CHAPTER III

Transaction Audit
Observations

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3. Transaction Audit Observations

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

Government Companies

Giral Lignite Power Limited

3.1 Avoidable extra expenditure

The Company's action to award AMC to ILK at exorbitantly higher prices and extend the same for another two years despite their poor performance and appraising incorrect performance to the Board resulted in avoidable extra expenditure of ₹ 3.17 crore.

Giral Lignite Power Limited (Company) invited (November 2006) tenders for the work of 'Assistance in Operation & Maintenance of Giral Lignite Thermal Power Station, Stage-I' for a period of two years from the date of commencement of work. The techno-commercial bids were opened (February 2007) and the technical bid evaluation committee[1] recommended (March 2007) for opening the price bids of three[2] firms. The price bids of recommended firms were opened (April 2007). The V.D. Swami & Company Limited (VD Swami) was the lowest bidder and was awarded detailed work order (July 2007) at a cost of ₹ 3.41 crore (exclusive service tax) per year for a period of two years. The work was assumed by VD Swami on 11 July 2007.

We noticed (May 2012) that the Company within 20 days of awarding work order to VD Swami, decided (25 July 2007) to withdraw the work of 'Assistance in Operation and Maintenance of Control and Instrumentation (C&I) equipments and instruments' costing ₹ 13.32 lakh per annum from the scope of the work order and award it to Instrumentation Limited, Kota (ILK). The decision arrived was on the grounds that VD Swami was not capable of doing the C&I work to Company's satisfaction and as per plant requirements. ILK had an expertise knowledge in fault detections/rectifications and was the original supplier of the C&I system. The Company, consequent to the decision, proposed (23 August 2007) ILK for the Annual Maintenance Contract (AMC) of unit-1 which in turn submitted (28 September 2007) its offer at quoted price of ₹ 9.50 lakh per month *plus* service tax. The Company awarded (15 July 2008) the work order at quoted prices for a period of one year. ILK was responsible for maintaining the entire C&I system of unit-1 round the clock as per the scope of work order.

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1 Chief Engineer (GLTPP), Additional Chief Engineer (Fuel) RVUN, Deputy Chief Engineer (GLTPP), and Senior Accounts Officer (GLTPP).

2 Gupta Industrial Maintenance Services Private Limited (Nadiad), V.D. Swami & Company Limited (Kota) and Thermax Limited (Pune).

We observed that ILK did not remove timely the faults/defects occurred in the C&I system. C&I wing had repetitively complained to ILK about the deployment of incapable/inexperienced/inadequate staff to handle the C&I problems/defects. Further, the defect removal reports also mentioned that ILK, did not ensure timely removal of the problems/defects of even urgent nature despite several reminders and the same were resolved after a delay[3] ranging between two and 169 days either with the assistance of Company's/RRVUNL[4] engineers or by hiring expert consultants from outside, for which deductions were made by the Company from the running bills of ILK. The Company, however, despite unsatisfactory performance of ILK even during the first year of work order, extended (November 2009/January 2011) the AMC twice, at a total cost of ₹ 1.11 crore *plus* service tax for each year by appraising satisfactory performance of ILK to the Board.

We further observed that the credentials and technical capability of VD Swami were got examined and evaluated by the technical bid committee before awarding of work. There were no complaints on records regarding incapability of VD Swami to handle the C&I system after taking up the work during 11 July 2007 to 25 July 2007 *i.e.* till decision to opt for the services of ILK. In view of this, the decision to opt ILK was not justified. We further observed that VD Swami continued to maintain the C&I system without any complaints or incapability till the work was handed over (October 2008) to ILK. Thus, the Company by awarding AMC to ILK at exorbitantly higher prices and extending the same for another two years resulted in avoidable extra expenditure of ₹ 3.17 crore[5].

The management stated (July/October 2012) that manpower deployed under the contract of VD Swami was insufficient and not well experienced for C&I system. The C&I problems were intimated to VD Swami from time to time but it could not resolve and attend the defects due to incapability and as such it was decided for separate AMC for complete C&I system. It further stated that after survey and study of AMC for complete C&I system, ILK was found most suitable firm as being the original equipment manufacturer. The reply was factually incorrect as there was no documentary evidence which indicates the unsatisfactory performance of VD Swami during July 2007 to October 2008. Besides, the scope of work of VD Swami was not limited to provide manpower but also included entire works including providing assistance in operation and carrying out all types of maintenance *viz.* routine, preventive, breakdown, annual/capital maintenance of all plants/systems/equipments (mechanical, electrical and C&I). Apart from this, appraising the satisfactory performance of ILK to Board for granting extension despite negative reports raises concern on the decision making.

The Government endorsed (July 2012) the reply of the Management.

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3 Scrutiny of problems/defects during November 2008 to September 2009.

4 Rajasthan Rajya Vidyut Utpadan Nigam Limited. The Company is subsidiary of RRVUNL.

5 Cost of hiring ILK including service tax (₹ 1.28 crore + ₹ 1.22 crore + ₹ 1.22 crore) less recovery against payment made to outside/own engineers (₹ 10.84 lakh) less cost of VD Swami for three years including service tax (₹ 44.37 lakh) = ₹ 3.17 crore

Jaipur Vidyut Vitran Nigam Limited

3.2 Loss on prepayment of loan due to incorrect calculation

The Company suffered loss of ₹ 1.47 crore on prepayment of HUDCO loan due to incorrect inclusion of interest as savings for the whole quarter, while preparing cost-benefit analysis.

Jaipur Vidyut Vitran Nigam Limited (Company) availed (between February 2008 and June 2008) a loan of ₹ 225[6] crore from Housing and Urban Development Corporation Limited (HUDCO) at floating rate[7] of interest for its infrastructure improvement. According to terms and conditions of loan, the principal and interest was to be repaid in 13 quarterly instalments commencing from 30 November 2008. HUDCO at its sole discretion could allow prepayment of loan on payment of prepayment charges. We noticed (March 2012) that the Company considering the higher rate of interest being charged by HUDCO, decided (April 2009) to repay the loan. HUDCO also allowed (4 May 2009) the Company to repay outstanding loan along with prepayment charges of ₹ 199.58[8] crore up to the quarter ending May 2009. Accordingly, the Board approved (May 2009) a proposal to prepay the HUDCO loan by availing term loan of ₹ 200 crore at 11.00 *per cent* from Corporation Bank (CB).

Our scrutiny revealed that the HUDCO reduced and intimated (19 May 2009) the applicable rate of interest from 12.75 *per cent* to 11.75 *per cent* per annum. The Company prepared (29 May 2009) a cost-benefit analysis **(Annexure-18)** considering revised rate of HUDCO and applicable interest rate (10.75 *percent*) of CB. After considering the prepayment charges, the Company concluded that there would be savings of ₹ 4.64 crore on availing loan from CB. The Company prepaid (29/30 May 2009) the HUDCO loan of ₹ 199.37 crore[9] (cut-off date 29 May 2009) by availing a term loan of ₹ 200 crore at 10.75 *per cent* interest rate from CB.

We observed that the Company while preparing cost benefit analysis included the envisaged saving of ₹ 5.88 crore towards interest liability for the whole quarter ending May 2009 which was not correct. The Company should have considered the envisaged saving of interest for two days (*i.e* 30 and 31May) instead of whole quarter since the interest due upto 29 May 2009 was to be paid to HUDCO. This resulted in that the Company suffered a loss of ₹ 1.47 crore **(Annexure-18)** instead of envisaged savings of ₹ 4.64 crore on loan obtained from CB.

The Management stated (June/July 2012) that HUDCO increased the rate of interest from time to time and prevalent interest rate of HUDCO was higher

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6 ₹ 50 crore on 6 February 2008, ₹ 25 crore on 29 February 2008, ₹ 50 crore on 10 March 2008, ₹ 50 crore on 1 May 2008 and ₹ 50 crore on 2 June 2008

7 HUDCO increased /decreased the rate of interest from time to time after availing loan of ₹ 225 crore- 7 August 2007 (10.50 *per cent* at the time of sanction), 30 January 2008 (10.25 *per cent*), 25 July 2008 (11.50 *per cent*), 31 July 2008 (12.50 *per cent*), 1 October 2008 (13.75 *per cent*), 7 November 2008 (14.00 *per cent*), 1 January 2009 (13.50 *per cent*) and 10 February 2009 (12.75 *per cent*).

