CHAPTER V: MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY

Bharat Sanchar Nigam Limited

5.1.1 Loss due to payment of advance income tax in excess of requirement

Bharat Sanchar Nigam Limited paid advance tax of Rs.529 crore in excess of actual requirement for the financial year 2006-07. This resulted in loss of interest of Rs.23.21 crore on the excess paid advance tax.

The Income Tax (IT) Act provides that a company has to estimate its income and pay advance tax every year in four installments of 15, 45, 75 and 100 *per cent* by June, September, December and March, respectively. The IT Department charges penalty on short payment of advance tax and allows simple interest at six *per cent* on refunds, from April of the next financial year. Accordingly, it is the responsibility of the BSNL to estimate the income tax correctly to avoid penalty for short payment of advance tax or to avoid loss of interest on excess paid advance tax as BSNL invests its surplus funds in short term bank deposits at the rate of more than six *per cent*.

Audit scrutiny of the IT returns of BSNL for the financial years 2004-05 to 2006-07 revealed that the advance tax paid by the BSNL was far in excess of the actual income tax due during the years as below:

(Rs. in crore)

Financial year	Advance tax deposited including TDS (Rs.)	Income tax due (Rs.)	Excess paid Income tax (Rs.)	Percentage of Income tax paid in excess
2004-05	1173	796	377	47
2005-06	1142	774	368	48
2006-07	1524	995♣	529	53

Audit noticed that the estimation of advance tax for financial year 2006-07 was done at the beginning of the year and paid in four equal installments instead of the proportion specified in the IT Act. There was excess payment of advance income tax of Rs.529 crore for the financial year 2006-07, the refund for which was obtained from IT department in August 2008.

On this being pointed out by Audit, the Management stated (March 2009) that:

- There was no precise mechanism available to estimate taxable income and tax liability thereon with 100 *per cent* accuracy.

♣ ***Inclusive of fringe benefit tax***

- Further, BSNL, since its inception had yearly growth ranging from 4 to 24 *per cent* and based on this, advance tax of Rs.1,200 crore was estimated for the financial year 2006-07. However, the turnover became negative, which was never expected.

- It was also stated that BSNL committed to pay Rs.1400 crore as advance tax to get exemption from tax deduction at source.

The reply of the Management is not convincing as:

- BSNL had been paying excess advance tax of more than 47 *per cent* consecutively for three years, which indicates lack of proper planning and inadequate financial controls.

- Further, the payment of income tax in four installments was permitted by IT Act to enable the Companies to assess and adjust the advance tax in accordance with the income and expenditure of the current quarter so that it matches the Income tax due for the financial year, which BSNL could not do and as stated there being no system in place to do so.

Thus, failure to estimate the advance tax payments with reasonable accuracy resulted in its excess payment and the Company lost interest of Rs.23.21 crore[1] thereon ***(Annexure-I)***.

The Management needs to ensure better management of its advance tax payments so that advance tax does not exceed reasonable limits.

The matter was reported to the Ministry in July 2009; their reply was awaited (November 2009).

5.1.2 Continuation of telecom facilities despite non-payment of dues

Secondary Switching Areas in four telecom circles of Bharat Sanchar Nigam Limited failed to discontinue telecom services to subscribers for non-payment of dues resulting in non-recovery of Rs.16.09 crore.

Rules in Bharat Sanchar Nigam Limited (BSNL) provide that:

- Telephone bills are payable by subscribers within 15 days from the dates of issue of their bills, failing which their telephones are liable to be disconnected by the 35th day from the date of issue of bills.

- In case of STD/PCO[2]s, bills are payable within four working days from the date of receipt of bills, failing which the connections are liable to be disconnected. The Corporate office of BSNL reiterated this provision in February and October 2003.

[1] ***Calculated after allowing a variation of 10 per cent in advance tax payments against the actual Corporate tax paid***

[2] ***Subscriber Trunk Dialing Public Call Office***

- In respect of leased circuits, BSNL issued (November 2002) clarification to all heads of the circles for recovery of advance annual rental. Accordingly billing and recovery of advance annual rentals of leased circuits should be made prior to expiry of the period for which rental had already been recovered.

