CHAPTER - III

3. Transaction Audit Observations

Important audit findings emerging from test check of transactions made by the State Government Companies have been included in this Chapter.

Government Companies

Chhattisgarh Mineral Development Corporation Limited

3.1 Loss of assured income

Non trading of columbite ore by the Company resulted in loss of assured income of ₹ 3.21 crore besides encouraging trafficking of a mineral of strategic importance

As per Section 4 of the 'Mines and Minerals (Development and Regulation) Act, 1957' (MMDR Act), only authorised persons can extract, store and transport minerals in accordance with the provisions of the MMDR Act. Accordingly[1], the erstwhile Government of Madhya Pradesh, vide notification dated 27 February 1984 had authorised members of the Scheduled Tribes (local tribals) of Bastar region of the present Chhattisgarh State to extract tin ore and sell it to any Government agency or Government Company entitled to extract ore. After creation (November 2000) of Chhattisgarh State, the Government of Chhattisgarh (Government) had also issued (September 2002) a similar notification authorising members of Scheduled Tribes of the region to extract tin ore and sell it to the Chhattisgarh Mineral Development Corporation Limited (Company).

Accordingly, the Company had been procuring tin ore from local tribals in Bastar region since its inception (2001)[2]. However, columbite, a co-product of tin ore, was not being procured by the Company from the local tribals. Columbite has strategic importance for the Atomic Energy Department, (AED), Government of India as it is utilised for nuclear research, besides being used in cellular phones, personal computers, mass storage devices, automotives, digital cameras, jewellery etc. AED had suggested (July 2001) to the Company to procure columbite from the local tribals and sell it to AED. As the Company found this business profitable (with zero establishment cost and no other expenses), it started (March 2002) procurement of columbite along with tin ore from local tribals. However, the response from the tribals was very poor. Upto March 2004, the Company procured a total of 383.500 kg of columbite and sold it to AED at a total value of ₹ 25379. The main reason for low procurement was the low purchase price (₹ 10 per kg) fixed by the Company for columbite which was also resulting in illegal trafficking of the precious mineral. Though the Company subsequently increased the

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[1] In exercise of the powers conferred by sub paragraph (1) of paragraph 5 of the Fifth Schedule of the Constitution of India (Provisions as to the Administration and Control of Scheduled Areas and Scheduled Tribes).

[2] The Company had continued procurement of tin ore as per the notification of 1984 prior to issue of notification in 2002 by Government of Chattisgarh.

purchase price to ₹ 50 per kg (6 June 2006) and ₹ 80 per kg (27 February 2007), there was still no response from the tribals. The Government also requested (6 February 2007) AED to increase the purchase price of columbite so that it could in turn be procured by the Company from the tribals at a higher rate.

Since increase in the purchase price of columbite was essential to generate a good response from local tribals, the Company invited (March 2007) offers from AED-authorised private parties to finalise the selling price of columbite so that the proportionate purchase price for procurement of columbite from local tribals could also be fixed. Based on the highest rate received, the Company finalised an agreement (September 2007) with M/s Vimal Stone Associates, Jagdalpur (Firm) for selling 120 MT columbite per annum at the rate of ₹ 403 per kg for a period of three years. Further, based on the above selling price, the Company also increased (October 2007) the purchase price of columbite from tribals to ₹ 310 per kg. During November 2007 to January 2008, the Company procured 14.89 MT of columbite and earned net profit of ₹ 13.85 lakh by selling the same to the firm. However, since 17 January 2008, the Company discontinued procurement of columbite from tribals citing shortage of funds.

We observed that discontinuation of trading of columbite on the ground of shortage of funds was not justified because the Company was having surplus funds[3] ranging between ₹ 7.12 crore to ₹ 131.02 crore during the period from 2007-08 to 2010-11. Moreover, a guaranteed market was available for the same and the firm had also requested (September 2010) the Company to restart the supplies. Further, the stoppage of trading in columbite by the Company encouraged illegal trafficking of the mineral, as reported by Bastar District administration to the Company in January 2008, April 2008 and September 2008.

Thus, discontinuation of trading of columbite was not in the interest of the Company as it caused loss of guaranteed income of ₹ 3.21 crore[4] to the Company during October 2007 to September 2010 as well as loss of revenue to the State Government in the form of royalty amounting to ₹ 0.32 crore, besides depriving the tribals of Bastar of a means of livelihood. Further, discontinuation of trading by the Company actually benefited private parties which indulged in illegal trafficking of columbite.

The Government stated (May 2012) that the trading of minerals (tin ore, columbite etc.) is governed by the MMDR Act, 1957. Though a specific provision has been made in the Act for trading of tin ore, no provision exists for trading of columbite. A proposal (October 2009) from the Company for inclusion of the word 'columbite' along with tin ore in the Act by issuing necessary notification is

[3] Amount in current account and fixed deposit *less* unspent amount of "Mineral Development Fund" as on 31 March of respective financial years.

[4] Loss calculation

Total contracted quantity to be sold to the firm for 3 years (120000x 3) (kg)	360000
Total quantity sold to the firm (kg)	14895
Quantity sold less than the agreement quantity (kg)	345105
Guaranteed margin earned by the Company (₹ per kg) (403-310)	₹ 93
Loss (₹) 345105 X 93	**₹ 32094765**

under process at the level of Government of Chhattisgarh. In the absence of authority to collect columbite from the tribals, the Company could not start the collection of columbite till publication of notification by the Government of Chhattisgarh.

The Government's contention that in absence of authority the Company could not start the collection of columbite appears to be an afterthought. The fact remains that the Government, despite being aware[5] of the absence of authority for collection of columbite, had not taken any initiative to issue the required notification in this regard and on the contrary, had allowed the Company to collect the mineral from the tribals. The matter of procurement and illegal trafficking of columbite was regularly discussed in the meetings of the 'District Level Task Force Committee' constituted by the Government to check illegal trafficking of minerals.

The Government may take immediate steps to issue the necessary notification to enable the Company to start trading in columbite in order to protect its financial interest and also to afford a legitimate means of livelihood to the tribals of Bastar.