8 Principal (₹1896930855), Interest (₹ 60961641) and Prepayment charges (₹ 37953344).

9 Principal (₹ 1896930855), Interest (₹ 58804856) and Prepayment charges (₹ 37953344).

than other banks. The Company had no sources of revenue except from sale of power which was not adequate even to meet the cost of purchase of power. As such the Company had to borrow funds from other financial institutions to repay the loan of HUDCO. It further stated that loan from the CB was availed with moratorium period of three years during which only interest element had to be paid and by retaining principal the Company had earned indirect interest of ₹ 2.84 crore. The reply was not convincing as it had borrowed loan from Corporation Bank only for the purpose of prepayment of HUDCO loan. As regards the moratorium period, it had deferred payment of principal amount for three years on which interest liability would accrue to be paid to the lender. The fact remains that due to incorrect calculation of cost-benefit analysis, the Company suffered loss of ₹ 1.47 crore.

The Government endorsed (June and August 2012) the reply of the Management.

3.3 Undue benefit to habitual defaulter consumer

The Company belatedly disconnected the power supply of a habitual defaulter consumer by violating its rules which resulted in non-recovery of dues of ₹ 24.02 crore.

Clause 46 of the terms and conditions for supply (TCOS) of electricity framed by the Jaipur Vidyut Vitran Nigam Limited (Company) under the provision of Electricity Act, 2003 provides that the company 'shall be entitled to cut off supply of electricity to any person after giving not less than fifteen days notice in writing to such person if such person neglects to pay charges for electricity supplied or any sum from him to the Company'.

Lord Chloro Alkali Limited (HT Consumer), whose outstanding dues of ₹ 55.71 crore were earlier settled for ₹ 14.48 crore pursuant to a rehabilitation package allowed (March 2005) by the Company and scheme for revival of the Consumer approved (November 2006) by the Board for Industrial and Financial Reconstruction (BIFR). The Consumer also did not adhere to the terms and conditions of the rehabilitation package and the scheme sanctioned by the BIFR. This was commented in paragraph 4.7 of the Audit Report (Commercial) of the Comptroller and Auditor General of India for year ended 31 March 2009, Government of Rajasthan. The paragraph was discussed (October 2011) by Committee on Public Undertakings and its recommendations were awaited (October 2012).

A further scrutiny of the records revealed that after re-connection[10] of power supply in April 2005, the Consumer started (March 2008) default in payment of electricity dues. Considering the financial constraints of the consumer, the Company entered (January 2009) into an agreement on its request wherein the consumer agreed to pay monthly bills within scheduled dates and to clear the old outstanding dues of ₹ 2.32 crore by March 2009. The agreement also provided that in case of default in payment of arrears as well as current bills, the supply would be disconnected without any notice and the outstanding dues

10 The connection of the consumer was re-connected in April 2005 after re-habilitation package approved by the Company in March 2005.

shall be recovered as per rules. However, the total outstanding dues against the Consumer by the end of December 2008 were ₹ 8.73 crore.

We noticed that the Consumer did not honour the terms and conditions of the agreement and made only partial payments with requests to defer the outstanding amount on the grounds of poor financial position. The consumer gave post dated cheques against the dues outstanding but never honoured all the cheques. A peculiar feature adopted by the Consumer to linger on the payments was that it furnished post dated cheques of initial dates with lesser amount and the last one with higher amount which was again requested to be rescheduled into smaller amounts, resulting in ever increasing outstanding dues.

We further noticed that the Company merely issued several notices to deposit the outstanding dues and simultaneously, in contravention of the rules, accepted the requests of the Consumer for extending the due dates of electricity bills and post dated cheques. The Company disconnected (25 July 2011) the electricity supply and belatedly registered (August 2011) the case under Negotiable Instruments Act, 1881. Moreover, by this time the outstanding dues had mounted to ₹ 29.80[11] crore.

We observed that the consumer was a habitual defaulter in payment of electricity dues as it never cleared the outstanding dues as per its commitments. The Company though aware of the deceptive behaviour of the Consumer yet continued to rely on its commitments and did not initiate timely action to disconnect the electricity supply as per rules. We further observed that even after adjusting (October 2011) the available cash security of ₹ 5.78 crore, ₹ 24.02 crore was still outstanding for which no action was found taken under 'The Rajasthan Government Electrical Undertaking (Dues Recovery) Act, 1960' (EUDR Act, 1960), which provides for recovery as an arrear of land revenue and now possibilities of its recovery seems remote as the Consumer had approached (February 2012) BIFR.

The Management stated (October 2012) that this was the biggest consumer in the jurisdiction of the Company yielding monthly revenue of ₹ six crore and as such the decision to abruptly disconnect the supply was very hard in the wider perspective. Various conciliatory meetings were held at the highest level of the management and the consumer in which instalments were granted and post dated cheques agreed with the ultimate objective of seeing such a large industry in the State to really turnaround. But unfortunately the outstanding dues piled up beyond an unacceptable limit and the Company had to disconnect the supply. It further stated that the Consumer had now approached BIFR which had instructed not to take any coercive action under EUDR Act 1960. The reply was not convincing as the Company violated its own rules and accommodated an industry with instalments and post dated cheques which were never honoured. Further, the Company despite knowing the deceptive behaviour of the Consumer in payment of dues did not timely disconnect the supply which resulted in depriving the State exchequer of its dues of ₹ 24.02 crore.

11 Late payment surcharge ₹ 56884427, Plant cost ₹ 1750000 and dues against electricity consumption ₹ 239330625.

The Government endorsed (November 2012) the reply of the Management.

3.4 Systemic deficiency in issue of first electricity bill to new consumers

Systemic lapses and slackness at various levels causing delay in issue of first electricity bill to consumers and consequent delay in recovery of electricity dues.

Jaipur Vidyut Vitran Nigam Limited (Company) distributes power to various categories of consumers in accordance with the provisions of 'terms and conditions for Supply of Electricity 2004' (TCOS), framed with the approval of 'Rajasthan Electricity Regulatory Commission' (RERC). The power distributed to the consumers is charged as per the tariff order approved by RERC from time to time and collected as per the provisions of Revenue Manual 2004 (Manual). For timely realization of revenue and to develop a foolproof system, the Company revised the existing billing system including computerized billing and issued guidelines to this effect in the Manual. Clause 21 of the Manual provides that the Service Connection Clerk will review the register A-49[12] weekly and fill up the month in which the first bill has actually been issued to new consumer(s) after date of connection. The unit officer/Assistant Revenue Officer(s) is also required to review this register monthly and to put his dated initials so as to watch that in no case, issue of first bill(s) is delayed beyond three months from the date of release of connection.

With a view to assess that first bill(s) is/are being issued to the consumers within stipulated period of 90 days, we collected the electronic billing data of Low Tension (LT) consumers for the year 2010-11 of three (Alwar, Jaipur City and Jaipur District) circles out of eight[13] circles. The data analysis was carried out using 'Interactive Data Extraction and Analysis' (IDEA) software. The IDEA results were cross verified with the manual records maintained at sub-divisions.

The IDEA results (as detailed in table below) revealed that there was considerable delay in issue of first bill to the consumers in all the three selected circles.

Circle/Particulars	Alwar	Jaipur City	Jaipur District
Total new connections released (Number)	27535	25128	34049
Consumers whom first bill was issued with delay (Number)	6103	2796	10211
Range of delay (In days)	91 and 666	91 and 326	91 and 642
Revenue recovered with delay (₹ in lakh)	86.23	76.14	114.30

It could be seen that of the total new connections released, 22.16, 11.13 and 30 *per cent* consumers in Alwar, Jaipur City and Jaipur District respectively were issued first bill with delays ranging between 91 and 666 days beyond the prescribed period of 90 days in the Manual. A further analysis of data revealed that the consumers to whom the first bill was issued with delay constituted of

12 A register to be maintained by the service connection clerk indicating the progress right from the stage of allotment of service number and location number to the stage of receipt of files in service connection section, from various sections/officials.

