CHAPTER-III
AUDIT OF TRANSACTIONS

Important audit findings emerging from test check of transactions made by the State Government companies/corporations are included in this Chapter.

GOVERNMENT COMPANIES

Himachal Pradesh State Electricity Board Limited

3.1 Implementation of power tariff

Non billing of consumers in accordance with applicable tariffs/ laid down procedures and statutory provisions resulted in non/short recovery of ₹ 33.08 crore.

The source of revenue of the Company is from sale of power to its consumers and generation of revenue depends on efficiency of billing. Therefore, prompt and accurate billing is essential for effective generation of revenue. As on 31 March 2013, the billing of all categories of consumers except large supply consumers was being done at sub-division level on the basis of tariff approved by the State Electricity Regulatory Commission from time to time. The billing for large supply consumers was done through central billing cells established at circle level.

The audit scrutiny noticed cases of non billing of consumers in accordance with laid down procedures/applicable tariffs, violation of various provisions of Indian Electricity Act, 2003, Supply Code (May 2009), non recovery of fixed demand charges, contract demand violation, peak load exemption, violation, low voltage supply surcharge and enhanced charges for un-authorised use of power *etc.* involving total non/short recovery of ₹ 33.08 crore as discussed in the succeeding paragraphs.

3.1.1 Non/short levy of fixed demand/violation charges

Schedule of tariff applicable from time to time envisages the levy of demand charges *per* KVA, on 90 *per cent* of the contract demand or actual recorded demand whichever is higher. Further in case the recorded demand exceeds the sanctioned contract demand, the consumer shall be charged Contract Demand Violation Charges (CDVC) on *per* KVA basis at specified rates on the excess demand recorded over and above the sanctioned contract demand. HPERC in its supply code issued in May 2009 further provided that in case of High Tension/Extra High Tension (HT/EHT) supply, where the licensee has completed the work required for supply of electricity to an applicant, but the applicant is not ready or delays to receive supply of electricity or does not avail the full contract demand, the licensee shall, after a notice of sixty days, charge on *pro rata* basis, fixed/demand charges on the sanctioned contract demand as *per* the relevant Tariff Order.

(i) Non recovery of fixed demand charges

Audit scrutiny showed that non recovery of demand charges as *per* the provisions *ibid.* resulted in non-recovery of ₹ 9.19 crore in respect of 21 consumers as detailed in the **Appendix 3.1**

The Management stated (November 2013) that since the concept of levy of fixed demand charges was new as such field units could not implement the provisions of Supply Code in right perspective. However, proper guidelines have now been issued to implement the provisions of Supply Code.

(ii) Short recovery of demand charges

In case of nine[1] large supply consumers in three circles (Una, Solan and Nahan), the field units of the Company released (February 2011) the un-built load. Out of these, in eight cases recoveries of demand charges were made on the basis of their earlier built up contract demand instead of sanctioned contract demand and in one case load retention charges were recovered after 33 months (6 May 2008 to 6 February 2011) which stand discontinued (May 2009) after the implementation of Supply Code. This had resulted in short recovery of ₹ 1.60 crore during the period June 2009 to March 2013.

(iii) Short recovery of contract demand violation charges (CDVC)

In seven units, CDVC for drawl of power over and above the sanctioned contract demand were not recovered from 198 consumers which resulted in short recovery of CDVC (at the rate of ₹ 300/ *per* KVA upto March 2011 and thereafter three times of demand charges) of ₹ 1.39 crore **(Appendix 3.2)** during April 2011 to September 2012.

The Management stated (November 2013) that an amount of ₹8.93 lakh has been recovered and the balance amount as *per* circulars would also be recovered.

3.1.2 Non billing of consumers on the basis of demand recorded at the substation

As *per* the instructions issued (November 2003) by the Company, the metering and billing of consumer being fed through dedicated feeder should be done at Grid Sub-station from where power supply to the consumer emanates. Further, HPERC in its Supply Code (May 2009) had also provided that if the supply to HT/EHT consumers is given from a dedicated feeder for exclusive use, the meter and metering equipment may be installed at the licensee/company Sub-station.