Chhattisgarh Rajya Beej Evam Krishi Vikas Nigam Limited

3.2 Deficient investment planning led to loss of interest

Deficient planning for investment of surplus funds resulted in loss of interest of ₹ 1.64 crore

On separation from Chhattisgarh Mandi Board, Chhattisgarh Rajya Beej Evam Krishi Vikas Nigam Limited (Company) was incorporated in August 2004 and started its activities in August 2005. Though the Company has not formulated any policy regarding investment of surplus funds but with the intention of earning interest on such funds, the Company invests the same in Fixed Deposits (FD) with various scheduled banks as detailed in ***Annexure - 3.1.***

It may be seen from the Annexure, that out of four FDs made by the Company since 2006, two FDs in Punjab National Bank (PNB) were made for a longer period of five years each. However, the other two FDs in State Bank of India (SBI) and Union Bank of India (UBI) were made for a period of 550 days and 60 days respectively and were being renewed every 550 days and 91 days respectively at the then prevailing lower rate of interest.

We observed (October 2011) that the Company was not in urgent need of funds as it was having sufficient balances in its current accounts for meeting day-to-day expenditure. Hence, the amount invested in SBI and UBI for shorter periods could have been invested for longer periods in the first instance (as was done in case of FDs in PNB) because SBI and UBI had at that point of time offered higher rate of

[5] On 9 October 2006, the Collector, Dakshin Bastar, Dantewada had requested the Additional Chief Secretary, Department of Minerals, Government of Chhattisgarh for issuing necessary notification to authorise the tribals to extract columbite and sell it to the Company in line with the action taken for amendment in the MMDR Act, 1957 for tin ore.

interest of 9.25 *per cent* (for four years to 59 months) and 9.10 *per cent* (for three years and above) respectively. Had the Company *ab initio* invested the funds for longer periods at higher rates of interest instead of investing the same for 550 days/60 days and reinvesting the sums subsequently in cycles of 550 days/ 91 days at lower rates of interest, it could have earned additional interest of ₹ 1.64 crore as detailed in ***Annexure - 3.2***. Thus, deficient planning for investment of surplus funds resulted in loss of interest of ₹ 1.64 crore to the Company.

The Management stated (January 2012) that FDs were made for shorter periods to meet any urgent need of cash.

The reply is not acceptable as the Company was already having sufficient funds (ranging between ₹ 8.71 crore and ₹ 83.11 crore) in its bank accounts during the period from July 2008 to March 2011 to meet any emergent situation. Moreover, the Company was not preparing periodical cash/fund flow statements to assess the requirement for cash. Further, the Company also did not liquidate the FDs made for shorter periods in SBI and UBI during the period 2007 to 2011 which indicates that there was no urgent requirement of funds.

The Company should formulate a long-term investment policy to maximise its internal resources by investing surplus funds judiciously.

We reported (May 2012) the matter to the Government; their reply is awaited (January 2013).

Chhattisgarh State Beverages Corporation Limited

3.3 Avoidable payment of penal interest

Avoidable payment of penal interest of ₹ 83.19 lakh due to short payment of advance tax and non-submission of income tax returns on time

Section 210 of the Companies Act 1956, read with Sections 166 and 216, casts upon the Board of Directors of a Company the duty to place the accounts of the Company along with the Auditor's Report (including supplementary comments of CAG) in the Annual General Meeting of the shareholders within six months of the close of the financial year.

As per Section 208 of the Income Tax Act, 1961 (Act), advance tax (AT) is payable during a financial year, in every case, where the amount of such tax payable by the assessee during the year is rupees ten thousand[6] or more. Section 234B of the Act stipulates that where in any financial year, an assessee who is liable to pay AT under Section 208 failed to pay such tax or where the AT paid by such assessee is less than 90 *per cent* of the assessed tax, the assessee shall be liable to pay simple interest at the rate of one *per cent* for every month from the first day of April on the amount by which the AT paid fell short of the assessed tax.

[6] Substituted for "five thousand" by the Finance Act, 2009 w.e.f 1.4.2009.

Further, Section 234C of the Act provides that if an assessee fails to pay AT or the AT paid is less than 15 *per cent*, 45 *per cent*, 75 *per cent* and 100 *per cent* of the tax due till 15 June, 15 September, 15 December and 31 March respectively, the assessee shall be liable to pay simple interest at the rate of one *per cent* per month on the amount of the shortfall. In terms of the provision of Section 234A, in case the return of income for any assessment year is furnished after the due date, simple interest at the rate of one *per cent* for every month or part of a month is chargeable on the amount of tax on the assessed income less AT paid and tax deducted/collected at source.

There was a backlog in preparation of the annual accounts of Chhattisgarh State Beverages Corporation Limited (Company). The annual accounts of the Company for the years 2008-09 and 2009-10 were finalised and certified by the Statutory Auditors on 20 June 2011 and 29 December 2011 respectively and the Income Tax (IT) returns for those years were filed by the Company on 28 June 2011 and 31 January 2012 respectively.

We observed that due to delay in finalisation of accounts and absence of a system for periodical review of budgeted income, the Company failed to precisely assess the profit/loss on a quarterly basis for the purpose of payment of AT as required under the Act. During the year 2008-09, the Company had earned profit of ₹ 9.45 crore and the total tax liability worked out to ₹ 3.02 crore. As against this, the Company had paid only ₹ 1.35 crore towards AT on the basis of estimated profit of ₹ 3.94 crore. Thus, due to short remittance of AT and delayed filing of the IT return, the Company had to pay ₹ 82.10 lakh towards penal interest[7]. Further, during the year 2009-10, though the Company had paid ₹ 50.20 lakh more towards AT, it however, failed to adhere to the quarterly schedule of payment of AT. As a result, it had to pay penal interest of ₹ 1.09 lakh under Section 234C. It was further observed that the Company had failed to file the IT returns for the years 2010-11 and 2011-12 on the due dates and is therefore liable to pay penal interest under the Act.

Thus, delayed filing of IT return and failure on the part of the Company to assess its income on quarterly basis for paying AT resulted in avoidable payment of ₹ 83.19 lakh towards penal interest.

The Government stated (June 2012) that due to registering excess turnover and less expenditure in 2008-09, the actual profit was more than the estimated profit, which led to less payment of AT. It was also stated that due to non finalisation of annual accounts, the Company could not assess its income properly.

