. Execution of the works by the DC out of CRF was therefore, not in order and constituted irregular diversion of Rs 81.60 lakh.

On this being pointed out, the Government accepted (June 2009) the audit observation and stated that the diverted amount would be recouped to the CRF. However, the amount was yet to be recouped (December 2009).

URBAN DEVELOPMENT DEPARTMENT

3.1.6 Avoidable expenditure due to non-observance of IRC specifications

The injudicious action of the Bangalore Development Authority to bring soil from a "borrow" area instead of utilising the excavated soil at the site for construction of a road embankment resulted in avoidable expenditure of Rs 52.99 lakh.

The Bangalore Development Authority (BDA) awarded (March 2006) the work of improvements to the road from Ganesh Temple to Kanakapura Road at Konanakunte Cross via Jambusavaridinne in Bangalore to a contractor at a cost of Rs 12 crore and got it completed (June 2008) at a cost of Rs 11.26 crore. The work included earth excavation for roadway; earth excavation for foundation and formation of embankment by obtaining soil from borrow pits. The contractor brought 18,474.32 cum of earth from the borrow areas involving a lead of 25 km for construction of embankment and was paid Rs 30.42 lakh. The contractor was also paid Rs 22.57 lakh for transportation and disposal of 18,474.32 cum of the excavated material.

Records revealed that the BDA while preparing the estimate did not consider construction of embankment with the available excavated earth by conducting requisite tests. BDA did not ascertain the suitability of the available earth before rejecting it, as required under the Indian Roads Congress (IRC) specifications for construction of road embankments. The injudicious action of the BDA resulted in avoidable expenditure of Rs 52.99 lakh (**Appendix-3.4**) on transportation of earth to and from the site of work.

Government contended (August 2009) that the excavated earth had been choked up with silt and other debris which could not have been used for embankment. The reply was not justified as the contractor had excavated more than 60,000 cum of earth and rejection of the entire available earth signified wilful deviations from the rules and procedure, resulting in avoidable financial burden to the Government. The lapses of the authorities in the instant case may, therefore, be got investigated and the results thereof intimated to Audit.

3.2 Audit against Propriety/Expenditure without justification

Authorisation of expenditure from public funds has to be guided by the principles of propriety and efficiency of public expenditure. Authorities empowered to incur expenditure are expected to enforce the same vigilance as a person of ordinary prudence would exercise in respect of his own money and should enforce financial order and strict economy at every step. Audit has detected instances of impropriety and extra expenditure, some of which are hereunder.

COMMERCE AND INDUSTRIES DEPARTMENT

3.2.1 Delay/inaction of the department leading to loss of dividend income

Inaction of Commerce and Industries Department for over four years to act on the proposal of a public sector advertising company to allot shares to the Government and failure to levy Business Development Cost resulted in loss of dividend income of Rs 58.77 lakh and potential loss of Rs 10.04 crore.

Marketing Consultants and Agencies Limited is a State Government advertising company. The Government issued orders from time to time to various State Government Public Sector Undertakings (PSUs) to make use of the company for all their publicity/ advertisement requirements and to provide automatic empanelment of company as an advertising agency. As the company enjoyed the patronage of the Government, it was ordered (November 1998) that the company should pay to the Government, Business Development Cost (BDC) at eight *per cent* of its gross turnover from the financial year 1997-98 to 2001-2002. The Government allowed the company to retain the BDC payable on this account, as equity and allot the shares to their holding company *ie.*, Mysore Sales International Limited. For the year 2002-03 and 2003-04, the Government directed the company to allot the shares to the Government directly. The company sought (February 2005) approval of Government for allotment of shares at a premium of Rs 200 against the BDC of Rs 3.46 crore retained for the years 2002-03 and 2003-04. As the Government did not convey approval, the company retained the amount as share application money without allotment of shares (May 2009). The Government did not also issue orders levying BDC beyond the year 2003-04 and no reasons were forthcoming in this regard (May 2009).

Scrutiny (June 2008) of records revealed:

(i) Though the company had reminded (February 2005 to October 2008) the Government, several times to communicate approval for allotment of shares, the proposal of the company was acted upon only in February 2009 when the concurrence of the Finance Department (FD) was sought by the Commerce & Industries (C&I) Department. The FD returned (May 2009) the proposal for a fair recent assessment of share value as the proposal was more than five years old. Consequently, the BDC of Rs 3.46 crore for the period 2002-04 could not be converted into equity shares and the dividend income of Rs 58.77 lakh thereon for the period 2003-08 payable to the Government was foregone (**Appendix-3.5**).