13 Alwar, Bharatpur, Dausa, Jaipur City, Jaipur District, Jhalawar, Kota and Sawaimadhopur.

72.65 *per cent* from domestic category and 27.35 *per cent* from other categories in Alwar circle while in case of Jaipur City circle and Jaipur District Circle, the same was 82.05 and 17.95 *per cent* and 91.47 and 8.53 *per cent* respectively. This resulted in delayed realization of electricity dues amounting to ₹ 2.77 crore in the three circles.

MF-1[14] is prepared based on the information provided in A-49 register and sent to the computer billing agency for generation of bills. Our scrutiny revealed that monitoring of A-49 register at the sub-division level was poor and the revenue staff also did not prepare MF-1 within the prescribed time schedule which led to delay in sending MF-1 to the billing agency and consequent delay in issue of first bill.

We observed that timely issue of bills by the sub-divisions was of utmost importance, particularly in a phase when the Company was facing financial constraints and held in the vicious circle of debt. The Assistant Revenue Officers have been entrusted with the overall responsibility of administrative and supervisory control of revenue and bill distribution in the sub-divisions and they have to ensure that first bill to the newly connected consumers are issued within the reasonable time and are not delayed. However, systemic lapses and slackness in working at various levels led to delay in issue of first bill to the consumers and consequent delay in recovery of electricity dues.

The Management stated (June 2012) that sometimes due to shortage of staff or human error/mistake, delay occurs in issue of first bill(s). It further stated that the system is being monitored during meetings with officials at circle level. The reply is not convincing as the delay is substantial in terms of number of consumers to whom the first bill was issued with delay. Further, the period of delay was also high which substantiates the audit observation and showed that the system was not monitored properly to minimise cases of delay. Besides, the Superintending Engineers' of Jaipur City circle and Jaipur District circle while accepting the audit observation replied (June 2012) that delay in first bill occurred due to non-adherence of the prescribed procedure by the field machinery and disciplinary action would be taken against the defaulting officers. The Company, however, has not taken any disciplinary action so far (October 2012).

The Government endorsed (June 2012) the reply of the Management.

3.5 Loss due to delay in surrendering excess power

Delay in surrendering the power of SCL led to continuous power purchase at high cost (₹ 4.25 per Kwh) and selling the excess power at cheaper rates thereby caused loss of ₹ 1.14 crore.

Government of Rajasthan (Energy Department) renamed (April 2009) 'Rajasthan Power Procurement Centre' (RPPC) as 'Rajasthan Discoms Power Procurement Centre' (RDPPC) and issued directions to Discoms[15] to strengthen the process of sale/purchase of power and to re-organise the RPPC.

14 Master format designed to feed the master data information relating to newly sanctioned connections.

15 Ajmer Vidyut Vitran Nigam Limited, Jaipur Vidyut Vitran Nigam Limited and Jodhpur Vidyut Vitran Nigam Limited.

The directions provided that the Chief Engineer (RDPPC) shall be empowered to take all the decisions related to emergent and short term power purchases/sale as also for day-ahead scheduling and dispatching for optimizing the procurement through inter-se trading between Discoms in consultation with the Chairman Discoms (Chairman and Managing Director of Jaipur Vidyut Vitran Nigam Limited).

Our scrutiny of records revealed that Shree Cement Limited (SCL) offered (30 August 2010) sale of 65 MW surplus 'Round the Clock' (RTC) power at unit price of ₹ 4.25 during 1 September 2010 to 30 September 2010. The offer was accepted by the Company and letter of intent was issued (31 August 2010) to SCL for purchase of 65 MW RTC power. The power supply was commenced by SCL from 1 September 2010.

We noticed that Director (Finance) being a member of directional committee for long and medium term power purchases opined (8 September 2010) that the decision of power procurement from SCL needs to be reviewed in view of good frequency and cheaper availability of power through over drawl. The Chief Engineer (RDPPC), however, did not take immediate decision and later, on the letter (15 September 2010) of the Executive Engineers of all the three Discoms to surrender 100 *per cent* power of SCL from 16 September 2010 in view of on-going power scenario in Rajasthan as well as whole northern region with compensation, if any, belatedly put up the matter to Chairman Discoms. The proposal was approved (20 September 2010) by Chairman Discoms on the same day and 100 *per cent* power was surrendered from 22 September 2010.

In this case, we further noticed that during the period 16 September 2010 to 19 September 2010, RDPPC purchased 3530906 Kwh power from SCL on one side and on the other hand sold[16] 22504000 Kwh power through IEX at a much cheaper rate ranging between ₹ 0.9252 and ₹ 1.0814 per Kwh.

We observed that the Chief Engineer (RDPPC) though mandated to take all the decisions related to emergent and short term power purchases/sale did not review the power scenario even after request of the Executive Engineers of all three Discoms to surrender 100 *per cent* power of SCL from 16 September 2010. Further, delay in putting the matter before Chairman Discoms led to purchase of high cost power from SCL at ₹ 4.25 per Kwh and selling of the same at cheaper rates caused loss of ₹ 1.14 crore.

Thus, had the Chief Engineer (RDPPC) taken timely decision to surrender 100 *per cent* power of SCL in view of prevailing power scenario and good frequency, loss of ₹ 1.14 crore on account of selling power at cheaper rates could have been avoided.

The Management stated (October 2012) that power was sold through IEX during 16 to 19 September 2010 due to under drawl in demand of electricity, which depends on so many factors *i.e.* rainfall or decrease in demand in

16 Power sold through IEX- 16 September 2010 (9660000 Kwh), 17 September 2010 (7577000 Kwh), 18 September 2010 (3738000 Kwh) and 19 September 2010 (1529000 Kwh).Power purchased from SCL- 16 September 2010 (909944 Kwh), 17 September 2010 (887435 Kwh), 18 September 2010 (844303 Kwh) and 19 September 2010 (889224 Kwh).

Northern region due to storm or other factors. It further stated that surrender of power takes some time, two or three days for taking decision. The reply was not convincing as the Chief Engineer belatedly put up the matter to Chairman Discoms, which led to continuous purchase of power from SCL without requirement during this period. Had quicker decision been taken, the high cost power purchased during 16 to 19 September would have been avoided.

The Government endorsed (November 2012) the reply of the Management.

Rajasthan State Industrial Development and Investment Corporation Limited

3.6 Loss due to allotment of land in violation of rules

IDC caused loss of revenue of ₹ 2.78 crore to the Company by allotting land to Finproject India Private Limited in violation of Rule 3(W) and 3(C) of the RIICO Disposal of Land Rules, 1979.

Rule 3(W) of RIICO Disposal of Land Rules, 1979 (RIICO Rules) amended in February 2011, provided that preferential allotment of industrial land to the projects involving (i) minimum investment of ₹ 30 crore excluding cost of land along with direct employment to at least 100 persons, (ii) projects being set up by NRIs/PIOs, (iii) projects with 33 *per cent* or more FDI in total investment and (iv) allotment of land for IT industry (manufacturing and software development), in all the industrial areas would be made on 'on going basis' after dispensing with the requirement of inviting expression of interest/applications *etc.* through advertisements in newspapers. The amendment further provided that rate of allotment in saturated industrial areas wherein allotment through auction had already been done, would be the average of prevailing rate of development charges and highest rate at which an industrial plot was auctioned. A sub-committee[17] was empowered to allot land under Rule 3(W).

We noticed that the sub-committee decided (3 March 2011) to allot 20000 sqm land to Finproject India Private Limited (Entrepreneur), a 100 *per cent* FDI unit, at Industrial Area Sitapura Phase-III. The Entrepreneur requested to allot the land at prevailing rate of development charges along with rebate for larger size plot. The committee, however, did not take decision about the rate of allotment and forwarded the matter to the Infrastructure Development Committee (IDC). The IDC allotted (10 March 2011) 21430 sqm land at the prevailing rate (₹ 4500 per sqm) of development charges, after allowing all rebates for large size plot under Rule 3(C)[18] as desired by the Entrepreneur.

We observed that the decision of the IDC was in violation of the RIICO Rules as the plot was lying in saturated area and allotment was to be made at ₹ 5100

17 Sub-committee of the Board comprising of Commissioner (Investment & NRI), Commissioner (Industries), Managing Director (RIICO) and Advisor (Infra).