Audit scrutiny of records of 15 Secondary Switching Areas (SSAs) under Bihar, Madhya Pradesh, Maharashtra and Rajasthan telecom circles revealed that despite non-payment of bills within the due dates, subscribers were allowed to continue with the telecom services without disconnection. This resulted in non-recovery of revenue of Rs.16.09 crore from subscribers during the period from March 2000 to March 2009, as shown in the ***Annexure-II.***

On this being pointed out by Audit SSA Munger stated (November 2008) that matter would be taken up with higher authorities, Deputy General Manager (Telephone Revenue) Patna stated (November 2008) that out of Rs.2.85 crore, an amount of Rs.0.58 crore had been realised/recovered/adjusted. SSAs Indore, Amravati, Nagpur and Ahmednagar stated (between October and December 2008) that efforts were being taken to realise the outstanding amounts. SSA Khamgaon stated (October 2008) that the matter had been taken up with field Sub Divisional Engineers for attending to the closed Advice Notes for finalisation of the outstanding cases. SSA Satara stated (September 2008) that delay in disconnection was due to migration from Trichur package to Dotsoft. Pune SSA attributed (October 2008) the delays in disconnection to slow and overloaded system and delay at post offices. Deputy General Manager (F&A II) of the office of the Chief General Manager Telecom, Jaipur while accepting the facts and figures, stated (June 2009) that an amount of Rs.0.27 crore had been realised/adjusted.

Therefore, despite clear directions from Corporate Office, SSAs failed to disconnect telecom services on account of non-payment of dues of Rs.16.09 crore for the period from March 2000 to March 2009. Out of this an amount of Rs.0.86 crore had been realised/ adjusted by the BSNL.

The recovery particulars of the balance amount of Rs.15.23 crore were awaited as of June 2009.

The matter was reported to the Ministry in July 2009; their reply was awaited (November 2009).

5.1.3 Loss of subsidy

Failure of 17 Secondary Switching Areas under six telecom circles of Bharat Sanchar Nigam Limited to maintain fault free/functional Rural Household Direct Exchange Lines and Village Public Telephones led to loss of subsidy of Rs.15.42 crore for the period from October 2003 to September 2008.

Universal Service Obligation as envisaged in the New Telecom Policy 1999 (NTP-99) aimed at providing basic telephone services for all, including people in rural and remote areas, at reasonable and affordable prices. Financial support in the form of subsidy was to be granted from the Universal Service Obligation Fund (USOF) by the Administrator, USOF, to eligible Universal Service Providers (USPs) for specified services, which include provision/maintenance of Rural Household Direct Exchange Lines (RDELs), operation and maintenance of Village Public Telephones (VPTs) and replacement of Multi Access Radio Relay (MARR) technology VPTs in specific areas as determined by the Central Government from time to time. Bharat Sanchar Nigam Limited (BSNL), as an USP, had entered into agreements with the Department of Telecommunications (DoT), for subsidy support from USOF for rural telephony.

The subsidy from USOF for rural telephone services includes:

- A front loaded component which is to be paid in the quarter that the service for which it is being given installed/made functional, and
- An equated annual subsidy component, to be paid quarterly against claims raised Short Distance Charging Area wise by the USP within 30 days of the end of the quarter, up to a maximum period of validity of the relevant Agreement. However, if any of the RDELs/ VPTs remained faulty or non-functional for more than seven days in a quarter, the equated annual subsidy payable would be reduced proportionately for the number of days they remained faulty or non-functional. In case the fault persisted for 45 days or more in a quarter, no subsidy for the entire quarter will be paid for the VPT/RDEL.
- Further, in the case of RDELs, in the event of non-achievement of roll out obligations/targets as mentioned in the agreements, the Administrator would be entitled to recover liquidated damages for the shortfall, up to a maximum of 10 *per cent* of the front loaded subsidy payable for those RDELs.