[1] M/s Tigahsha Metelic, Paddar Tyers and Rubber, Shivalik Container, Wire Product, Orient Power Solution System, Aspees Sons, Aush Industries, Jay Precision Products India and Him Chem.

Audit noticed that non compliance of these instructions resulted in less recovery of ₹ 1.33 crore from two consumers as detailed below: -

(i) In case of one large supply consumer[2] the peak and normal demand recorded at 132/33 KV Sub-station Kandrori in nine months (for which variation was recorded) between November 2011 and November 2012 was much higher as compared to the demand recorded/charged through energy meter installed at the consumer premises. On the basis of recorded current in amps at 132/33 KV Sub-station, the drawl of load in KVA for peak and normal hours was up to 5.547 MVA and 7.542 MVA against the charged demand of 4.5 MVA and 5.630 MVA respectively. The energy meter was installed in the premises of the consumer during October 2010 for which 21 meter readings were taken. On downloading of data, the meter reset button is pushed to record demand/ energy consumption data for the next meter reading which is known as maximum demand (MD) reset.

Audit noticed (March 2013) that against 21 meter readings the actual MD resets were 124 which indicate that MD was reset at least five times during each meter reading. The load surveys were not downloaded to check the actual contract demand availed by the consumer during each meter reading. Non compliance of instructions *ibid.* resulted in under charging of ₹ 94.59 lakh (including Demand charges: ₹ 18.37 lakh, Contract demand violation charges (CDVC): ₹ 55.10 lakh and Peak load violation charges (PLVC): ₹ 21.12 lakh).

(ii) One large supply consumer[3] under Damtal Sub-division was being fed through an independent 33 KV feeder from 132/33 KV Sub-station, Kandrori. The scrutiny of log sheets of Sub-station in audit disclosed (March 2013) that during June 2011 to September 2011 and November 2011 the consumer was billed for a contract demand ranging between 2,539.65 KVA and 2,700.6 KVA against the demand of 3,247 KVA and 3,560.70 KVA calculated/worked out on the basis of hourly consumption in KWh recorded at 132/33 KV Sub Station Kandrori. The field unit had taken no action to ascertain the reasons for this difference. This resulted in short recovery of CD/CDVC to the extent of ₹ 37.96 lakh.

The Management stated (November 2013) that the issues regarding non billing of consumers on the basis of demand recorded at substation as pointed out by audit were being enquired in to and further action to recover the necessary amount would be taken accordingly.

3.1.3 Non levy of peak load exemption/violation charges

Schedules of Tariff prescribe levy of peak load exemption charges in case the power is required to run industrial units during peak hours. For drawl of power during peak hours[4] without sanction or drawls of power over and above the exempted load for peak hours; the consumers are liable to pay Peak Load

[2] M/S Met Trade India Limited.

[3] M/s I.D.Sood.

[4] April to October 7.00 PM to 10.00 PM, November to March 6.30 PM to 9.30 PM.

Violation Charges (PLVC) at the rates prescribed in the Schedules of Tariff. HPERC in its tariff order applicable from July 2005 had specifically clarified that the light load as *per* test report shall be deemed to be exempted for peak load hours. In order to implement two part tariff for large (November 2001) and medium supply consumers (April 2005), the Company had installed electronic Time of Day (TOD) meters capable of recording demand and energy consumption during normal, peak and night hours. Since the peak load exemption and violation rates were much higher; downloading of data for peak hours slots was of utmost importance.

Audit noticed (March 2013) 546 cases of non levy of peak load violation/exemption charges amounting to ₹ 13.38 crore as detailed in **Appendix 3.3.**

The Management stated (November 2013) that the field units had been directed to verify the records and necessary recoveries wherever applicable would be made accordingly. The Management further stated that after serving notices to the consumers, recovery of ₹ 16.57 lakh had been made.

3.1.4 Wrong application of tariff

Schedules of tariff provide for levy of Bulk Supply Tariff to general or mixed load consumers (MES, Railway, CPWD, construction power, Hospital, Departmental/private colonies) *etc.* where further distribution to various residential and non residential building is to be undertaken by the consumers for own bonafide use and not for sale to other consumers with or without profit.