18 **Rule 3(C) rebate on allotment of larger size industrial plot:** For setting up an industry in non-saturated industrial areas, 10 *per cent* rebate in the rate of development charges on industrial plot allotment measuring minimum of 10000 sqm and an additional rebate of 0.5 *per cent* per 1000 sqm shall be allowed subject to maximum rebate of 25 *per cent.*

per sqm, being the average of prevailing rate of development charges (₹ 4500 per sqm) and highest auction rate (₹ 5700 per sqm auctioned in 2007). Further, rebate for larger size plot was admissible only in case of allotment in non-saturated areas. Thus, injudicious decision of IDC in violation of Rule 3(W) and 3(C) caused loss of revenue of ₹ 2.78 crore to the Company.

The Government stated (August 2012) that the IDC decided (4 May 2011) to form a sub-group to review the eligibility and pricing policy under Rule 3(W) and till the report of the sub-group was accepted, the pre-revised eligibility conditions and pre-revised applicable rates were continued to apply. The allotment was made by the unit office on 10 May 2011 and applicable rate on that day was taken as per rules. Further, larger size rebate was allowed by the IDC looking to the 100 *per cent* FDI and credentials of the project and IDC was competent to take such decision. The reply was not correct as allotment was made prior to 4 May 2011. Further, justifying allotment on prevailing rate of development charges after allowing rebate for larger size plot on the plea of pre-revised rates was also in violation of the prescribed rules as in a saturated industrial area, allotment could be made through auction only without any rebate. Thus, by adopting this criteria the loss would have been to the extent of a minimum of ₹ 4.10 crore [(₹ 5700 *less* ₹ 3802.50) per sqm X 21430 sqm] as per the rate of last auction.

Rajasthan Small Industries Corporation Limited

3.7 Loss due to non-adherence to guidelines

The Company sustained loss of ₹ 1.19 crore due to non-adherence to the guidelines of new coal distribution policy and failure to formulate a proper mechanism to safeguard its financial interests.

The Government of India (Ministry of Coal) introduced (October 2007) New Coal Distribution Policy (NCDP) which was effective from 1 April 2008. The NCDP provided that S&MEs having coal requirement of less than 4200 tonnes per annum were to be allocated coal by the State Government nominated agencies which would enter into Fuel Supply Agreement (FSA) with the coal companies designated by Coal India Limited (CIL). The NCDP and the GOI stressed (February 2008) to evolve an effective mechanism to check on mis-utilisation of coal allocated to S&MEs. It was also reiterated that the nominated agencies should develop proper monitoring system to implement the NCDP and in case of any mis-utilisation/diversion of coal, allocation to the S&MEs was to be cancelled.

Pursuant to this, the Government of Rajasthan notified (December 2007) Rajasthan Small Industries Corporation Limited (Company) as notified agency for Rajasthan State. The Company executed (April 2008) Coal Supply Agreement (CSA) with South Eastern Coalfields Limited (SECL) for a period of two years for Annual Contracted Quantity (ACQ) of 114000 tonnes of coal per annum which was subsequently enhanced (May 2008) to 186000 tonnes. Clause 4.8 of the CSA explicitly provided that in case the Company failed to lift 60 *per cent* of the ACQ in any year, it would be liable to pay compensation

of five *per cent* of base price of 'D' grade ROM[19]coal prevailing on the last day of the year for the short lifted quantity. The CSA further provided that in case, the level of lifting fall below 30 *per cent* of the ACQ for the concerned year, SECL could terminate the agreement and forfeit security deposit. The Company deposited (between April 2008 and November 2009) security deposit bank guarantee of ₹ 86.02 lakh[20] to SECL.

We observed that the Company, as per NCDP, did not formulate guidelines for registration and distribution of coal amongst S&MEs. As a result, black marketing *etc.* were reported in supply of coal to S&MEs during the year 2008-09. The Company belatedly formulated (June 2009) guidelines for the implementation of NCDP for the year 2009-10 wherein the S&MEs were required to deposit security money in two instalments, each of ₹ 25 per tonne as per pro-rata quantity allocated against demand for April 2009 to September 2009 and October 2009 to March 2010 respectively. The guidelines also provided that in the event of failure of S&MEs to lift the required quantity, any compensation so imposed and other dues will be recovered from the S&MEs.

The Company could lift only 41295.04 tonnes of coal against the registered demand of 390490 tonnes from 120 S&MEs for the year 2009-10. The Company did not procure coal from SECL in several months[21] due to administrative decision of non-procurement on account of alleged irregularities (black marketing) and absence of monthly concrete demand from S&MEs as per their annual registered demand on due dates, even though the Company indicated availability of coal racks on its website. Besides, the Company did not ensure collection of the security deposits and utilisation certificates of the distributed coal from all the registered S&MEs as per the formulated policy. In some cases, 100 *per cent* advance was also not deposited by the S&MEs against their monthly demand as required under the Company's guidelines. Due to short lifting (22.20 *per cent*) of coal SECL not only levied (July 2010) penalty of ₹ 32.89 lakh (deducted from the deposit against financial coverage) but also forfeited (January 2011) security deposit of ₹ 86.02 lakh by invoking the bank guarantee. This resulted in loss of ₹ 1.19 crore.

Had the Company collected the mandatory security deposit on pro-rata basis from the registered S&MEs against their annual demand, it could have recovered at least financial hold of ₹ 93 lakh[22] from the defaulting S&MEs.

The Government stated (September 2012) that short lifting of coal during 2009-10 was due to non-presentation of coal utilisation certificates by S&MEs, non-deposition of full security/additional security deposits, publication of black marketing news in news papers and various investigations on the directions of Hon'ble Chairman (Rajasthan State Legislative Assembly) and Anti-Corruption Department. It further stated that matter regarding refund

19 Run on mine.

20 Bank guarantee dated 7 April 2008 for ₹ 4797500, dated 6 September 2008 for ₹ 3030000 and dated 4 November 2009 for ₹ 775000.

21 Coal was not procured in the month of December 2009, January 2010, February 2010 and March 2010 due to administrative decision of non-procurement.

22 ₹ 25 per tonne X 2 X 186000.

of forfeited security deposit and levied penalty was pending (September 2012). The fact remains that the Company sustained loss of ₹ 1.19 crore due to non-adherence to the guidelines of NCDP and failure to formulate a proper mechanism to safeguard its financial interest as per the stringent terms and conditions of CSA.

Rajasthan State Road Development and Construction Corporation Limited

3.8 Excess payment of stamp duty

The Company by overlooking the provisions of the Rajasthan Stamp Act, 1998 made an excess payment of ₹ 65 lakh towards stamp duty on increased authorized share capital.

Rajasthan State Road Development and Construction Corporation Limited (Company) increased (September 2010) its authorised share capital from ₹ 20 crore to ₹ 200 crore in accordance with section 97 of the Companies Act, 1956. The increase in authorised share capital was to be registered with Ministry of Corporate Affairs (MCA), Government of India after payment of filing fees and stamp duty on the increased capital at the rate of 0.5 *per cent* subject to maximum of ₹ 25 lakh.

We noticed that the Company paid (October 2010) stamp duty of ₹ 90 lakh at the rate of 0.5 *per cent* on the increased (₹ 180 crore) share capital ignoring the maximum limit of ₹ 25 lakh. This resulted in excess payment of stamp duty of ₹ 65 lakh. It was further noticed that the State Government has powers to waive off the stamp duty as per section 9 of the Rajasthan Stamp Act, 1998 but the Company never made efforts to get exemption from payment of stamp duty as done by other State Government Companies.

The Management accepted (November 2012) the facts and stated that action was being taken for refund of excess payment of stamp duty. Further, a request would be made to the State Government for exemption from payment of stamp duty. However, the refund was still awaited (November 2012).

The matter was reported (October 2012) to the Government and reply was awaited (November 2012).

3.9 Loss due to non-obtaining exemption certificate

The Company incurred an excess payment of ₹ 34 lakh towards VAT due to non-availment of composite payment scheme.