(ii) The Government also did not issue orders levying BDC for the year 2004-05 and onwards although circulars were issued to all the State PSUs, Government Departments and Local Bodies, *etc*., reiterating the necessity to entrust all their publicity/advertising works to the company. Reasons for not initiating any action in the matter by the Government were not forthcoming. Consequently, there was a potential loss of revenue of

Rs 10.04 crore to the Government due to non-levy of BDC for the period 2004-09 (**Appendix-3.6**).

Government in their reply stated (September 2009) that it had been decided to purchase the shares of the company as per the recent valuation and that BDC would be levied in consultation with the FD. The fact, however, remained that the delay was not justified and the authorities failed to exercise the same vigilance to safeguard the financial interest of the Government as a person of ordinary prudence would exercise in respect of his own money, leading to an irrecoverable loss of Rs 58.77 lakh. The lapses may, therefore, be got investigated independently and results thereof intimated to Audit.

HIGHER EDUCATION DEPARTMENT

3.2.2 Payment of overtime allowance without fixing work norms

Bangalore University paid overtime allowance of Rs 2.22 crore to the employees of the University Printing Press during the period 2002-09 without fixing work norms for such payments.

The Bangalore University Senate resolved (March 1998) to pay the employees of the University Press, Overtime allowance (OTA) and forwarded the same to Government (April 1998) for assent of the Chancellor. The Chancellor of the University withheld assent (June 1998) reiterating the earlier instructions against payment of OTA and directed the University to recover the OTA already paid. The University continued to make OTA payments to which the Government objected (June 2002) and directed the University to pass a statute providing for payment of honorarium, if felt necessary. The University did not comply with the directions of the Government but resolved (October 2002) to sanction OTA to the employees of the University Press.

Records revealed (February 2009) that the University did not evolve any work norms to determine and enforce the work output by the employees during normal working hours and to ensure that the output achieved during the extra working hours was commensurate with the OTA payments made. The University Press employees had been paid OTA of Rs 2.22 crore on all the working days (after working hours) and on closed holidays during the seven year period from 2002-09 except for 127 days. The University Press did not also maintain basic records such as time sheets, job cards, *etc*., to verify the authenticity of the claims regarding the work output and the OTA payments.

The University Press had three working printing machines whose collective installed capacity was 10,000 impressions per hour and 70,000 impressions per day of seven working hours. As against this, the press had achieved a total output of only 36,000 impressions per day which was only 51 *per cent* of the expected output during the normal working hours. As such, payment of OTA on a regular basis was not justified.

Thus, payment of OTA of Rs 2.22 crore to employees of the University Press without evolving work norms and maintaining basic records was irregular.

On this being pointed out, the Government directed (August 2009) the University to recover the OTA from the employees immediately.

3.2.3 Procurement of higher bandwidth without adequate infrastructure leading to wasteful expenditure

Procurement of higher bandwidth for improving internet connectivity in its campuses by Bangalore University without assessing the capacity of the existing equipment resulted in its under-utilisation and wasteful expenditure of Rs 85.85 lakh.

The Technical Committee of Bangalore University (BU) in order to provide reliable and fast internet access in their two campuses *viz.*, Central College (CC) and Jnana Bharathi (JB) decided (March 2004) to obtain from BSNL two internet circuits each with a bandwidth of two mega byte per second (Mbps) to JB campus and another internet circuit of two Mbps bandwidth to CC. A bandwidth of six Mbps was obtained (April 2004) on payment of Rs 46.01 lakh towards internet port charges (rentals), service tax, security deposit, *etc*. One more circuit was also obtained to connect the two campuses (JB and CC) but this circuit had not been utilised and only lead charges were paid to BSNL. During the period 2005-09, BU paid a total amount of Rs 1.22 crore as internet port charges **(Appendix-3.7).**