Test check of records of 17 Secondary Switching Areas (SSAs) under Chhattisgarh, Madhya Pradesh, Uttaranchal, Uttar Pradesh (East), Uttar Pradesh (West) and Tamil Nadu telecom circles of BSNL revealed that failure to maintain fault free/functional RDELs/ VPTs led to loss of subsidy of Rs.15.42 crore for the period from October 2003 to September 2008 as shown in the ***Annexure-III***.

On being pointed out by Audit, General Manager Telecom District (GMTD) Hoshangabad stated that huge loss of Universal Service Obligations (USO) subsidy was due to zero meter reading. GMTD Gwalior stated that there were 1148 VPTs, out of which 667 were faulty. GMTD Bhopal stated the meter reading could not be increased as the villagers did not make any outgoing calls and only received the calls. The GMTD Raipur stated that efforts were being made for restoration of VPTs. All the SSAs of Uttar Pradesh (East), Uttar Pradesh (West) and Uttaranchal telecom circles stated that most of the VPTs remained non-functional and steps would be taken to maintain fault free/functional VPTs. Office of the CGMT[♣], Tamil Nadu telecom circle stated that an amount of Rs.46.67 lakh had been disallowed by the USOF on account of billing details not available/disconnection due to non-payment/zero meter reading.

Thus failure of the circles/SSAs to provide/maintain functional and fault free rural telephony led to loss of subsidy of Rs.15.42 crore for the period from October 2003 to September 2008.

[♣] ***Chief General Manager, Telephones***

The matter was reported to the Ministry in August 2009; their reply was awaited (November 2009).

5.1.4 Non-realisation of compensation charges for damages to optical fibre cable and under ground cable by outside agencies

Failure of nine Secondary Switching Areas under five telecom circles of Bharat Sanchar Nigam Limited to realise compensation charges for damages to cables by outside agencies resulted in non-realisation of Rs.8.12 crore.

Rules provide that when property of Bharat Sanchar Nigam Limited (BSNL) is damaged by an outside agency, compensation should be claimed from the concerned party. Further, the compensation should be levied, taking into account the actual cash outlay and value of stores utilised in repairing the damage, along with overheads.

- The Corporate office of the BSNL liberalised the calculation procedures in January 2003 for damage charges by adopting the uniform rate of Rs.1.50 lakh for each cut of optical fibre cable on each occasion irrespective of the location.
- In October 2003, Company issued instructions to claim copper cable damage charges at liberalised rates from various external agencies per damage per occasion irrespective of the location of the copper cable.
- The order of October 2003 was amended in October 2004 for cases of multi cuts requiring replacement of a section of copper cable in excess of five meters, additional cable cost in slab of 10 meters length to be recovered over and above the cable damage.

Test check of records of nine Secondary Switching Area (SSA) under Orissa, Punjab, Uttar Pradesh (East), Uttar Pradesh (West) and Uttaranchal telecom circles between January 2007 and December 2008 revealed that on various occasions, while undertaking digging works, private service providers damaged the cables during 2004-05 to 2007-08 at various locations. There was non-realisation of compensation charges of Rs.8.12 crore for the period 2004-05 to 2007-08 as shown in the ***Annexure-IV***. The demand notes were issued by these SSAs to private service providers indicating the length /occasions of cables damaged by these private operators but the same had not been realised.

On being pointed out by Audit, General Manager (Operation) of the office of Chief General Manager Telephones (CGMT), Orissa telecom circle stated that though the possibility of realisation appeared remote, the demand for Rs.1.13 crore had been raised. Office of the CGMT, Punjab telecom circle stated that efforts were being made to realise the damage charges from various agencies. The Dehradun SSA stated that the letter had already been issued to circle office for recovery from concerned service providers. The Meerut SSA stated the cases of non-realisation had been sent to Deputy General Manager (Internal Audit) for realisation from the bills of interconnection usage charges. Bijnor SSA stated that efforts were being made to recover the damage charges as early as possible. Basti SSA stated that the letter was sent to General Manager - Network Coordination (NC) to club the damage charges with 'interconnection usage charges' for recovery of the amount. Partapgarh SSA stated that the matter would be pursued with General Manager (NC) Lucknow for taking suitable action. Raebareli SSA stated that the cases had already been referred to General Manager (NC) Uttar Pradesh (East) telecom circle. The Unnao SSA stated that the demand note had already been issued for Rs.64.18 lakh.