Audit noticed (March 2013) that in three[5] cases under Baddi and Barotiwala Sub-divisions, connection for mixed load to run Hospital, sale of power to private colony and Shopping Mall *cum* Multiplex had been released between December 2006 and May 2011 under Non Domestic Non Commercial (NDNC)/Commercial category. As the connections had been released at single point supply and were being used for further distribution (to residential/ non residential buildings and shops), these consumers should have been categorized as Bulk Supply Consumers instead of NDNC/Commercial. This led to incorrect application of tariff with consequential under charging of ₹ 76.34 lakh during the period from December 2006 to January 2013.

The Management stated (November 2013) that as *per* clarification obtained from the HPERC in October 2013 the Bulk Supply tariff shall not be applicable. The Audit is of the view that the clarification given by the Executive Director (TFA) of HPERC had not been interpreted by the Management appropriately.

3.1.5 Non levy of Low Voltage Supply Surcharge (LVSS)

HPERC in its annual tariff orders has specified the 'Standard Supply Voltage' (SSV) in KV for supply of electricity under each category of consumers. It

[5] M/s ESI Corporation at Barotiwala, Nicholas Piramal and Homeland Citi at Baddi.

has also been provided that consumers availing electricity supply at a voltage lower than the SSV shall, in addition to other charges, be charged LVSS, for each level of specified step down from the SSV to the level of actually availed supply voltage. Further, HPERC in its tariff order for the year 2007-08 directed that henceforth no connection shall be released to Power Intensive Units **(PIU)** on voltage less than 33 KV without the provision of an independent feeder with control sub-station. The Company had also clarified (September 2010) that the PIU consumers having connected load between one and two MW released at voltage less than 33 KV after 16th April 2007 are liable for LVSS.

In this regard Audit scrutiny (March 2013) showed that the consumers were allowed to draw electricity at voltage lower than the prescribed standard without charging LVSS amounting to ₹ 2.40 crore in respect of eight consumers as detailed in **Appendix 3.4.**

The Management stated (November 2013) that wherever the LVSS have to be recovered the necessary recoveries are being effected.

3.1.6 Unauthorised use of power

Section 126 of Indian Electricity Act, 2003 provides that if on inspection of any premises of a consumer, the inspecting officer comes to a conclusion that such consumer is indulging in unauthorised use of electricity, he shall provisionally assess to the best of his judgment the electricity charges payable by such person. The explanation (b)(iv) to the section *ibid.* define 'unauthorised use of electricity' means the uses of electricity for the purpose other than for the usage of electricity was authorised. The assessment under this section shall be made at a rate equal to twice the tariff applicable for the relevant category of services. Further, the Hon'ble Supreme Court of India in its judgement[6] had concluded that the cases of excess load consumption than the connected load *inter alia* would fall under Explanation (b) (iv) to Section 126 of 2003 Act.

Audit noticed (March 2013) that the assessment for unauthorised usage of power was not done as *per* the provisions *ibid.* resulting in non recovery of ₹ 2.84 crore enhanced charges as detailed below:

(i) In case of 10[7] industrial consumers under Operation Circles, Solan and Nahan variation between the recorded and sanctioned contract demand for the period from January 2010 to September 2012 was between 20 to 213 *per cent*, which was indicative of the fact that the consumers were using power unauthorisedly. The field units had taken no action to physically check their connected load due to which action under section 126 of the Act *ibid.* to recover ₹ 1.16 crore could not be initiated.

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6 The Executive Engineer *versus* M/s Sri Seetaram Ricemill (Para 58) delivered on 20 October 2011.

7 Account No.(₹ in crore) TLS-1:0.04, SW-154: 0.09, APJ-1:0.03, GMI-2: 0.14, HS-1:0.11, LP-415:0.53, MS-143:0.07, KAI-54:0.03, JAST-1:0.03 and LP-787:0.09.