The BU appointed a committee to look into the functioning of campus networking in the neighbouring universities *viz.*, University of Agricultural Sciences, Bangalore (UASB) and Indian Institute of Science (IISc), Bangalore. The committee observed (April 2006), *inter alia*, that the entire campus of UASB with as many as 300 computers was having only two internet circuits, one with a bandwidth of 512 Kbps[6] and the other with 256 Kbps. On noticing this, the BU approached (August 2006) the BSNL to reduce the bandwidth of both the internet circuits connecting JB from four Mbps to one Mbps and to reduce bandwidth of two Mbps to one Mbps in respect of the circuit connecting CC campus. The BU also demanded refund of port charges of Rs 27.52 lakh paid for the period April 2004 to March 2006 on the ground that one internet circuit connecting JB was not activated and as such had not been utilised. While the BSNL reduced the bandwidth to two Mbps as requested by BU, the demand for refund of Rs 27.52 lakh was not conceded on the ground that the circuit was in fact activated but only underutilised.

Records revealed (February 2009):

- The existing telephone exchange in JB through which internet connectivity had been established could support a maximum bandwidth of only 2.3 Mbps as against four Mpbs obtained. The equipment (DSLAM) used in the exchange could connect a maximum 48 ports only in the absence of Wide Area Network/Local Area Network in the campus. Obtaining four Mpbs bandwidth to JB thus, proved wasteful during the period April 2004 to March 2006.

[6] One Mbps = 1,024 Kilobytes per second (Kbps)

- A bandwidth of only one Mbps was found sufficient as the BU could have utilised the leased line procured for connecting both JB and CC by obtaining a single internet circuit of one Mbps. The internet port charges for a bandwidth of one Mbps were only Rs 36.39 lakh as against Rs 1.22 crore paid by the BU during the period April 2004 to March 2009.

Thus, procurement of higher bandwidth without assessing the capacity of the existing telephone exchange and the equipment resulted in under-utilisation of internet connectivity and a wasteful expenditure of Rs 85.85 lakh (**Appendix-3.7**) thereon.

The BU in reply stated (April 2009) that as it was to face the National Assessment and Accreditation Council for its accreditation and as the time available was very short, the Technical Committee decided to implement connectivity through telephone lines adopting the suggestions of BSNL. The reply was not justified as BU should have taken advance action to face the accreditation process. The reply also confirmed that the project was implemented without any planning and assessment of technical feasibility.

The matter was referred to Government in April 2009; reply had not been received (December 2009).

PUBLIC WORKS, PORTS AND INLAND WATER TRANSPORT DEPARTMENT – COMMUNICATION AND BUILDINGS

3.2.4 Avoidable expenditure due to underestimation of quantity of steel

The requirement of structural steel assessed as per architectural drawings instead of structural design drawings led to its under assessment. This necessitated revision of quantity after entrustment of work resulting in avoidable extra expenditure of Rs 1.30 crore due to payment for additional quantity at higher rates.

Paragraph 211 of Karnataka Public Works Departmental Code Volume-I provides that no work shall be commenced unless detailed design and estimate have been sanctioned.

The construction of a common computerised check-post at Attibele in Bangalore district was administratively approved (May 2003) by the Government and technically sanctioned (February 2004) by the Chief Engineer, Communication and Buildings (South), Bangalore (CE) for Rs 31.95 crore. The work was awarded (August 2005) to a firm for Rs 37.32 crore at a tender premium of 14.50 *per cent* for completion by September 2006. Extension of time was granted (January 2009) upto May 2009 as there was delay in handing over of entry terminal portion of land, delay in supply of approved designs and increase in quantity of several items of work.

Scrutiny of records (March 2008 and February 2009) of Executive Engineer, Public Works Division, Bangalore (EE) revealed that sanctioned estimate,

inter alia, included an item "providing, fabricating and erecting steel columns and tubular roof trusses for computer terminal and godown" for which the requirement of steel was assessed at 179.80 tonne. The quantity of steel was assessed on the basis of architectural drawing (February 2004) and tentatively assumed at 25 kg/sqm for computer terminal and 22 kg/sqm for godown. The quantity of steel was to be assessed on the basis of structural design drawings which would have given the actual requirement of steel. The structural design drawings were not finalised before commencement of work but during execution of the work. Consequently, the requirement of steel was revised from 179.80 tonne to 547.71 tonne constituting an increase of 204 *per cent* over and above quantity initially assessed.