The fact remains that there was delay in finalisation of accounts and absence of a system for periodical monitoring of the budgeted income to take care of any significant changes during the year end so as to estimate AT payable more accurately.

The Company needs to clear the backlog of accounts. It should also devise a system for periodical monitoring of the budget and estimation of quarterly profits in order to pay AT accordingly.

[7] Under Section 234A - ₹ 30.14 lakh, Section 234B - ₹ 40.19 lakh and Section 234C - ₹ 11.77 lakh of the Act.

Chhattisgarh State Civil Supplies Corporation Limited

3.4 Avoidable loss

Avoidable loss of ₹ 3.65 crore due to obtaining Cash Credit from Allahabad Bank on unreasonable conditions

In the State of Chhattisgarh, paddy is procured from farmers by Marketing Federation (Markfed) at minimum support price and given to rice millers for milling. The milled rice is procured by Chhattisgarh State Civil Supplies Corporation Limited (Company) from Markfed through rice millers and is distributed through the Public Distribution System (PDS) at subsidised rates. The subsidy portion is reimbursed to the Company by the State/Central Government at a later date. After realising sale proceeds from PDS shops, the Company makes payment to Markfed. As the reimbursement of subsidy portion from State/Central Government takes time, the Company faces liquidity problem. The Company therefore takes short term credit facility (short term loan/cash credit facility/working capital etc.) from commercial banks to overcome this problem.

To make payment to Markfed during Khariff Marketing Season (KMS) 2006-07, the Company sent (June 2006) a proposal to the Government of Chhattisgarh (Government) for either providing a short term loan of ₹ 350 crore or to permit the Company to avail the same from the bank for which Government was to provide guarantee. Government, however, instructed (June 2006) the Company to obtain the loan from commercial banks and also accorded approval (13 October 2006) for providing Government guarantee of ₹ 500 crore. In compliance, the Company selected Allahabad Bank for obtaining Cash Credit (CC) of ₹ 500 crore and accordingly, Allahabad Bank sanctioned (20 October 2006) a two-tier short term loan (first tranche of ₹ 100 crore and second tranche of ₹ 400 crore) at the rate of 8.75 *per cent* interest per annum. The terms and conditions of the loan *inter alia* provided that the Company should hypothecate its food grain stocks and the loan should be guaranteed by the Government. Further, pending execution of Government guarantee, the Company was to pay additional interest of 0.50 *per cent* per annum.

Before withdrawing the first tranche of ₹ 100 crore on 24 October 2006, the Company requested (23 October 2006) Allahabad Bank to convert the second tranche of ₹ 400 crore short term loan into ₹ 500 crore CC limit as it had applied for CC limit. The Company had also requested the bank to waive the condition of additional interest of 0.50 *per cent* to be levied in lieu of Government guarantee as the Government did not agree (October 2006) for payment of additional interest. Both the requests were considered (31 October 2006) favourably by Allahabad Bank. The first tranche loan account (CA 2003928) was closed in March 2007.

Meanwhile, Government expressed (12 January 2007) its inability to provide the required guarantee. In absence of Government guarantee and considering the requirement of fund in the near future, the Company *suo moto* proposed (5 and 18 January 2007) to Allahabad Bank to accept ₹ 150 crore as Fixed Deposit (FD) to be made in Allahabad Bank in lieu of Government guarantee and permit the Company to draw the amount from the second tranche of CC limit. Allahabad

Bank accepted the Company's proposal and sanctioned (12 February 2007) release of the remaining CC limit of ₹ 400 crore (out of aggregate limit of ₹ 500 crore) on the condition that the Company would maintain a deposit of ₹ 150 crore under the 'Current Plus Scheme' (FD) of the Bank over and above the primary security of hypothecation of stocks. In order to make the required FD in Allahabad Bank as security, the Company requested (12 February 2007) Government to arrange interest free working capital of ₹ 150 crore. The Company withdrew (19 February 2007) ₹ 450 crore from its CC Account (No. 3003833) in the same bank of which ₹ 300 crore was paid to Markfed and the remaining ₹ 150 crore was utilised for opening a new 'Current Plus Account' (No. 2003960) as security on the same day.

Subsequently, Government sanctioned (10 May 2007) ₹ 150 crore as revolving fund at the rate of 8 *per cent* interest per annum to the Company which was utilised (22 May 2007) by the Company to repay equal amount of CC limit. The 'Current Plus Account' was closed on 22 August 2007 by transferring the proceeds to CC account. In Current Plus Account, the Company earned interest ranging between three *per cent* and 5.5 *per cent*. The second tranche CC account was closed in February 2008.

In this connection we observed the following:

i. For obtaining CC limit of ₹ 500 crore, the Company had directly selected Allahabad Bank without obtaining quotations from other banks by inviting open tenders. In absence of quotations, reasonability of terms and conditions and competitiveness of rate of interest could not be ensured.

The Management stated (April 2012) that a system of inviting quotation from banks was not in practice during those years. However, it had contacted Allahabad Bank, Punjab National Bank (PNB) and HDFC Bank for obtaining CC limit.

The fact remains that by inviting quotations the Company could have compared the rates offered by Allahabad Bank vis-a-vis those offered by others in order to secure the best rates. Moreover, PNB was contacted (3 November 2006) only after sanction (20 October 2006) of CC limit by Allahabad Bank.

ii. The Company's request to the Government for providing guarantee was under consideration which was finally turned down by the Government on 12 January 2007. However, before getting formal communication in this regard, the Company *suo moto* asked (5 January 2007) Allahabad Bank to intimate the amount to be deposited in the form of FD with it as security in lieu of Government guarantee for availing the second tranche of CC limit. Again the Company on its own offered (18 January 2007) to deposit ₹ 150 crore as FD. This proposal was not in the financial interest of the Company, as Allahabad Bank had already waived (31 October 2006) levy of additional interest of 0.50 *per cent* in lieu of Government guarantee and did not ask the Company to deposit any amount for the same. Since the Company was facing liquidity problems, to make this FD of ₹ 150 crore, it had to withdraw an equal amount from its CC account which was attracting a higher rate of interest

(8.75/ 11.25 *per cent* per annum) and park the fund in the same bank as FD at a lower rate of interest (three to 5.5 *per cent* per annum) which resulted in avoidable loss of ₹ 3.65 crore to the Company as detailed in ***Annexure - 3.3***.