Thus failure of the SSAs in active pursuit of the settlement of the compensation claims raised against the external agencies and private service operators as well as absence of joint mechanism constituting the SSAs and private agencies led to non-recovery of Rs.8.12 crore.

The matter was reported to the Ministry in June 2009; their reply was awaited (November 2009).

5.1.5 Excess procurement of cables

Karnataka telecom circle failed to correctly assess the requirement of 50 pair cable, resulting in excess procurement leading to non utilisation of cable and idle investment of Rs.7.14 crore.

BSNL Corporate office issued procurement guidelines in June 2001 stressing that while procuring, existing inventory and inventory in the pipeline should also be accounted for. It was further emphasised that circles should take into account their consumption pattern while assessing their requirements and utmost care should be taken to avoid piling up of inventory.

Audit scrutiny (August 2008 to May 2009) of the records of five Secondary Switching Areas• (SSAs) of Karnataka Telecom Circle revealed that they had procured 50 pair cable during 2007-09 without proper assessment of their requirement based on past consumption pattern. The average aggregate utilisation of 50 pair cables in these SSAs was 187 kms (***Annexure-V***) per year during 2004-07. Audit noticed that these SSAs, in spite of having adequate stock of 350 kms of cable in April 2007, procured 594 kms of cables at a cost of Rs.7.14 crore (***Annexure-VI***) during 2007-09. However, they could utilise only 146 kms, which could have been met from the opening stock of April 2007 itself. Further, with the shift from landline telephony to mobile communication over the years, the requirement of cables would decline. The SSAs also failed to consider this factor and the average utilisation of 50 pair cable also came down from 187 kms per year during the years 2004-07 to 73 kms. per year during 2007-09. Thus, failure to consider the past consumption pattern and future requirements of 50 pair cables resulted in idle investment of Rs.7.14 crore on procurement of 594 kms of cables.

On this being pointed out by Audit, Bijapur and Raichur SSAs stated that the cables could not be utilised as cable laying tender could not be finalised and assured that in future existing stores will be taken into consideration while projecting cable requirement. Mangalore SSA accepted the facts and stated that the excess cable was proposed to be diverted to other units. Replies from Mysore and Mercara SSAs were awaited.

Thus, failure of these five SSAs of Karnataka telecom circle to assess requirement based on previous consumption pattern, future requirements and monitor the procurement of cables, resulted in idle investment of Rs.7.14 crore on unutilised cables, besides piling up of inventory of around 800 kms. of 50 pair cable as of March 2009.

• ***Mysore, Mangalore, Raichur, Mercera, Bijapur***

The matter was reported to the Ministry in July 2009; their reply was awaited (November 2009).

5.1.6 Non-recovery of interest on delayed remittances to the Collection Account

Failure to realise penal interest for non-transferring of collection account balance to circle collection account on daily basis by the banks resulted in non-recovery of penal interest of Rs.3.34 crore in Andhra Pradesh and Rajasthan telecom circles of Bharat Sanchar Nigam Limited

The Corporate Office of Bharat Sanchar Nigam Limited (Company) entered (September 2004, February 2006, September 2006, December 2006 and May 2007) into agreements with various banks at each level, i.e., Corporate, Circle and Secondary Switching Area (SSA) and issued guidelines to the circles for opening of accounts with these banks at circle and SSA levels.

Clauses 2.3, 2.6 and 11 of the agreements provided that:

- The revenue collections deposited into the collection account of the SSA should be transferred to the circle collection account and from there to Corporate collection account on the same day, rounded to thousands of rupees.
- Failure to do so would attract penal interest at prevailing bank rate plus four *per cent* per annum.