Due to increase in quantity of work, revised rate was payable for the quantity exceeding 125 *per cent* of the tendered quantity as per the terms of the agreement. Accordingly, Superintending Engineer approved (August 2007) the revised rate of Rs 90.40 per kg against the tender rate Rs 50 per kg. The differential rate of Rs 40.40 per kg for 322.96 tonne (547.71 tonne *minus* 224.75 tonne) of steel resulted in avoidable extra expenditure of Rs 1.30 crore, out of which Rs 1.02 crore had already been paid.

The EE admitted (February 2009) that during estimation only architectural drawings were available and hence the quantities were worked out tentatively on area basis. The reply was not acceptable as a period of nine months between administrative approval (May 2003) and technical sanction (February 2004) was available to finalise structural design drawings. Thus, failure of the Department to prepare realistic estimate before tendering of work, resulted in an avoidable extra expenditure of Rs 1.30 crore on account of payment at higher rates.

The matter was referred to the Government in February 2009; reply had not been received (December 2009).

URBAN DEVELOPMENT DEPARTMENT

3.2.5 Non-observance of regulations resulting in unintended benefit to the contractor

The Karnataka Urban Water Supply and Drainage Board erroneously refunded Rs 1.40 crore to the contractor towards Central Excise Duty on pipes used in a water supply scheme although the pipes were procured free of Duty on the basis of exemption certificates issued by them.

The Combined Water Supply Scheme to Hagaribommanahalli, Kudligi and Kottur towns of Bellary district entrusted (November 2004) to a contractor at a cost of Rs 31.73 crore envisaged, *inter alia*, procurement of mild steel (MS) pipes. The pipes were fully exempt from central excise duty (CED) in terms of Notification issued (September 2002) by the Government of India and the Karnataka Urban Water Supply and Drainage Board (Board) was required to furnish exemption certificates issued by the jurisdictional Deputy Commissioner to the contractor to enable him to procure the pipes free of CED.

The contractor accordingly procured 70,580 rmt of MS pipes of different diameters at a cost of Rs 12.41 crore on the basis of exemption certificates issued by the Board. The Board recovered (March 2006-November 2007) Rs 1.98 crore towards CED at 16 *per cent ad-valorem* as the rates quoted by the contractor were inclusive of all taxes, duties and other levies. However, the contractor contended that only Rs 54.61 lakh was recoverable on this account as the manufacturer had loaded the basic cost of the pipes with the Central Excise Value Added Tax (CENVAT) element. The Board accepting this contention worked out the recoverable amount at Rs 58.18 lakh and refunded (April 2008) Rs 1.40 crore to the contractor on the ground that the benefit of CED exemption was only 5.21 *per cent* of the basic cost of MS pipes.

Scrutiny of invoices, however, revealed (October 2008) that the pipes were procured by the contractor free of CED against production of exemption certificates and the CENVAT element, if included in the basic cost of the pipe, was not evident. As such, there was no liability to refund the CED already recovered from the contractor and the injudicious decision to refund Rs 1.40 crore resulted in unintended benefit to the contractor.

Government in their reply contended (June 2009) that the exemption from CED was to the extent of 5.21 *per cent* only on the basic cost as the manufacturer had added the balance 11.11 *per cent* to the basic cost and the refund was in order. The reply was not justifiable as the Board had already reimbursed the basic cost of the pipes including CENVAT element and as such, there was no liability to refund the CENVAT element to the contractor. Moreover, reimbursement should have been strictly as per invoices produced by the contractor. Thus, the refund of Rs 1.40 crore resulted in an unintended benefit to the contractor.

WATER RESOURCES DEPARTMENT – MINOR IRRIGATION

3.2.6 Lack of adequate defence of the arbitration case leading to avoidable payment to contractor

Failure to forestall a settled dispute for arbitration again and to produce relevant records before third arbitrator resulted in the third arbitrator awarding the claim in favour of the contractor. This led to an avoidable payment of Rs 50.21 lakh towards price adjustment and interest thereon in construction of canal of a minor irrigation tank in Kanakapura taluk.

The agreement[7] (clause 52) for construction of right bank canal of Ravathanahalla tank, Kanakapura taluk, including cross drainage works from km 13.50 to 18.70, provided for settlement of differences/disputes between the parties by referring to a sole arbitrator as per provisions of Arbitration Act in force (Act).