The Management stated (April 2012) that as per Allahabad Bank's request (12 February 2007), ₹ 150 crore was deposited in FD. Further, under Decentralised Procurement Scheme, the Company gets reimbursement of interest paid by it from Government of India. Accordingly, it had received ₹ 39 crore (being 90 *per cent* of claimed amount of ₹ 44 crore) for the year 2006-07 which included the amount of interest paid to Allahabad Bank. Thus, there is no loss to the Company.

The reply is not acceptable because Allahabad Bank itself never asked the Company to deposit any amount in lieu of Government guarantee. Rather, the Company itself proposed to deposit ₹ 150 crore as FD which was accepted by Allahabad Bank. As regards reimbursement of interest by the Government of India merely getting reimbursement of any loss does not justify availing loan from Allahabad Bank on unreasonable conditions. The Company being a commercial entity must manage its finances observing financial propriety and acting with due prudence.

Thus, the Company obtained cash credit from Allahabad Bank without adhering to financial propriety and prudence which ultimately resulted in loss of ₹ 3.65 crore to the Government of India.

We reported (May 2012) the matter to the Government; their reply is awaited (January 2013).

3.5 Extra expenditure due to non detection of unfair practice of the bidders

Failure of the management to detect and prevent unfair practices adopted by the bidders for transportation contract for food grains in Korba resulted in extra expenditure of ₹ 37.59 lakh

Chhattisgarh State Civil Supplies Corporation Limited (Company) invites open tenders for transportation of food grains in the State of Chhattisgarh by publishing the Notice Inviting Tender in newspapers as well as uploading the same on the website of the State Government. Accordingly, for finalisation of annual rates for transportation of various food grains, salt and sugar from its Base Depots to Fair Price Shops (FPS) situated in different blocks in various districts, the Company has been inviting open tenders at the district level (the work is awarded only to a domicile resident of the concerned district) since 2006-07. This system of transportation is called *Dwar Praday* (DP). On the basis of rates obtained in the tender, the Company finalises annual transportation rate per metric tonne (MT).

Scrutiny of records (November 2011) relating to transportation contracts finalised by the Company in July 2010 and July 2011 for the years 2010-11 and 2011-12 respectively revealed that in Korba District, the average increase in transportation rates during the years 2010-11 and 2011-12 was on the higher side as compared to

the average increase in the whole State as detailed below:

Year	Chhattisgarh State		Korba District		
	Average Dwar Praday rates per MT (₹)	Average increase over the previous year's rate (%)	Actual Dwar Praday rates per MT (₹)	Average increase over the previous year's rate (%)	Per MT Dwar Praday rates as per average increase in whole state (₹)
2009-10	237	-	330	-	330
2010-11	245	3	359	9	340
2011-12	267	9	430/410*	20/14	371

(Source: Approved tender rates furnished by the Company)

On further scrutiny we observed that during the years 2010-11 and 2011-12, all the bids in Korba were submitted by bidders who shared the same registered addresses, landline and mobile numbers. This indicated that one bidder was operating under different names which resulted in no/nil competition (details vide ***Annexure - 3.4***). Despite being aware of receipt of higher rates in Korba, the Company, while finalising the tenders for the years 2010-11 and 2011-12, did not verify the credentials of the bidders even though there was evidence of malpractice and instead of rejecting all the bids and blacklisting the bidders, the Company accepted the higher rates. Thus, the Company's failure to verify the documents properly facilitated the bidders to submit higher rates through collusive bidding. This resulted in irregular placement of orders worth ₹ 4.84 crore during the years 2010-11 and 2011-12 and consequent extra expenditure of ₹ 37.59 lakh as detailed in ***Annexure - 3.4.***

We also observed that the Company's policy to invite open tender at district level to award the work only to the residents of the concerned district restricted competition leading to receipt of higher rates.

The Management stated (April 2012) that in 2010-11 and 2011-12, tenders were invited through open tender and all bids were submitted by different firms by furnishing different Permanent Account Numbers, Income Tax returns and Vehicle Registration documents.

While it is a fact that bids were furnished by different firms, their addresses and telephone/mobile numbers were identical which proves that all the bids were submitted by bidders related to each other and operating from the same location. This proves collusive bidding. Accordingly, the Company should have taken action by referring the matter to the Competition Commission of India under Section 19 of the Competition Act, 2002.

The Company may explore the possibility of inviting tenders at the State level instead of at the district level for ensuring competitive bidding. Further, while finalising tenders, the Company should be more vigilant so that unfair practices adopted by the bidders can be detected.

We reported (May 2012) the matter to the Government; their reply is awaited (January 2013).

* The Company invited tenders for all the seven blocks of Korba District and finalised ₹ 430 per MT for three blocks and ₹ 410 per MT for the remaining four blocks.

Chhattisgarh State Power Generation Company Limited

3.6 Potential loss due to unwarranted amendment in tender condition

Potential loss of ₹ 1549.06 crore due to unwarranted amendment in tender condition for payment of Coal Mining Fee to Joint Venture Company for Parsa captive coal block

Ministry of Coal (MoC), Government of India had allotted (August 2006) Parsa Coal Block having estimated coal reserve of 150 million tonnes (MTs) in Hasdeo-Arand Coalfields situated in Bilaspur - Ambikapur State highway to the erstwhile Chhattisgarh State Electricity Board (CSEB) {now Chhattisgarh State Power Generation Company Limited (Company)} for captive use for its Marwa Thermal Power Project (Marwa Project). The Board of Directors (BoD) of CSEB in its 77th meeting held in June 2008 decided to develop the Parsa coal block through a Joint Venture Company (JVC). Though Parsa was an unexplored coal block but as per the Regional Exploration Report (1988) of Geological Survey of India (GSI), the overall quality of coal in the area was of D to E grade.

In compliance to the decision of BoD, the Company issued (February 2009) a Notice Inviting Tender (NIT) for selection of a Joint Venture Partner (JV Partner) to develop, mine and transport coal up to Marwa Project from the Parsa Coal Block. As per the NIT, JVC shall be formed between the Company and the bidder who offered the highest discount on the CIL/SECL[8] notified price for F grade coal as prevailing on the date of signing of the 'Coal Mining & Service Agreement' (CMSA). Such discounted price would be considered as 'Coal Mining Fee' to be paid by the Company to the JVC. During the pre-bid conference (19 May 2009), one of the bidders, Adani Enterprise Limited (AEL) had raised a query regarding the applicable basic price of coal, if after detailed exploration, the quality of coal was found to be of better quality (say E) than F grade coal. The Company clarified (20 May 2009) that the discount would be applicable on SECL price of actual grade of coal instead of F grade coal.