The Government of Rajasthan exempted (August 2006) the registered dealers engaged in works contracts relating to buildings, roads, bridges, dams, canals and sewerage system from payment of Value Added Tax (VAT) on a composite fee payment of 1.50 *per cent* of the total value of the contract. Rajasthan State Road Development and Construction Corporation Limited (Company) decided (November 2007) to execute the work of construction of residential complex for All India Institute of Medical Science, Jodhpur at a total value of ₹ 48.87 crore. We noticed that the Company instead of opting

composite payment scheme decided to pay VAT in regular course, considering the same unfruitful.

The decision of the Company was not prudent as total fee payable under composite scheme was only ₹ 73.31 lakh (₹ 48.87 crore X 1.5/100) while in regular course the Company paid VAT of ₹ 1.07 crore upto March 2012 (after considering input credit available on steel and cement procured). Thus, the Company incurred excess payment of ₹ 34 lakh due to non-availment of composite payment scheme.

The matter was reported to the Government (October 2012) and reply was awaited (November 2012).

Rajasthan Tourism Development Corporation Limited

3.10 Non recovery of Building and other Construction Workers' Welfare Cess

Non-recovery of Building and Other Construction Workers welfare cess of ₹ 18.10 lakh.

Government of India (GOI) notified 'Building and other Construction Workers' Welfare Cess Act, 1996' (Act) to augment resources for the welfare of Building and Other Construction Workers. The Government of Rajasthan, for implementation the Act, directed (9 July 2010) all the State Government Departments and Public Sector Undertakings to deduct cess at the rate of one *per cent* from the bills paid for building and other construction works. It was also directed that 27 July 2009[23] shall be the cut-off date for levy and collection of cess and the amount collected shall be transferred to the 'Rajasthan Building and other Construction Workers Welfare Board (Welfare Board) within 30 days of its collection.

As per records, the Rajasthan Tourism Development Corporation Limited (Company) received notification on 14 July 2010. The record of the finance wing of the Company mentioned (26 July 2011) about non-receipt of any such notification. It was further revealed that the Company could know about the notification for cess deduction only through audit observation raised in July 2011 and thereafter issued (August 2011) directives for deduction of one *per cent* cess from the bills of the contractors to whom work orders had been issued after 1 July 2010. The Company paid bills of ₹ 28.40 crore to various contractors during the period 27 July 2009 to 2 March 2012 but collected and deposited cess of ₹ 10.30 lakh only as against ₹ 28.40 lakh and thus short recovered cess of ₹ 18.10 lakh. The Company did not implement the notification, as cess could be collected only from 23 August 2011 onwards. Besides, the decision to levy cess from 1 July 2010 instead of 27 July 2009 as per State Government directives was also not justified. The possibilities of recovery was weak as the final settlement of the bills of contractors had already been made.

23 For levy and collection of cess, the date of 27 July 2009 was taken as cut-off date as the Rajasthan Building and other Construction Workers Welfare Board was notified and came into existence.

The Management while accepting the facts stated (October 2012) that efforts are being made for recovery of remaining amount. The Government endorsed (October 2012) the reply of the Management.

Ajmer Vidyut Vitran Nigam Limited, Jaipur Vidyut Vitran Nigam Limited, Rajasthan State Industrial Development and Investment Corporation Limited, Rajasthan Small Industries Corporation Limited and Rajasthan State Mines and Minerals Limited

3.11 Corporate Governance in State Government Companies

Introduction

3.11.1 Good Corporate Governance practices ensure accountability of companies to all the stakeholders. Corporate Governance in listed companies is regulated through mandatory compliance of the provisions of clause 49 of the listing agreement issued by Securities Exchange Board of India (SEBI). The Companies Act, 1956 (Act) through various provisions *viz.* Section 210(1) (Annual General Meeting), Section 217(2AA) (Directors' Responsibility Statement), Section 285 (meeting of Board of Directors) and Section 292A (constitution of Audit Committee having paid up share capital not less than ₹ 5 crore) *etc.* prescribes practices that go to building a robust Corporate Governance structure in companies.

Review of Rajasthan Government Companies

3.11.2 As on 31 March 2011, there were 42 government companies including three non-working companies and none of them was listed on Stock Exchange(s). Out of 39 working companies, seven companies were incorporated during 2010-11, two companies were privatized during 2011-12 and 12 companies had paid up share capital less than ₹ 5 crore. Of the remaining 18 companies, five major companies *i.e.* Ajmer Vidyut Vitran Nigam limited (AVVNL), Jaipur Vidyut Vitran Nigam Limited (JVVNL), Rajasthan State Industrial Development and Investment Corporation Limited (RIICO), Rajasthan Small Industries Corporation Limited (RSICL) and Rajasthan State Mines and Minerals Limited (RSMML) were selected to review the compliance of the provisions of Companies Act, 1956 to ensure effective Corporate Governance during last four years ending March 2011.

Department of Public Enterprises, Government of India issued (March 1992) guidelines to institutionalize good Corporate Governance in Central Public Sector Enterprises. However, no such directions/guidelines were issued by the State Government.

Meeting of Board of Directors

3.11.3 Section 285 of the Companies Act, 1956 provides that meeting of Board of Directors of a company shall be held at least once in every three months and at least four such meetings shall be held in every year.

We noticed that Board meeting in RSICL was not held during the quarter ending December 2008 and only three Board meetings were held in RSMML during the calendar year 2009, 2010 and 2011. Thus, only three Board

meetings were held in these two companies in the mentioned period against the requirement of at least four meetings in a year.

In case of RSMML, Government stated (August 2012) that the fourth meeting of Board of Directors could not take place in the above mentioned years due to the reasons that there was not sufficient business to be transacted in the meetings.

Attendance of Directors in Board meetings

3.11.4 The Chairman of the Board is to ensure effective participation of all directors. The attendance of Non-Executive Directors in the Board meetings of selected five companies was not regular as is evident from **Annexure-19.** We observed that the Directors who remained absent in the meetings, failed in discharging their fiduciary duty.

In case of AVVNL and JVVNL, Government stated (July and August 2012) that notices of meetings were served to the Directors from time to time but due to pre-occupations/urgent meetings at the level of Government, some directors could not attend the Board meetings. In case of RSMML, it was stated (August 2012) that the Director which did not attend any of the eight meetings during (July 2009 to March 2011) his tenure was having dual charge of Director (Mines) and Commissioner (Excise). The fact remained that the Directors failed to fulfil their fiduciary duty.

Constitution and functioning of Audit Committee

3.11.5 Section 292A of the Companies Act, 1956 requires every public company having paid up capital of not less than ₹ five crore to constitute an Audit Committee at the Board level. The Audit Committee should consist of not less than three directors and such number of other directors as the Board may determine of which two-third of the total number of members shall be directors, other than managing or whole time directors. Every Audit Committee so constituted shall act in accordance with terms of reference to be specified in writing by the Board. The statutory requirement of Audit Committee brings into focus the Corporate Governance and the critical role of financial reporting in meeting the expectations of stakeholders with enhanced quality of decision making. Further, Section 292A (3) prescribes that members of the Audit Committee shall elect a Chairman from amongst themselves. The annual report of the company shall disclose the composition of the Audit Committee.

The number of Audit Committee meetings held in selected companies during 2008-11 is given below:

Name of the Company	2008-09	2009-10	2010-11	Total
RSMML	1	1	1	**3**
RIICO	2	2	2	**6**
RSICL	1	1	2	**4**
JVVNL	2	2	4	**8**
AVVNL	2	5	6	**13**

Review of the minutes of Audit Committee revealed the following:

- The members of the Audit Committee of RSMML did not elect Chairman for its 17th meeting (25 November 2009) and therefore the

proceedings of the meeting were conducted in absence of the Chairman.

- The composition of the Audit Committee of RSICL was not disclosed in the annual reports for the period 2008-11.
- The Board of RSMML in 326th meeting (2 June 2001) determined terms of reference of the Audit Committee, which provided that the Committee shall meet periodically, as it deems fit, and in any case, have at least two meetings in a financial year. We, however, noticed that the Committee met only thrice during 2008-11 (once in each financial year) in contravention of the terms of reference determined by the Board.

In case of RSMML, the Government stated (August 2012) that two meetings could not be held in a year mainly because of delay in finalisation of the annual accounts for the financial year 2007-08 and onwards. Further, delay in preparation of annual accounts for one year led to delay in preparation of annual accounts for the succeeding year as the audit for the previous year was continued till September/October of the succeeding year.