Test check of records of the circle telecom accounts of Andhra Pradesh telecom circle (October 2007) and Ajmer, Banswara, Bundi, Jaisalmer, Jhunjhunu and Kota SSAs under Rajasthan telecom circle (December 2007 to May 2008) revealed that these units failed to recover penal interest for non-transfer of funds to circle accounts. This resulted in non-realisation of penal interest of Rs.3.34 crore for the period from 2003-04 to 2007-08, as shown in the ***Annexure-VII***.

On being pointed out by Audit, a recovery of Rs.8.32 lakh was made by the CGMT, Rajasthan circle. Chief Accounts Officer (Banking) of the office of the Chief General Manager, Andhra Pradesh telecom circle stated that the SSA/unit had been instructed to prefer interest claims on the banks and settlement thereof was under active pursuit by the circle office.

The matter was reported to the Ministry in June 2009; their reply was awaited (November 2009).

Mahanagar Telephone Nigam Limited

5.2.1 Irregularities in global tender

MTNL failed to implement the policy formulated by Prime Minister's office for promoting indigenous manufacturing of telecom equipment. Further, the Company extended undue benefit of Rs.16.18 crore to the vendor by waiving penalty in contravention of terms and conditions of the tender.

Consequent upon a decision taken by the Prime Minister's office, the Department of Telecommunications in July 2005 forwarded a proposal to Mahanagar Telephone Nigam Limited (MTNL) to implement the policy regarding promoting manufacture of telecom equipment in India and the Board of Directors of MTNL took a decision to implement the same. Based on this policy, MTNL issued a global tender in March 2006 for supply and installation of Broadband Access Network equipment.

The terms and conditions of the tender provided that:

- The bidder should either be an Original Equipment Manufacturer (OEM) of IP-DSLAM[•] or its Indian subsidiary if the OEM is a foreign company or be a registered Indian company having Transfer of Technology (TOT) agreement with OEM of IP-DSLAM.

- The vendor should supply IP-DSLAM equipment having indigenous component of manufacturing in India with minimum value addition of 30 *per cent*.

- If the vendor fails to supply the equipment after manufacturing in India as per the terms and conditions of the tender, then the Performance Bank Guarantee (PBG) and Manufacturing Bank Guarantee (MBG) shall be en-cashed/forfeited by MTNL.

In April 2007, the tender was finalised and purchase orders were placed on Sterlite Optical Technologies Limited (SOTL) for supply and installation of 500K ports broadband access network equipment on turnkey basis at a cost of Rs.169.89 crore.

Audit scrutiny of the records of MTNL Corporate office revealed that the vendor requested MTNL in May 2008 to relax the tender condition regarding indigenous manufacturing on the ground that, new tenders released by MTNL/BSNL were not having the clause relating to indigenous manufacturing. The MTNL Board accepted the request of SOTL in July 2008 and permitted it to supply the imported equipment.

This resulted in:

- Non implementation of the Government policy regarding promoting manufacture of telecom equipment in India even after three years.

- Failure to get competitive price for the equipment as the terms and conditions of the Global tender were altered after finalising the tender and awarding the work to SOTL.

- Undue benefit of Rs.16.18 crore to SOTL as the encashment/forfeiture of PBG and MBG was waived off although SOTL failed to adhere to the condition of indigenous manufacturing.

On this being pointed out by Audit, the Management stated (May 2009) that relaxation of indigenous manufacturing was necessitated in view of the urgent requirement of

[•] ***Internet Protocol-Digital subscriber line access multiplexer***

Broadband equipment for earning of revenue. MTNL was operating in a highly competitive environment and since competitors were installing equipment the Company could not delay the same. Moreover the objective of MTNL was to earn revenue from operations and not through penalties.

The reply is not convincing due to the following:

- As there was no urgency for deployment of the equipment. The broadband connections were 2.05 lakh, 2.58 lakh, 1.35 lakh and 1.25 lakh in 2005-06, 2006-07, 2007-08 and 2008-09 respectively. It declined by 1.23 lakh connections during 2007-08 and in spite of having this spare capacity, MTNL decided in July 2008 to waive the indigenous clause and procure the broadband equipment on urgent basis.