The work was awarded (November 1986) to a contractor on tender basis by Executive Engineer, Minor Irrigation Division, Bangalore (EE) at his tendered

[7] Local Competitive Bidding (LCB)

cost of Rs 3.56 lakh for completion by August 1987. The contractor could not complete the work within the stipulated time due to increase in quantum of work and non-handing over of uninterrupted site to the contractor for execution of work. The work was completed in May 1994 and final bill was paid (Rs 19.59 lakh) in July 1995. The contractor had put forth various claims which were referred to three separate arbitrators (March 1991, November 1996 and September 2000) and Rs 2.72 crore was paid[8] as per three awards, inclusive of interest.

Records of the Division revealed (March 2008) that the contractor's claims before the first Arbitrator included a claim for payment cost escalation/price adjustment. The arbitrator rejected this claim and held (November 1993) that the price escalation clause in the agreement stood deleted before the agreement was signed by both the parties based on the documents produced before him by the department and hence that clause was not applicable. The contractor did not challenge this award in a Court. While preferring his claims before the third arbitrator, the contractor again made a claim for cost escalation/price adjustment, which the Department did not dispute and thereby the clause stood referred to an arbitrator for a second time. The Department also did not produce those records produced to the first arbitrator before the third arbitrator. Further, as per the High Court decision[9], a dispute once referred to arbitration and considered in an award does not survive for another reference. It becomes extinguished and merged in the award in which it was considered. Thus, failure of the Department to forestall a settled dispute regarding price adjustment which was again brought up for arbitration and non-production of relevant records before the third arbitrator resulted in the third arbitrator awarding the claim in favour of the contractor. This led to an avoidable payment of Rs 50.21 lakh[10] towards price adjustment and interest thereon.

The matter was referred to Government (May 2009); reply had not been received (December 2009).

3.2.7 Avoidable expenditure due to defective survey and non-observance of contractual provisions

Failure to conduct proper survey and investigation resulted in extra expenditure of Rs 17.95 lakh due to payment of additional quantities of work at revised rates and Rs 9.31 lakh on escalation charges in violation of contractual provisions.

The construction of tank at Kollibachaluhalla near Gilalagundi village in Sagar taluk was awarded (May 1998) to a contractor at his tendered cost of Rs 57.65 lakh for completion in 24 months. The construction could not be taken up due to non-clearance of land by the Forest Department. The work

[8] December 1995 (First award - Rs 20.39 lakh), June 2001 (Second award - Rs 71.86 lakh) and between July 2003 and March 2007 (Third award - Rs1.80 crore)

[9] In MS Ramaiah *Vs* State of Mysore AIR 1973 MYS 17:1973

[10] Price adjustment of Rs 15.77 lakh plus interest of Rs 34.44 lakh at 18 *per cent* per annum on Rs 15.77 lakh from 15.09.1994 to 30.10.2006

was re-entrusted (May 2004) to the same contractor for Rs 79.03 lakh. As of September 2008, the work was in progress and payment of Rs 2.02 crore was made to the contractor.

Records revealed that the project sanctioned (1994) by the Government for Rs 39 lakh was for an earthen dam. The earthen dam was changed to a concrete dam after inspection of site by Chief Engineer (CE) during 1995. Accordingly, the estimate was modified and approved by Government in August 1997 for Rs 78 lakh. It was noticed that the estimate of the concrete dam was prepared by utilising the results of trial pits of two metre depth taken for the earthen dam though "Guidelines for Minor Irrigation Tanks" and IS code[11] recommended core drilling for subsurface exploration of river valley projects to obtain maximum possible data on the substrata. During execution the hard strata was not met at two metres depth as assumed and CE instructed (December 2004) to take trial bores. The trial bores results revealed that hard strata were available at seven metre depth. The change in the foundation levels resulted in additional quantities of excavation and other items of work. The additional quantities in excess of 125 *per cent* of tendered quantities were payable at revised rates as per Clause 13(b) of the agreement. Accordingly, the per cubic metre rate for additional quantity executed (in excess of 125 *per cent*) in respect of German concrete from Rs 1,215.59 was revised to Rs 1,678.74 for 3,494.22 cum and for laying cement concrete 1:2:4 from Rs 2,260.03 to Rs 2,550.43 for 609.56 cum. This resulted in an avoidable extra expenditure of Rs 17.95 lakh.

Further, Clause 44 of standard contract form (PWG 65) provides for price adjustment in respect of works where stipulated period of completion exceeded 24 months and the tendered cost of the irrigation works exceeded Rs 100 lakh. This was not applicable to this contract as stipulated period of completion did not exceed 24 months and tendered cost was Rs 79.03 lakh. However, an amount of Rs 12.41 lakh was assessed towards price adjustment and Rs 9.31 lakh paid by the Executive Engineer (March 2008) in violation of contractual provisions.