Presence of the Statutory Auditors and Internal Auditors

3.11.6 Section 292A (5) makes it mandatory for the Statutory Auditors, Internal Auditors and Director in-Charge (Finance) of a company to attend and participate in the meetings of Audit Committee. We noticed that the attendance of Statutory Auditors in the Audit Committee meetings was insignificant as given below:

Company	Meetings held during 2008-11	Meetings attended by Statutory Auditors
RIICO	6	4
RSICL	4	1
JVVNL	8	2
AVVNL	13	1

In case of AVVNL and JVVNL, the Government stated (July and August 2012) that the Statutory Auditors were served notices for Audit Committee meetings but due to pre-occupations they could not attend the meetings.

Discussion on Financial Statements and Internal control System

3.11.7 Section 292 A (6) provides that the Audit Committee should have discussions with the auditors periodically about internal control systems, scope of audit including observations of the auditors and review the half-yearly and annual financial statements before submission to the Board and also ensure compliance of internal control systems.

We noticed that the Audit Committee of RIICO did not hold discussions with the Statutory Auditors on the observations raised by them in their report for the year 2008-09, 2009-10 and 2010-11regarding non maintenance of proper record of fixed assets, subsidiary ledgers of dues and weak internal control procedure and compliance of rules and regulations in respect of recoveries at unit level. Likewise, comments of the Statutory Auditors to overcome deficiencies in Internal Audit system of infrastructure activities were also ignored. The Board also did not issue directions to the Committee to discuss the issues.

Compliance to the recommendations of the Audit Committee

3.11.8 Section 292A (8) provides that the recommendations of the Audit Committee on any matter relating to financial management, including the audit report, shall be binding on the Board. Further, sub-section 9 stated that if the Board does not accept the recommendations of the Audit Committee, it shall record the reasons therefore and communicate such reasons to the shareholders. The shortcomings noticed in compliance of these provisions are discussed below:

RSMML On the issue of Voluntary Retirement Scheme (VRS) appearing as qualification in the annual report, the Audit Committee in its 17th meeting (25 November 2009) recommended to publish an advertisement in the newspapers calling for claims for the difference amount of VRS. However, no action was taken in compliance of the recommendation and the reasons were also not recorded. Further, the Committee's opinion as regards to fixation of targets of diesel consumption (repeated in 18th meeting) was not discussed in subsequent Board's meetings.

The Government stated (August 2012) that an advertisement in the newspaper calling for claims for the difference amount of VRS is being released shortly and a detailed study on diesel consumption norms have been undertaken and will be placed before next meeting of Board and Audit committee.

RIICO In view of Statutory Auditors observations in their report for the year 2008-09 and 2009-10, the Committee of RIICO directed that task of physical verification of land be undertaken and completed prior to finalization of next year accounts. The compliance to the recommendation of the Committee was not made and the observation was again repeated in the Auditor's Report for the year 2010-11.

RSICL The recommendations of the 15th (constitution of Audit Committee and settlement of outstanding paras) and 17th (Independent Director as Chairman) Audit Committee were not submitted to the Board's next meeting.

Presence of Audit Committee Chairman in AGM

3.11.9 Section 292A (10) provides that the Chairman of the Audit Committee shall attend the annual general meetings of the company to provide any clarification on matters relating to audit. We noticed that the Chairman of the Audit Committee of RIICO was not present in the annual general meeting held for adoption of accounts for the year 2009-10.

Annual General Meeting

3.11.10 Section 210 (1) provides that at every Annual General Meeting (AGM) of a company held in pursuance of Section 166, the Board of Directors shall lay before the company, a balance sheet as at the end of the period specified in Sub-section (3) and a profit and loss account for that period. Sub-section3(b) provides that the profit and loss account shall relate, in the case of any subsequent AGM(other than first AGM), to the period beginning with the day immediately after the period for which the account was last submitted and ending with a day which shall not precede the day of the meeting by more than six months, or in cases where an extension of time has been granted for

holding the meeting under the second proviso to Sub-section (1) of Section 166, by more than six months and the extension so granted.

We noticed that Ministry of Corporate Affairs (MCA) on the request of RSMML, granted (11 September 2009) extension for a period of three months *i.e.* upto 31 December 2009 with the direction to take suitable steps to ensure timely finalisation of accounts and its audit to hold the AGM within the time limit specified in Section 166 and 210 of the Act. However, RSMML failed to hold the AGM within the statutory period allowed by the MCA and the AGM was called belatedly on 27 January 2010 wherein the Annual Accounts along with the Auditors Report for the year 2008-09 were adopted.

The worst scenario was noticed in AVVNL and JVVNL where extensions for holding of AGMs were being sought year after year despite MCA's repeated directions to make efforts for holding AGM within time period prescribed in the Act itself. Details of the AGMs held and adoption of annual accounts in AVVNL and JVVNL are given below:

Year	AVVNL			JVVNL		
	Date up to which AGM should be held			Date up to which AGM should be held		
	As per proviso of the Act	As per extension granted by MCA	Date on which AGM held	As per proviso of the Act	As per extension granted by MCA	Date on which AGM held
2007-08	30 September 2008	31 December 2008	30 June 2010	30 September 2008	31 December 2008	24 December 2008
2008-09	30 September 2009	31 December 2009	14 February 2011	30 September 2009	31 December 2009	13 December 2010
2009-10	30 September 2010	31 December 2010	1 July 2011	30 September 2010	31 December 2010	15 September 2011
2010-11	30 September 2011	31 December 2011	*	30 September 2011	31 December 2011	*

* *Accounts for the year 2010-11 are not yet (October 2012) finalised.*

It could be seen that both AVVNL and JVVNL failed to hold the AGMs within the stipulated period prescribed in Act. There was significant delay ranging between 181 and 542 days and 257 and 346 days respectively in holding AGMs beyond the extension allowed by the MCA. We noticed that abnormal delay in adoption of accounts was due to not following the accounting Standards, revision of accounts due to wrong depiction of loss for the year 2009-10 as subvention receivable from the State Government. As a result of not following the accounting standards, the Comptroller and Auditor General of India issued not true and fair certificate on the accounts of AVVNL for the year 2007-08, 2008-09 and 2009-10 while and in JVVNL for the year 2007-08. The Statutory Auditors also gave 'disclaimer' on the accounts of JVVNL for the year 2008-09 and 'not true and fair certificate' for the year 2009-10.

Besides this, it was also observed that the attendance of the Directors in the AGM of the selected five companies remained poor. In RSMML it ranged between 22 and 75 *per cent*, RIICO 44 and 55 *per cent*, RSICL 33 and 57 *per cent*, JVVNL 37 and 43 *per cent* and in AVVNL it ranged between 50 and 55 *per cent* only during last three years ending on 2010-11.

In case of RSMML, the Government stated (August 2012) that delay in finalisation of accounts led to delay in holding of AGMs.

Anti-fraud and anti-corruption policies and procedures

3.11.11 Fraud is an intentional act by one or more individuals among management; those charged with governance, employees, or third parties, involving the use of deception or obtain an unjust or illegal advantage. The responsibility for the prevention and detection of fraud rests with those charged with the governance and management of the entity. Management, with the oversight of those charged with governance, needs to discharge this responsibility through the implementation and continued operation of an adequate system of internal control. Audit Committee should frame and review anti-fraud and anti-corruption policies and procedures of the Company to minimize the possibilities of fraud and corruption. However, in case of five selected Companies, Audit Committee did not review the anti-fraud and anti-corruption policies and procedures.

Conclusions and Recommendations

3.11.12 The major weaknesses lie in attendance of directors including independent directors nominated by the State Government in Board meetings, holding of Audit Committee meetings and presence of statutory auditors therein and discussions on the observations of the statutory auditors by the Audit Committee on the financial statements and internal control system. Besides, non-compliance of the recommendations of Audit Committee by the Board and timely preparation of accounts on the basis of Accounting Standards and their adoption in AGM were also major areas to be improved by the companies. The Board of Directors should introduce a system and issue necessary guidelines to ensure effective compliance of the provisions of the Act. An evaluation procedure needs to be put in place to assess the performance of Audit Committee in promoting improved systems of risk management, internal control and better financial reporting.