In response to the NIT, three firms (SECL, MMTC Limited and AEL) had participated and price bids of all the three bidders were opened (6 August 2009). AEL was selected (19 October 2009) as the JV partner as it had offered highest unconditional discount of three *per cent* on the existing price of F grade coal. The Joint Venture Agreement was executed between the Company and AEL on 6 July 2010 setting up a JVC called "CSPGCL AEL Parsa Collieries Limited" in which the Company was to hold 51 *per cent* share as cashless equity and AEL was to hold 49 *per cent* equity. The Managing Director of the JVC would be from AEL and all executive powers would be exercised by him. The CMSA, finalised on 23 February 2011 between the Company and the JVC, stipulated that the agreement unless terminated earlier, would continue to remain in force until coal reserves from the coal block was exhausted.

We observed that amendment in the tender condition relating to "Price/coal mining fee" i.e. applicability of discount on SECL-notified price of actual grade of

[8] South Eastern Coal Fields Limited (SECL); a subsidiary of Coal India Limited (CIL)

coal instead of F grade coal was unwarranted and against the interest of the Company. To get the maximum benefit and to obtain coal at the least cost, the bid document stipulated the selection criteria for the JV partner as the qualified bidder who offered the highest discount on the SECL-price for F grade coal (inferior/cheaper grade) because the Company was aware that the actual grade of coal available in Parsa block was D and E which was costlier than F grade coal[9]. Since the role of the JVC was only to develop, mine and transport the coal to the power plant of the Company (irrespective of grade of coal) for which it had quoted its rate, passing of the benefit of higher grade coal (i.e. D and E) to the JVC was not justifiable particularly in view of the fact that the Company is the owner of the mine and whatever grade of coal was extracted, the same would be used for its own consumption.

Thus, by changing the pricing clause in the tender, the Company has extended undue benefit to the JVC. Because of this unwarranted amendment, the Company is likely to lose ₹ 1549.06 crore during the entire period of the CMSA as detailed in ***Annexure - 3.5***.

The Government stated (May 2012) that the Company's decision to change the pricing clause from F grade coal to actual grade of coal was a vendor neutral decision. It was also stated that the calculation regarding loss to the Company is based on Audit's assumption that Parsa is having superior grade coal. This conclusion is arbitrary because based on the Geological Report (GR) prepared by Adani Mining Private Limited[10] (AMPL) after detailed exploration, it is proved that the combined grade of seams of coal at Parsa is of F grade.

The reply is not acceptable because the Company is a commercial undertaking and thus it should have protected its own interest first. In the tender documents, the Company had rightly fixed the pricing clause criteria as F grade coal because the Company was aware that actual grade of coal available in Parsa as per the then available data of GSI was of D and E which was costlier than F grade coal. After finalisation of pricing clause in the tender documents, no changes/development had taken place which would warrant the change in the pricing clause from F grade coal to actual grade coal.

Further, the Geological Report (GR) prepared (April 2012) by AMPL itself confirms the availability[11] of superior grade of coal i.e. D and E in Parsa coal block. The GR clearly indicates that out of the three seams (seams VI, V and IV), seam IV is the most important seam as was also indicated by the GSI and out of the total graded reserves of 172.30 MTs[12], 123.93 MTs of superior grade coal was from seam IV alone. Thus, assessment of overall grade of coal as F in the GR based on combined seams was unwarranted and without any basis because in Parsa coal block, seams are occurring with high parting[13] thickness[14]. With such

[9] Basic price of different grades of coal of SECL as on 23/02/2011 was F-₹ 570/tonne, E - ₹ 730/tonne, D- ₹ 880/tonne

[10] Subsidiary Company of AEL, the partner of the JVC

[11] Out of the total seam wise graded reserves of 172.30 MTs of coal, 72 *per cent* was of superior grades i.e. D and E.

[12] Grade D- 0.48 MT, Grade E- 123.45 MT, Grade F-20.29 MT and Grade G -28.08 MT

[13] Material between the coal seams (partitions) mainly comprising soil, stone, shale etc.

[14] 11.33 meters to 33.27 meters

high parting thickness, there was no scope for combination of seams and thus, there is no possibility for combined mining by mixing coal of one seam with that of another.

The Government subsequently (December 2012) further informed that the Company has already initiated the process to amend the CMSA facilitating payment of Coal Mining Fees to the JVC based on SECL's basic price for F grade coal only and that the same shall be finalised shortly.

The reply confirms that the Company had made changes to the pricing clause in the tender to its disadvantage and the same is now being proposed for amendment, only after it was pointed out by Audit.

3.7 Avoidable extra payment towards performance incentive on purchase of coal

Avoidable extra payment of ₹ 7.97 crore to South Eastern Coalfields Limited towards performance incentive on purchase of coal

Chhattisgarh State Power Generation Company Limited (Company) finalised (10 September 2009), a Coal Supply Agreement (CSA) with South Eastern Coalfields Limited (SECL) for supply of coal to its Power Houses at Korba viz Hasdeo Thermal Power Station (HTPS), Korba Thermal Power Station (KTPS) and Dr. Shyama Prasad Mukherjee Thermal Power Station (DSPM). The CSA came into force from 1 April 2009 and is valid for 20 years. As per the CSA, the Annual Contracted Quantity (ACQ) of coal separately fixed for HTPS, KTPS and DSPM was 47 lakh MT, 27 lakh MT and 26 lakh MT respectively. Clause 3.3.1 of CSA provides that the Seller shall endeavor to supply coal from its own sources and in case it is not in a position to do so, the seller shall have the option to supply the balance quantity of coal from an alternate source based on mutual consultation. The CSA also provides for payment of compensation for short delivery/lifting of coal below 90 *per cent* of the ACQ as well as performance incentive for supply of coal above 90 *per cent* of the ACQ as detailed below:

Compensation for short delivery/ lifting: If during a year, the seller supplies/ purchaser lifts quantity of coal below 90 *per cent* of the ACQ, the seller or purchaser shall pay compensation at the rate of 10 *per cent*, 20 *per cent* and 40 *per cent* of the shortfall quantity for delivery level of ACQ ranging between below 90 *per cent and* 85 *per cent,* below 85 *per cent* and 80 *per cent* and below 80 *per cent* respectively.