Government stated (September 2009) that trial bores could not be taken earlier as Forest Department objected to movement of vehicles and machineries and result of trial pits taken for earlier estimate of earthen dam was adopted in the estimate for construction of concrete dam also. It further stated that amount paid towards price adjustment was as per clause contained in the original agreement (1998) and hence admitted. The reply is not tenable as a period of more than one year was available to the department for conducting fresh investigations and taking trial bores. Original contract amount was Rs 57.65 lakh with period of completion as 24 months which was revised to Rs 79.03 lakh retaining the completion period of 24 months. As condition relating to the amount and period of contract was not met, the price adjustment clause was not applicable.

[11] IS 6926-1973 and reaffirmed in 1991

3.3 Persistent and pervasive irregularities

An irregularity is considered persistent if it occurs year after year. It becomes pervasive when it is prevailing in the entire system. Recurrence of irregularities, despite being pointed out in earlier audits, is not only indicative of non-seriousness on the part of the executive but is also an indication of lack of effective monitoring. This in turn encourages wilful deviations from observance of rules/regulations and results in weakening of the administrative structure. Some of the cases reported in Audit about persistent irregularities have been discussed below:

FINANCE DEPARTMENT

3.3.1 Excess Payment of Family Pension

Karnataka Government's (Family Pension) Rules, 1964, provide that when a Government servant dies while in service, his/her family is entitled to family pension at double the normal rate or 50 *per cent* of the pay last drawn by the deceased Government servant whichever is less, for a period of seven years from the date following the date of death or till the date on which the Government servant would have attained the age of 65 years had he/she remained alive, whichever is earlier.

Mention was made in the Reports of the Comptroller and Auditor General of India (Civil) every year on the excess payment of family pension due to failure of the banks to strictly regulate the payment as per Rules. Non-observance of rules by the banks and excess payments continued nevertheless.

During 2008-09, in 841 cases relating to 28 district treasuries, public sector banks made payment of family pension at enhanced rate beyond the period indicated in the Pension Payment Orders resulting in excess payment of Rs 2.15 crore (**Appendix-3.8**). The Government did not enforce the provisions of indemnity bonds executed by the Public Sector Banks for the recovery of excess payments made.

The matter was referred to Government in July 2009; reply had not been received (December 2009).

3.4 Failure of oversight/Governance

The Government has an obligation to improve the quality of life of the people for which it works towards fulfilment of certain goals in the area of health, education, development and upgradation of infrastructure and public service *etc*. However, Audit noticed instances where the funds released by Government for creating public assets for the benefit of the community remained unutilised/blocked and/or proved unfruitful/unproductive due to indecisiveness, lack of administrative oversight and concerted action at various levels. A few such cases have been discussed below.

FOREST, ECOLOGY AND ENVIRONMENT DEPARTMENT

3.4.1 Restoration of a lake without arresting inflow of untreated sewage into it leading to wasteful expenditure

Failure of the Lake Development Authority to arrest flow of sewage into Jaraganahalli lake resulted in wasteful expenditure of Rs 3.63 crore on restoration works.

Government of India (GOI) under the National Lake Conservation Plan accorded (February 2002) administrative approval and expenditure sanction for restoration of Jaraganahalli lake in Bangalore by the State Forest Department at a cost of Rs 3.36 crore. The restoration works comprised de-silting of tank, diversion of sewage, construction of dropwall for wetlands, chain link fencing, water boat jetty and waste weirs to clean the lake polluted by direct discharge of sewage and to render it free from pollution. The cost of the project was to be borne by GOI and State Government in 70:30 ratio with the share of GOI as Rs 2.37 crore and that of State Government as Rs 99 lakh.