Statutory Corporations

Rajasthan Financial Corporation

3.12 Excess contribution to provident fund in violation of rules

The Corporation without approval of the State Government contributed excess subscription of two *per cent* amounting to ₹ 4.36 crore towards employees' provident fund in violation of section 48 of State Financial Corporations Act, 1951.

Rajasthan Financial Corporation (Corporation) established under the 'State Financial Corporations Act, 1951' (SFCs Act 1951) framed 'Rajasthan Financial Corporation Employees Provident Fund Regulations, 1958' (PF Regulations) under section 48 of the SFCs Act 1951, to establish and maintain provident fund for the benefit of employees of the Corporation. The Government of India (GOI) also notified (December 1961) the PF Regulations under section 8(2) of the 'Provident Funds Act, 1925' (PF Act, 1925) and

directed that its provisions shall apply to any provident fund established for the benefit of employees of the Corporation. In accordance with the provisions of section 48 of the SFCs Act, 1951 the Board was empowered to amend the PF Regulations after consultation with the Small Industries Bank and prior sanction of the State Government.

We noticed that the Board approved (October 1998) amendment in PF Regulations 7 and 9(1) (rate of employer's and employees' subscription respectively) and increased the rate of subscription from 10 *per cent* to 12 *per cent* on the lines of amendment made (22 September 1997) by the GOI in the 'Employees Provident Fund and Miscellaneous Provisions Act, 1952' (EPF Act, 1952). The amendment was approved to be implemented from September 1997. The Corporation, in order to comply the requirements of section 48 of SFCs Act, 1951, requested (November 1998) the Industrial Development Bank of India (IDBI) and the State Government to accord approval to the Board's decision for amendment in PF Regulations and in the meantime implemented (January 1999) the decision in anticipation of the approval from the IDBI and the State Government. The IDBI accorded (February 1999) its approval to the Board's decision subject to approval of State Government. However, the State Government (Bureau of Public Enterprises) refused (October 1999) the proposal and observed that the Corporation had increased the rate of subscription as a result of change in EPF Act, 1952, the provision of which were not applicable on the Corporation. It further observed that the Government had no objection to increase the rate of employees' subscription to the provident fund but increase in the rate of employer's contribution would increase financial burden of the Corporation which was not desirable in those circumstances. We further noticed that after correspondence between October 1999 and February 2004, the State Government finally refused (June 2004) the proposal to increase the rate of Corporation's contribution to Provident Fund. The Corporation, however, did not obey the State Government's decision and continued to make its contribution to the provident fund at enhanced rate. The State Government again questioned (September 2011) the legality about contribution at enhanced rate without its approval.

This decision of the Corporation without approval of the State Government was not only a statutory violation of the SFCs Act, 1951 but continuance of the practice despite State Government's refusal overburdened it with additional financial liability of ₹ 4.36 crore due to excess contribution to the provident fund since September 1997 to March 2012.

The Government stated (May 2012) that the State Government has not yet approved the increase in rate of contributory provident fund from 10 *per cent* to 12 *per cent* and the matter is under consideration.

Rajasthan State Road Transport Corporation

3.13 Wasteful expenditure on hiring of consultants and advertisement of tender

The Corporation appointed consultants for preparation of tender documents and draft agreement without assessing its specific requirements which led to scrapping of documents and wasteful expenditure of ₹ 26.06 lakh.

Rajasthan State Road Transport Corporation (Corporation) operates super luxury Volvo buses on certain routes by hiring such buses from private owners. The buses are hired after inviting tenders and executing agreements with the owners of the buses. The Corporation decided (6 November 2009) to operate 78[24] more such buses by hiring them from private bus owners as it did not have its own fleet of super luxury buses. The Chairman and Managing Director (CMD) directed (6 November 2009) to appoint consultants to prepare specific tender documents and draft agreement for hiring of buses. The tender documents and draft agreement were submitted by the consultants on 9 November 2009.

We noticed (December 2011) that the CMD justified (9 November 2009) his decision of hiring of consultants on the grounds that this was a large tender for hiring of buses and the Corporation expected participation of very large operators from various parts of India. It was also justified that the tender conditions were very complex necessitating appointment of a professional, having experience in handling large and complex public-private partnership tenders and appointed Chartered Accountant was one of very few such financial professional in Jaipur. The CMD further justified that the Corporation would have to execute a concession agreement with the lowest bidder which was a very complex legal document and there were almost no firms of lawyers except the appointed advocates who could handle such job at Jaipur.

We further noticed that the matter of hiring consultants along with remittance of consultancy fee ₹ 13.13 lakh was put (11 February 2010) to the Board for post facto approval with the justification that the existing tender documents were fraught with legal loopholes and in the event of a dispute may work against the Corporation. It was also justified that the consultants were hired on the basis of unsolicited bids as there was little expertise available in Rajasthan for drafting such documents. The Board approved the hiring of consultants and remittance of consultancy fee ₹ 10.92 lakh which was paid on 12 March 2010.

Our scrutiny of records revealed that the new documents did not serve the purpose and the private bus owners did not show much interest in the tender as out of eight interested parties who participated (20 November 2009) in the pre-bid meeting, only four parties submitted (30 November 2009) tenders for 14 'A' category buses and eight 'B' category buses. Further, only one tender for 10 'A' category buses could be finalised by November 2010, which too was an existing party after much deliberations and major changes in the terms and

24 A category (Volvo B9R-10 buses), B category (Volvo B7R-29 buses) and C category (Tata/Leyland AC-39 buses).

conditions *viz.* service tax liability, reduction in performance security, division of income from advertisement, size of LCD TV, rate per kilometre *etc.* in the documents prepared by the consultants. It was further seen that the documents prepared were so complex and detailed that it did not prove to be standard documents to cater to the needs of the Corporation as the interested parties often asked for changes in the conditions. The Corporation despite knowing the complexity of documents, again invited (April 2010) tenders with same set of documents and could not secure even a single bid. Subsequently, the Management apprised (8 July 2011) the Board that the requirement of super luxury buses could not be fulfilled due to the fact that the documents prepared by the consultants were so detailed and complex that the parties were not interested in participating in the tender process. It was further apprised that new set of documents in easy language has been prepared to attract more bidders. The Board approved (July 2011) new set of documents prepared in simple and easy language for all future tenders so that large number of parties could participate in the tendering process.

We observed that the Corporation appointed the consultants for preparation of tender documents and draft agreement without assessing its specific requirements and market scenario. There was nothing to ascertain on record that the documents prepared by the consultants after identifying and discussing the core tender conditions with Corporation affecting the participation of bidders. Consequently, major changes in terms and conditions of the documents were done at the behest of the parties and finally resulted in scrapping (July 2011) of the documents. Since the documents were scrapped and the Corporation prepared new documents at its own level, the payment of ₹ 10.92 lakh towards consultancy fee and expenditure of ₹ 15.14 lakh incurred on the advertisement of tenders invited (April 2010) on its basis proved to be wasteful.

The Management stated (January/October 2012) that the high level documents were got prepared from the consultants to ensure availability of super luxury buses as per the demand of the Corporation and to maintain continuous operational reliability of the buses in the global environment by attracting experienced firms in this field. It further stated that the documents were got prepared from appointed consultants due to non-availability of subject specific experts. Further, it was difficult to predict at any level before invitation of tenders that no party would come forward and no bid will be received. The justification given by the Management was not sustainable in view of the fact that in absence of any guideline/directions from the Management to the consultants, the documents did not serve the purpose of standard documents for hiring of the buses. This was evident from the fact that buses could be hired in November 2010 only after making changes in major terms and conditions in tender invited(November 2009) since no party submitted bid for

the tender invited (April 2010); thereby forcing the Corporation to scrap the documents and go for fresh documents for all future tenders.

The Government endorsed (July 2012) the reply of the Management.

3.14 Systemic lapses in dealing with cases of ticketless travels and departmental inquiry

In-effective implementation of by-laws/provisions to avoid ticketless travelling coupled with improper monitoring caused significant delay in completion of departmental inquiry against delinquent employees.