Performance incentive: If the seller delivers coal to the purchaser in excess of 90 *per cent* of the ACQ in a particular year, the purchaser shall pay performance incentive at the rate of 10 *per cent*, 20 *per cent* and 40 *per cent* of the excess quantity for delivery level of ACQ ranging between 90 *per cent* and 95 *per cent*, above 95 *per cent* and 100 *per cent* and above 100 *per cent* respectively.

Scrutiny of records (December 2011) revealed that during the years 2009-10 and 2010-11, SECL could not supply the ACQ of coal to KTPS due to poor supply from its Manikpur mines. However, SECL was able to supply coal in excess of the ACQ to HTPS. To meet the shortage of coal at KTPS, the Company diverted coal

from the excess supplies made to HTPS. During the years 2009-10 and 2010-11, HTPS transferred 4.19 lakh MT and 4.95 lakh MT coal respectively to KTPS. Due to receipt of coal in excess of the ACQ at HTPS, the level of delivery at HTPS had increased significantly. As a result, HTPS paid performance incentive to SECL at a higher rate of 40 *per cent* for the quantity supplied beyond ACQ whereas due to lower level of delivery, KTPS paid/ received performance incentive/ compensation at a lower rate ranging between 10 and 20 *per cent* as detailed in the ***Annexure - 3.6***.

We observed that SECL had failed to supply the ACQ of coal to KTPS which was made good by the Company by diverting coal from the excess supplies made at HTPS. However, the Company paid performance incentive to SECL in respect of HTPS for the years 2009-10 and 2010-11 on the total quantity of coal received by HTPS including the quantity transferred to KTPS. The Company was aware that receipt of more coal at HTPS would result in payment of performance incentive at higher rates. Thus, the Company should have taken up the matter with SECL for adjustment of the quantity of coal short supplied to KTPS from the excess quantity supplied to HTPS. This would have reduced the payment of performance incentive to SECL by ₹ 7.97 crore as detailed in ***Annexure - 3.7*** while fulfilling the requirement of KTPS.

Thus, the Company's failure to take up the matter with SECL had resulted in avoidable extra payment of ₹ 7.97 crore towards performance incentive to SECL.

The Government stated (August 2012) that audit has included the quantity of coal diverted from HTPS to KTPS for calculation of incentive. This quantity is separate and can not be considered as supply by SECL to KTPS because clause 3.2 of CSA stipulates that the purchaser may transfer the coal meant for its one power plant to another power plant provided that such supply of coal shall for all commercial purposes under CSA remains unchanged on account of the original power plant.

The fact remains that SECL had failed to supply the ACQ of coal to KTPS and the shortage was met by the Company by diverting coal from the excess supplies made to HTPS. The Company, however, failed to take up the matter with SECL for adjustment of the quantity of coal short supplied to KTPS from the excess quantity supplied to HTPS for the purpose of calculation of performance incentive. It is also pertinent to mention here that during the year 2011-12 also, SECL had failed to supply the ACQ to KTPS which was made good by supplying the coal through HTPS. However, while calculating the performance incentive for the year 2011-12, SECL had adjusted the quantity of coal supplied to KTPS through HTPS. Accordingly, had similar adjustment been made for the previous years, the extra payment of incentive made to the SECL could have been avoided.

The Company should take up the matter with SECL immediately for refund of the excess payment made.

3.8 Avoidable extra expenditure on coal transportation

Avoidable extra expenditure of ₹ 1.20 crore due to transportation of coal through uneconomical route

The Hasdeo Thermal Power Station (HTPS) and Korba Thermal Power Station (KTPS) of Chhattisgarh State Power Generation Company Limited (Company) receive coal from various mines situated in Korba field of South Eastern Coal Fields Ltd (SECL). HTPS receives coal from Kusmunda mines through its 'Long Distance Coal Conveyor' (LDCC) system having transportation capacity of 2000 MT per hour. Similarly, KTPS receives coal from Manikpur mines from where it is transported to the power house through rail, road and Bi-cable Rope Way (BCRW) system. KTPS also receives coal from HTPS by road through stock transfer. Further, depending upon the actual availability of coal in its mines, SECL also allocates coal to KTPS from other mines too.

As the coal supplies to KTPS from Manikpur Colliery during the year 2009-10 was very poor, SECL allocated (July and October 2009) three lakh MT coal to KTPS from its Kusmunda mines. The allocated coal was transported by the Company from Kusmunda to KTPS by road (lead 40.40 km) by engaging transport contractors as detailed in ***Annexure - 3.8***.

We observed (January 2012) that KTPS has been regularly receiving coal from HTPS by road (lead 16 km). Therefore, three lakh MT coal from Kusmunda to KTPS should also have been transported via HTPS by following the existing route i.e. Kusmunda mines to HTPS (by LDCC) and then from HTPS to KTPS by road (lead 16 km) which was more economical[15] than the direct transportation of coal from Kusmunda to KTPS by road (lead 40.40 km). Thus, due to transportation of coal through an uneconomical route, the Company had to incur extra expenditure of ₹ 1.20 crore as detailed in ***Annexure - 3.9***.

The Management stated (April 2012) that in case of supply of coal from Kusmunda to coal bunker of LDCC at HTPS, SECL levied an additional charge of ₹ 40 per MT towards Surface Transportation Charges (STC)[16] which was not levied in case of coal transported to KTPS by road. Considering this additional charge, the cost of transportation of coal through both the routes worked out to more or less the same i.e. ₹ 136.19 per MT in respect of LDCC route and ₹ 137 per MT in respect of direct route. Thus, there was no loss to the Company. The Government further added (August 2012) that as against the designed capacity of 2000 MT per hour of LDCC system, the actual available capacity was around

[15] Average cost of transportation of coal from Kusmunda to HTPS via LDCC and from HTPS to KTPS by road during 2009-10 was ₹ 50.86/MT and ₹ 45.33/MT respectively. Thus, total average cost of transportation of coal from Kusmunda to KTPS (via HTPS) comes to ₹ 96.19/MT, whereas cost of transportation of coal by road directly from Kusmunda to KTPS was in the range of ₹ 120.21-137.36/MT.