The GOI sanction was, *inter alia*, subject to the condition that the State Government would ensure that no untreated sewage was discharged into the lake during and after execution of restoration works. The State Government conveyed (March 2003) administrative approval and technical sanction to the project at a revised cost of Rs 3.91 crore to accommodate increased cost of desilting, diversion of sewage, chain link fencing, *etc.* The Lake Development Authority (LDA) entrusted (August 2003) the above works (except diversion of sewage flow) to a contractor at his tendered cost of Rs 2.14 crore for completion by December 2004. The diversion of sewage was entrusted (August 2003) to Bangalore Water Supply and Sewerage Board (BWSSB) at a cost of Rs 40 lakh. The work entrusted to the contractor was completed in August 2004 and he was paid (November 2006) Rs 3.23 crore in view of increase in scope of work due to additional quantities in desilting, waste weir, *etc.* The BWSSB completed the diversion works during January 2004.

Audit scrutiny (April 2009) revealed:

(i) Due to inadequate slope provided in the new pipeline constructed to divert the sewage, the flow was not smooth leading to frequent heading up of sewage in the lateral lines. The pipeline/manholes were therefore, damaged by the local residents resulting in discharge of sewage directly into the lake. When the lake was inspected by the LDA during June 2004, it was found that sewage was continuously entering the lake from the southern side. Despite the continued discharge of sewage into the lake, the contractor completed other restoration works (August 2004).

(ii) When LDA inspected the lake during February 2009, it was full of weeds and untreated sewage was flowing unchecked from all directions. The lake was found to be in a deplorable condition. The civil authorities *viz.*, Bangalore Mahanagara Palike and City Municipal Council, Bommanahalli had taken up construction of a storm water drain through the lake bed damaging the restoration works executed by the contractor. The private apartments and households in the vicinity were discharging sewage directly into the lake.

Lake is covered by weeds– December 2009

Thus, action of the LDA to take up restoration works without adequately arresting the flow of untreated sewage into the lake rendered the expenditure of Rs 3.63 crore incurred thereon wasteful as the lake could not be protected from pollution and the objectives of its restoration were not achieved.

Government in their reply stated (September 2009) that Detailed Project Report approved by GOI did not contain sufficient measures for preventing inflow of sewage into the lake. The reply was not justified as the LDA could have taken up the matter with the Government and ensured total arrest of untreated sewage as prescribed by GOI before taking up the restoration works.

URBAN DEVELOPMENT DEPARTMENT

3.4.2 Delay in acceptance of tender leading to avoidable extra cost

Failure of the Government to communicate administrative approval for construction of Underground Drainage, Kolar (Stage-II) within the validity period of the tender, resulted in re-tendering entailing extra cost of Rs 1.73 crore.

Karnataka Urban Water Supply & Drainage Board (Board) invited (September 2006) tenders for providing and commissioning of Underground Drainage Stage-II in Kolar at an estimated cost of Rs 4.88 crore (as per Schedule of Rates of 2006-07).

In August 2006, the Government while instructing the Board to call for tenders had specified that the work be awarded only after receipt of administrative approval. Accordingly, tenders were called for and a single tender for Rs 5.56 crore was received (November 2006). The validity period of the tender was 120 days from the date of opening the bid (1 December 2006) with the due date of acceptance of tender as 30 March 2007. However, the Government accorded administrative approval only on 26 May 2007 much after the expiry of the validity. The Board issued the letter of allotment for Rs 5.56 crore to the contractor on 6 June 2007.

The contractor did not agree to take up the work on the ground that his quote was no longer valid, as six months had elapsed after submission of the tender.

The work was therefore, re-tendered (June 2007) and awarded (October 2007) to the same contractor at a negotiated cost of Rs 7.29 crore (24 *per cent* above the cost of works of Rs 5.88 crore as per the Schedule of Rates of 2007-08). The work was in progress and the contractor had been paid Rs 3.49 crore (May 2009).

The work had also been included in the action plan of 2006-07 of the Board and budget provision duly approved (May 2006) by Government. Having directed the Board to invite tenders for the work it was incumbent upon the Government to communicate administrative approval before expiry of validity period of the tender. The inordinate delay in communicating administrative approval by Government resulted in re-tendering the work, entailing an extra cost of Rs 1.73 crore which was entirely avoidable.

The Government in their reply (August 2009) contended that the delay of 57 days from the last date for acceptance of tender was procedural and due to administrative reasons. But, the fact remained that administrative approval was accorded only in May 2007 whereas tender notice had been issued in September 2006. This delay resulted in extra cost of Rs 1.73 crore.

3.4.3 Execution of a water supply scheme without ensuring availability of water source

Execution of water supply scheme to Mulky town and five other villages enroute in Dakshina Kannada district by the Karnataka Urban Water Supply and Drainage Board without ensuring availability of water source, resulted in unfruitful expenditure of Rs 2.90 crore.