3.14.1 The Government of Rajasthan enacted 'Rajasthan State Road Transport Service Prevention of Ticketless Travel Act,1975' (Act), subsequently amended in 1987 to prevent ticketless travelling in the buses of 'Rajasthan State Road Transport Corporation' (Corporation). The Act provides obligations and punishment for the passengers travelling without a proper pass or tickets in Corporation's buses and also for Conductor or any person authorised by the Corporation to charge fare and supply ticket. The Act explains that if any person is found travelling in a bus without having a proper ticket or pass, it shall be presumed that the Conductor has negligently or wilfully omitted to charge fare or supply a ticket. With a view to ensure effective compliance of the provisions of the Act, the Corporation issued directives from time to time which, *inter-alia*, include inspection of en-route buses by inspecting squads, serving of charge sheet to delinquent conductor and appointment of inquiry officer if charges are refuted or not responded, suspension of delinquent conductor in case 10 or more passengers or fare amount ₹ 200 or more or both (prior to 18 October 2010 five and more passengers or fare amount ₹ 50 or more) are detected under ticketless travel *etc.*

In order to assess the effective implementation of the Act and the Corporation's ability in dealing with the cases of suspension, the prevailing system was reviewed on the basis of information collected from 21 depots (out of total 48 depots) on random basis. The shortcomings noticed are as below:

As on 31 March 2011, there were 688 cases of suspension in 21 depots of the Corporation out of which 463 cases (67.29 *per cent*) pertained to conductors who were suspended from duty for not charging fares from the passengers or non-supply of tickets.

Delay in completion of inquiry and appointment of inquiry officer

3.14.2 The 'Rajasthan State Road Transport Workers and Workshop Employees Standing Order (1985), empowers the competent authority for suspension of a worker for any act or omission of misconduct as described in the 'Standing order 35' by an order in writing and serve the worker with a charge sheet containing specific charges. It further provides that no employee shall be kept under suspension beyond a period of 90 days in case of departmental inquiry, unless it was expedient in the overall interest of the corporation and good discipline. The inquiry officer will intimate to the suspending authority immediately on completion of 90 days of the suspension period informing him of the reasons for not completing the inquiry. It should be on sufficient reasons to be recorded in writing by the competent authority.

Our scrutiny revealed that out of 688 cases of suspension, the departmental inquiry in only 148 cases (20 *per cent*) was completed within a period of 90 days from the date of suspension whereas in 56 cases, the inquiry was completed after 90 days. Of the remaining 484 cases, 325 delinquent employees were re-instated without completing the inquiry while inquiry against 159 employees was pending (March 2011), reasons for which were not found on records. Re-instatement of delinquent employees without completion of inquiry shows that either the charges framed were not sustainable or the employees were reinstated even without completing the administrative inquiry.

Further analysis of records revealed that there was significant delay in appointment of inquiry officer ranging between two and 576 days from the date of suspension. In 298 cases the inquiry officer was appointed with delay between two and 31 days, in 151 cases with delay between 31 and 90 days and in 33 cases appointment was made after 90 days of suspension order. The details of appointment of inquiry officer in 204[25] cases were not available with 18 depots of the Corporation.

We also noticed that the Corporation paid (November 2008 to March 2012) subsistence allowance of ₹ 24 lakh to its 78 delinquent conductors even after 90 days of their suspension which become unproductive as they did not provide their services to the Corporation during this period which could have been avoided if the proceedings of departmental inquiry were completed within the prescribed time schedule. Further, the Corporation did not evolve any mechanism to monitor the progress of departmental inquiries.

The Government while accepting the facts stated (November 2012) that charge sheet was issued to the delinquent employee and after receiving reply, departmental inquiry was being conducted by appointing inquiry officer in fixed time period though delay was natural process due to unavoidable reasons. Most of the delinquent/suspended employees did not furnish reply of the charge sheet within stipulated period and delayed the process by making demand of additional documents from Corporation for furnishing reply, absenteeism from headquarter by furnishing medical certificates which caused delay in appointment of inquiry officers. It further stated that there was acute shortage of staff in the Corporation and it was difficult for the controlling officers to relieve employees for departmental inquiries as cancellation of trips brings political/public pressure. Delay was a natural process in adherence to the inquiry process and the Corporation issue orders from time to time for completion of pending inquiries.

Deficiency in dealing with the Court cases

3.14.3 The delinquent employees found guilty in departmental inquiry challenged the decision of termination/imposing of major penalty by the disciplinary/appellate authority in the Court of law. During test check of the records related to the Court judgments, it was revealed that the decisions were in favour of the employees terminated from the services on the grounds that due process of law/procedure of termination was not followed by the

25 This excludes one case of the official expired during inquiry and one case pertaining to ACD.

Corporation and charges could not be established by the evidence produced before the Court.

This shows that departmental inquiries were not conducted properly and due process of law/procedure of inquiry as well as imposing penalty was not adhered to which led to decision of the Court in favour of the employees.

Thus, non-observance of by-laws/provisions of the Prevention of Ticketless Travel Act at the time of vehicle inspection, improper monitoring and significant delay in completion of inquiry coupled with deficiency in dealing with the court cases encouraged officials to indulge in malpractices causing loss of revenue to the Corporation which could not be quantified.

The Corporation should effectively implement the provisions of Act to minimise cases of ticketless travelling. The departmental inquiries should be conducted within prescribed time schedule to establish charges against delinquent officials and the higher management should follow the prescribed procedure mentioned in the 'Standing Order 35' before taking action so that the weakness in follow up rules/procedures may not benefit the delinquent officials in Court.

The reply of the Government was silent as regards deficiency in dealing with the court cases.

General Paragraph

3.15 Follow-up action on Audit Reports

Replies outstanding

3.15.1 The Report of the Comptroller and Auditor General of India represents 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. Finance Department, Government of Rajasthan issued (July 2002) instructions to all Administrative Departments to submit replies, duly vetted by Audit, indicating the corrective/remedial action taken or proposed to be taken on paragraphs and performance audit included in the Audit Reports within three months of their presentation to the Legislature.

Though the Audit Report for the year 2010-11 was presented to State Legislature in April 2012, in respect of one paragraph out of 13 paragraphs, which were commented in the Audit Report, one[26] department had not submitted explanatory notes up to September 2012.

Response to Inspection Reports, Draft Paras and Performance Audit

3.15.2 Audit observations noticed during audit and not settled on the spot are communicated though Inspection Reports (IRs) to the Heads of respective Public Sector Undertakings (PSUs) and concerned departments of the State Government. The Heads of PSUs are required to furnish replies to the IRs through the respective Heads of the departments within a period of six weeks. A half yearly report is sent to Principal Secretary/Secretary of the department in respect of pending IRs to facilitate monitoring of the audit observations contained in those IRs.

Inspection Reports issued up to March 2012 pertaining to 23 PSUs disclosed that 2626 paragraphs relating to 639 IRs involving monetary value of ₹ 1982.98 crore remained outstanding at the end of September 2012. Even initial replies were not received in respect of 136 paragraphs of 11 PSUs. Department-wise break up of IRs and audit observations as on 30 September 2012 is given in **Annexure-20**. In order to expedite settlement of outstanding paragraphs, Audit Committees were constituted in 14 out of 42 PSUs. 35 Audit Committee meetings were held during 2011-12 wherein position of outstanding paragraphs was discussed with executive/administrative departments to ensure accountability and responsiveness.

Similarly, draft paragraphs and report on performance audit on the working of PSUs are forwarded to the Principal Secretary/Secretary of the administrative department concerned demi-officially seeking confirmation of facts and figures and their comments thereon within a period of six weeks. We, however, observed that ten draft paragraphs and one performance audit report forwarded to various departments between June 2012 and October 2012, as detailed in **Annexure-21** had not been replied to so far (November 2012).

We recommend that the Government may ensure that: (a) procedure exists for action against the officials who fail to send explanatory notes to paragraphs in

26 Mines and Petroleum Department.

Audit Reports and replies to inspection reports/draft paragraphs/performance audit report, as per the prescribed time schedule; (b) action to recover loss/outstanding advances/overpayments is taken within a prescribed period and (c) the system of responding to the audit observations is revamped.

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Countersigned

NEW DELHI **(VINOD RAI)**
The Comptroller and Auditor General of India