[16] Where coal is transported beyond a distance of 3 Kms to the loading point, the coal companies charge additional transport costs from the purchasers at the following rates (then prevailing):
- For a distance of more than 3 kms but not more than 10 kms , ₹ 40 per MT
- For a distance of more than 10 kms but not more than 20 kms , ₹ 70 per MT
- For a distance of more than 20 kms, transportation charges on actual basis

1250 MT per hour due to constant wear and tear of the system. Hence it was not feasible to accommodate additional coal supply of three lakh MT coal in the same system.

The Management's reply is factually not correct because in case of transportation of coal from Kusmunda to KTPS by road also, SECL had levied ₹ 40 per MT towards STC which makes actual cost of transportation through direct route to ₹ 177 per MT instead of ₹ 137 per MT. Levy of STC at the rate of ₹ 40 per MT by SECL in respect of coal transported through both the routes makes the LDCC route more economical as already explained in foregoing paragraphs. The reply of the Government is also not acceptable because the actual capacity utilisation of LDCC system during the year 2009-10 was only 640.25 MT per hour against the available capacity of 1250 MT per hour which clearly indicates that the additional quantity of three lakh MT coal could have easily been transported through the system.

3.9 Undue favour to the contractor engaged in coal handling

Undue favour to the contractor by making extra payment of ₹ 41.25 lakh due to delay in termination of contract for the coal handling work at DSPM TPS

Coal is the primary fuel for generating electricity in coal based plants. To ensure its continuous and uninterrupted supply, Chhattisgarh State Power Generation Company Limited (Company) finalised (10 September 2009) a Coal Supply Agreement with South Eastern Coalfields Limited (SECL) for supply of 26 lakh MT coal per annum to its Dr. Shyama Prasad Mukherjee Thermal Power Station, Korba (DSPM) for 20 years w.e.f. 1 April 2009. After receipt of coal from SECL, the coal handling work (unloading, breaking and passing of coal into the track hopper) at Coal Handling Plant (CHP) is carried out. As the coal handling work was of essential nature and was to be done daily on a continuous basis to ensure sufficient availability of coal, work order for unloading of coal at track hoppers from Railway's Box-N type (side discharge) coal wagons, breaking and pushing coal into the track hopper and removing of stones from track hoppers at CHP of DSPM was issued (7 August 2009) to M/s Sweta Construction for 36 lakh MT at a value of ₹ 3.55 crore excluding Service Tax (initial nine lakh MT at the rate of ₹ 8.80 per MT and remaining 27 lakh MT at the rate of ₹ 10.21 per MT).

In the meantime, South East Central Railway (SECR) started giving coal through BOBRN type (Bottom discharge type) wagons from 18 December 2009 in place of Box-N type wagons. Since in BOBRN wagons, unloading of coal was not required as it was done automatically, the Company, after issuing (20 January 2010) one month's notice to M/s Sweta Construction, terminated the existing contract from 19 February 2010. Subsequently, by inviting limited tender, the Company started (23 February 2010) awarding work for only 'Breaking and passing of coal into the track hopper and removing of stones from track hopper' to the contractors on per day rate basis for short term duration up to 22 November 2011. The first such contract was awarded to M/s K. S. Construction on 23 February 2010 at the rate of ₹ 11815 per day (excluding Service Tax) for 30 days. During this period of 30 days (23 February 2010 to 24 March 2010), the

contractor handled 252705.49 MT coal. Thus, the effective rate (excluding Service Tax) worked out to ₹ 1.40 per MT[17].

In this connection we observed that SECR had started supplying coal through BOBRN wagons from 18 December 2009 in place of Box-N type wagons which does not require unloading of coal separately. Thus, immediately after getting coal through BOBRN wagons, the existing order placed on M/s Sweta Construction for handling of coal through Box-N wagon should have been terminated (since unloading of coal which was a major part of the work was no longer required) on 2 January 2010 by issuing 15 days' notice on 18 December 2009 itself as stipulated in clause 17 of the work order. However, the Company did not act promptly and instead issued one month notice after delay of one month on 20 January 2010 and finally terminated the contract on 19 February 2010 with a total delay of 48 days (3 January 2010 to 19 February 2010). As a result, M/s Sweta Construction was paid an amount of ₹ 47.81 lakh at the full rate of ₹ 10.21 per MT including unloading charges for 424526.34 MT coal handled by it during the period between 3 January 2010 and 19 February 2010 though the unloading work was actually not carried out by it as the scope of work remained limited only to breaking and pushing coal into the track hopper at CHP.

Had the existing work order been cancelled timely on 2 January 2010 and work for only 'Breaking and passing of coal into the track hopper and removing of stones from track hopper' been awarded simultaneously on per day rate basis (as was done subsequently from 23 February 2010 onwards), the extra expenditure of ₹ 41.25 lakh[18] incurred due to making full payment to M/s Sweta Construction for 424526.34 MT coal could have been avoided.

The Management stated (June 2012) that Railways had placed BOBRN wagons on their own for the first time and therefore, Railways was requested (8 January 2010) to confirm regular supply through BOBRN wagons but no assurance was given by them. In absence of specific assurance of discontinuing Box-N wagon and using BOBRN wagon, the contract was continued to ensure uninterrupted receipt of coal. It was also further stated that after observing operation of wagons for about a month, termination notice was issued to the contractor. The Government added (August 2012) that due to oversight, a notice of termination allowing 30 days was served to cancel the agreement instead of 15 days and for this, a warning has been issued to the concerned Superintending Engineer to remain vigilant in future while dealing with such cases.

The Management's reply is not acceptable because SECR was supplying BOBRN rakes daily from 18 December 2009 onwards and hence, there was no need for obtaining further confirmation from SECR.