The Karnataka Urban Water Supply and Drainage Board (Board) took up (July 2002) a project to supply water to Mulky town and five other villages enroute in Dakshina Kannada district at an estimated cost of Rs 4.12 crore. The work envisaged, *inter alia,* drawing 4.2 million litres of water per day (MLD) from the water purification plant at Panambur and making use of an existing 400 mm dia pre-stressed concrete (PSC) pipeline which supplied water to the Mangalore Refineries and Petro Chemicals Limited (MRPL) up to Kulai. A connecting pipeline from Kulai to the existing overhead tanks at Mulky town had to be laid.

The water purification plant at Panambur and the MRPL pipeline belonged to the Mangalore City Corporation (MCC) and prior permission had to be sought from them before the project could be commenced. However, administrative approval and technical sanction were accorded (January 2002/July 2002) without any commitment from MCC to supply water from Panambur purification plant. The Board sought permission of the MCC to use water as well as the MRPL pipeline only in January 2003. But the MCC made it (February 2003) clear that neither water nor the pipeline could be used in view of scarcity of water. MCC, however, added that the requirement of Mulky town to the extent of two MLD was incorporated in the Asian Development Bank assisted Comprehensive Water Supply Scheme to Mangalore City. The scheme was yet to be commissioned.

The Board, despite clear refusal by the MCC went ahead with the project and awarded (February 2003) the work to a contractor at a cost of Rs 2.95 crore for completion by August 2004. The work was completed in January 2006 and the contractor was paid (May 2007) Rs 2.70 crore. Additional expenditure of Rs 19.97 lakh was incurred by the Board on providing linkages. The scheme, however, could not be handed over to the Mulky Town Municipal Council as it refused (January 2009) to take over the project due to non-availability of water.

Thus, injudicious action of the Board to take up a work without ensuring availability of water source resulted in non-commissioning of the project, rendering the expenditure of Rs 2.90 crore thereon unfruitful.

Government in their reply accepted (June 2009) the audit findings and stated that water would be made available once the Comprehensive Water Supply Scheme to Mangalore City was implemented.

WATER RESOURCES DEPARTMENT – MINOR IRRIGATION

3.4.4 Unfruitful expenditure due to non-acquisition of land

Failure of EE to acquire land resulted in non-completion of canals rendering expenditure of Rs 1.77 crore spent on construction of a tank unfruitful, as the objective of providing irrigation could not be achieved.

Paragraph 209 of Karnataka Public Works Departmental Code provides that work should not be commenced on land that has not been duly made over by responsible civil officer. Further, guidelines for preparation of minor irrigation projects, the land acquisition statement accompanying the estimate of a tank should contain details of land with survey numbers and villages coming under submersion for bund, canals, *etc*.

Construction of a tank at Tadkal village for providing irrigation to 60 ha of land was awarded (August 2000) to a contractor at a cost of Rs 1.11 crore for completion by January 2002. The bund portion of the tank was completed belatedly in July 2008 at a cost of Rs 1.77 crore. Further, progress came to a standstill as the land required for construction of canals was not acquired. The construction of canals therefore, was not taken up by the contractor.

Records revealed (January 2009) that the Executive Engineer, Minor Irrigation Division, Gulbarga (EE) has sent (February 2001) proposal for acquisition of 42 acres 22 guntas of land to the revenue authorities after award of the contract. The preliminary notification as per Land Acquisition Act was issued in May 2003 and June 2003. The award was passed[12] by the Land Acquisition Officer only for 27 acres 25 guntas due to incorrect assessment of required land at initial stage and non-marking of canal alignment by EE. An area of 14 acres 22 guntas of land was thus, omitted from acquisition process. Taking up of the work without ensuring availability of land resulted in non-completion of canals. Thus, the expenditure of Rs 1.77 crore incurred on tank remained

[12] 5 *acres* 13 *guntas* (July 2004) and 22 *acres* 12 *guntas* (February 2006)

unfruitful as the objective of providing irrigation to 60 ha of land was not achieved.

The Government stated (September 2009) that water was stored in the tank and land acquisition proceedings were under progress. As evident from the reply, land acquisition was still incomplete even after nine years of commencement of the project and cultivators did not benefit from the water stored in the tank.

❀❀❀❀❀