- MTNL Board had already considered these hurdles and decided to have flexibility to obtain equipment from other sources, should there be problems/delays in receiving equipment from indigenous manufacturers.

- Further, penalties are for ensuring compliance to tender conditions and safeguarding the business interests of the MTNL. Waiver of PBG and MBG would encourage the firms to seek relaxation in other tenders which would be detrimental to MTNL in the long run.

Thus, sanctity of the tender was lost due to change in the terms and conditions after its finalisation, besides undue benefit of Rs.16.18 crore to the vendor. Further, the objective of meeting Government policy of promoting manufacture of telecom equipment in India was lost.

MTNL needs to ensure that the terms and conditions of the tender are not altered once the tender is finalised.

The matter was reported to the Ministry in July 2009; their reply was awaited (November 2009).

5.2.2 Non-issue of ILD licence by DoT

MTNL failed to submit an undertaking to DoT for clearing the outstanding dues towards frequency use and spectrum charges, resulting in non issue of ILD licence by DoT. This resulted in blocking of Rs.25 crore paid by the MTNL for obtaining the licence and consequent loss of interest of Rs.2.75 crore.

International Long Distance (ILD) Licence is issued by the Department of Telecommunications (DoT) to establish, operate and maintain ILD network and to provide ILD service. The ILD service is basically a network carriage service, providing international connectivity to the network operated by foreign carriers.

Mahanagar Telephone Nigam Limited (MTNL) applied (May 2002) to DoT for licence to operate ILD services, and DoT issued (March 2004) a Letter of Intent (LoI) to MTNL to sign the agreement by June 2004, for obtaining ILD licence. The terms and conditions of

LoI provided for deposit of one time entry fee of Rs.25 crore, performance bank guarantee (PBG) of Rs.25 crore and no dues certificate from the Wireless Planning and Coordination (WPC) wing of DoT. The Company paid the entry fee and submitted the PBG by June 2004.

Audit scrutiny (April 2008) of the records of MTNL Corporate office revealed that it could not get the no dues certificate in respect of pending dues from WPC and hence did not get the ILD licence. Audit noticed that the WPC had requested the MTNL in August 2004 to deposit pending dues of Rs.4.58 crore, which MTNL disputed. As the matter could not be resolved, in October 2004 DoT asked for an undertaking from MTNL that outstanding amounts decided by DoT would be paid, but the MTNL did not comply. Consequently, MTNL could not get the 'no objection certificate'. Further, it was found that the Management, in a significant change of its earlier stand, gave an undertaking to WPC in February 2008, that dues as worked out by WPC would be paid and was able to get the licence from DoT in June 2008.

Thus, failure of the Management to take a decision for four years to provide an undertaking to clear the WPC dues, led to denial of ILD licence. This resulted in delay in commencing of ILD services by four years and loss of revenue. Further Rs.25 crore paid by the Company as entry fee remained blocked for two years resulting in loss of interest of Rs.2.75 crore calculated @ 5.50 *per cent* per annum.

On this being pointed out by Audit, the Management stated (July 2008) that DoT had initially raised an *ad-hoc* demand of Rs.100 crore in 2002, which was revised to Rs.50 crore and in the absence of any details, MTNL could not make the payment. Hence no blanket undertaking could be given by the MTNL.

The reply is not convincing:

- As adjustment of claims raised by DoT was a continuous process and submission of an undertaking by MTNL to clear its dues was reasonable.
- Further, MTNL decided (February 2008) after four years to give the same undertaking that it had not furnished earlier, and was able to get the ILD licence by June 2008.

Thus, failure of the Management to complete the formalities and obtain the ILD licence resulted in blocking of entry fee and consequent loss of interest of Rs.2.75 crore.

MTNL needs to ensure that all the mandatory licences from Government agencies are obtained within a reasonable time so that its operations are not hampered.

The matter was reported to the Ministry in June 2009; their reply was awaited (November 2009).