[17] ₹ 11815 per day X 30 days / 252705.49 MT
[18] 424526.34 MT coal X (₹ 10.21- ₹ 1.40) + Service Tax at the rate of 10.30 *per cent*

3.10 Loss of interest due to idling of funds

Delay in transfer of funds from Regional Accounts Office, DSPM TPS to Head Office resulted in idling of funds and consequent loss of interest of ₹ 20.08 lakh

Regional Accounts Office (RAO) of Dr. Shyama Prasad Mukherjee Thermal Power Station (DSPM TPS), Korba of Chhattisgarh State Power Generation Company Limited (Company) maintains two bank accounts, namely disbursement account and collection account for its day-to-day activities. All payments are made through the disbursement account for which funds are made available by the Head Office (HO) of the Company based on the request of the RAO. Similarly, all receipts are deposited in the collection account which is in turn transferred to the HO of the Company. To avoid blocking of funds, RAOs were directed (May 2003) by the HO that requisition for funds should be made with due diligence so that there should not be any over requisition and any unspent balance/excess funds should be remitted to the HO within five days from the date of receipt of such funds.

On scrutiny of disbursement account cash book for the period 2006-07 to 2008-09, we observed that minimum funds ranging between ₹ 1.91 lakh (16 February 2009) and ₹ 1.82 crore (19 August 2008) were lying in a non interest bearing current account. Despite the specific instructions of the HO, the RAO failed to transfer the excess funds to the HO regularly leading to blocking of funds with consequent loss of interest of ₹ 9.56 lakh worked out at average rate of interest of 9.50 *per cent*[19]**.**

Similarly, on scrutiny of the bank statement of the collection account for the period from 2006-07 to 2010-11, we observed that there was inordinate delay of upto 729 days in transferring the funds to HO. These funds were also lying unutilised in a non-interest bearing current account. Since no payments were made from this account being a collection account, the total funds collected every day should have been transferred to the HO immediately to avoid any blocking of funds. Delay in transferring the funds resulted in loss of interest of ₹ 10.52 lakh worked out at average rate of interest of 9.50 *per cent* .

Had the unspent/balance funds been transferred to the HO in time, the Company could have avoided idling of such funds and consequential loss of interest. The RAO should make requisition for funds realistically based on actual requirement and a proper system should be evolved under strict monitoring of HO for timely transfer of funds as well as timely preparation of Bank Reconciliation Statements so that idling of funds can be avoided.

The Government stated (August 2012) that even if the funds had been transferred to HO account, it would not have made any substantial change as this account is a current account having no facility for interest payment. The Government further stated that the Company has now developed a system for timely transfer and close

[19] Company paid interest to Rural Electrification Corporation at the rate of seven *per cent* to 12.25 *per cent* during the period 2006-07 to 2010-11

monitoring of funds as well as timely preparation of Bank Reconciliation Statements based on the observation of the audit.

The fact remains that had the funds been transferred to HO, the same could have been utilised by the HO of the Company. Thus, unrealistic requisition of funds by RAO in excess of its requirement and delay in transfer of unspent/balance funds to HO resulted in loss of interest of ₹ 20.08 lakh to the Company.

GENERAL

3.11 Follow up action on Audit Reports

3.11.1 Audit Reports of the Comptroller and Auditor General of India represent the culmination of the process of audit scrutiny starting with initial inspection of accounts and records maintained in various offices and departments of the Government. It is, therefore, necessary that they elicit appropriate and timely response from the Executive.

Audit Reports for the years 2007-08 to 2010-11 were placed in the State Legislature in February 2009, March 2010, March 2011 and April 2012 respectively. Out of 30 paras/Performance Audits involving 11 PSUs under eight Departments featured in the Audit Reports (Civil & Commercial) for the years 2007-08 to 2010-11, no replies in respect of two paras/Performance Audits have been received from the Government by 30 September 2012 as indicated below:

Year of Audit Report	Total Paragraphs/Performance Audits in Audit Report	No. of Departments involved	No. of Paragraphs/Performance Audits for which replies were not received
2007-08	6	3	-
2008-09	6	6	2
2009-10	9	4	-
2010-11	9	5	-
Total	**30**		**2**

Department wise analysis is given in ***Annexure - 3.10***.

Compliance with the Reports of Committee on Public Undertakings (COPU)

3.11.2 In the Audit Reports (Civil & Commercial) for the years 2001-02 to 2010-11, 56 paragraphs and six Performance Audits were included. Out of these, 46 paragraphs and five Performance Audits had been discussed by COPU upto 30 September 2012. COPU had made recommendations in respect of six paragraphs of Audit Reports for the years 2001-02 to 2009-10. No recommendations have been made on the Performance Audits so far.

As per the working rules of the COPU, the concerned departments are required to submit Action Taken Notes (ATNs) to COPU on their recommendations within three months. Upto 30 September 2012, only one ATN for the years 2001-02 to 2009-10 was received.

Response to Inspection Reports, Draft Paragraphs and Performance Audits

3.11.3 Audit observations noticed during audit and not settled on the spot were communicated to the heads of PSUs through Inspection Reports (IRs). The heads of PSUs are required to furnish replies to the IR within a period of four weeks of its receipt. IRs issued upto March 2012 pertaining to 11 PSUs disclosed that 619 paragraphs related to 198 IRs remained outstanding at the end of September 2012. Department-wise break-up of IRs and audit observations outstanding as on 30 September 2012 are given in ***Annexure - 3.11***.

Similarly, draft paragraphs and Performance Audits on the working of PSUs are forwarded to the Principal Secretary/Secretary of the administrative department concerned and the Principal Secretary, Finance demi-officially, seeking confirmation of facts and figures and their comments thereon within a period of six weeks. Out of 10 draft paragraphs and one performance audit report forwarded to the various departments during March 2012 to July 2012, the Government had replied to seven draft paragraphs and the Performance Audit report so far (January 2013). Replies to three draft paragraphs have not been received as detailed in ***Annexure - 3.12.***

We recommend that the Government should ensure that (a) a procedure exists for taking action against the officials who failed to send replies to Inspection Reports/Draft Paragraphs/Performance Audits and Action Taken Notes on the recommendation of COPU as per the prescribed time schedule, (b) action is taken to recover loss/outstanding advances/overpayments in a time bound manner, and (c) the system of responding to audit observations is revamped.

Raipur **(PURNA CHANDRA MAJHI)**
The **Accountant General (Audit), Chhattisgarh**

Countersigned

New Delhi **(VINOD RAI)**
The **Comptroller and Auditor General of India**