(ii) A commercial connection under Sub-division, Barotiwala with a connected load of 19.470 KW (21.63 KVA) was released (July 2010) to one consumer[8] with sub metering to record consumption of other consumers to whom the flats had been sold. During the period from August 2010 to November 2012 the monthly energy consumption of the connection was between 0.30 lakh and 0.99 lakh units (between 161 KVA and 195 KVA) which was much higher to the permissible limit of 0.07 lakh[9] units on sanctioned load which indicated that the consumer had extended the load unauthorisedly. On the basis of energy consumption, the consumer should had been billed under two part tariff and charged enhanced energy charges for un-authorised drawl of power. Failure to check the load of the consumer had deprived the Company to recover ₹ 65.37 lakh as enhanced charges recoverable under Section 126 of the Act *ibid*.

(iii) Twelve[10] industrial consumers under Tahliwal and Nalagarh II Sub-divisions were provided power connections between August 2007 and March 2010 with restricted contract demand and drawl of power during night hours only. Audit noticed (March 2013) that these restrictions were not adhered to by the consumers and the consumers availed the load during peak and normal hours above the restricted load for which the consumers were liable to pay enhanced energy charges at the rate of ₹ 2.80 *per* KVAh on 9,32,207 KVAh and CD violation charges at the rate of ₹ 300 *per* KVA on 23,084 KVA to the extent of ₹ 1.03 crore.

The Management stated (November 2013) that these cases could not be got verified on case to case basis and action shall be taken as *per* the reasoned orders of the Assessing Officer as required under Section 126 of the Indian Electricity Act, 2003.

3.1.7 Under charging for temporary supply

Schedule of tariff applicable from April 2008 envisages the levy of demand charges at the rate of ₹ 300 *per* KVA on the contract demand for temporary supply of power. Audit noticed (March 2013) that in three[11] cases under Operation Circles, Nahan, Dalhousie and Solan demand charges were levied on 90 *per cent* of the contract demand instead of sanctioned CD[12]. This resulted in short recovery of ₹ 18.87 lakh (amount calculated at the rate of ₹ 300 *per* KVA up to March 2011 and ₹ 350 *per* KVA thereafter).

The above points were reported to the State Government in June 2013; their reply was awaited (November 2013).

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[8] M/s Hill View Group.

[9] Worked out at 60 *per cent* demand factor, 20 hours a day and 30 days in a month.

[10] (₹ in crore) M/s S.K. Raps: 0.05, S.R.Steel: 0.22, Himalaya Kraft: 0.06, VIP Pharma: 0.05, NICE Indu: 0.11, U Drug: 0.05, S.B. Stone Crusher: 0.03, Doon Stone Crusher: 0.15, Jindal Padding: 0.08, C.L Chem: 0.11, LS-159: 0.07 and A.H care:0.05.

[11] M/s USV Limited, Met Trade India and Indian Technomac.

[12] Sanctioned Contract Demand : 899 KVA, 150 KVA and 1000 KVA.

3.2 Loss of revenue due to non recovery of surcharge

Failure of the Company in issuing specific instructions to ensure receipt of energy charges deposited through cheques as *per* the provisions of the Electricity Supply Code, 2009 resulted in non recovery of surcharge of ₹ 41.33 lakh from the Industrial Consumers.

Clause 5.3.1 (i) read with Clause 5.3.5 of the Electricity Supply Code, 2009 provides that the payment of the bills of industrial consumers (Large, Medium and Small supply) will be effected within a period of ten days from the date of delivery of bills in cash, local cheques, demand draft, bank transfer, e-banking, credit/debit card or in such manner as the licensee may notify. General Condition- 'L' of Part-I of Schedule of tariff as approved by the Himachal Pradesh Electricity Regulatory Commission (HPERC) from time to time further provides for levy of late payment surcharge at the rate of 2 *per cent per* month and part thereof on energy charges only from the above categories of consumers.

The test check of energy bills of Industrial Consumers having energy bills of ₹ 20.00 lakh and above issued by the Central Billing Cell, Operation Circle, Una of the Himachal Pradesh State Electricity Board Limited (Company) in audit (December 2012) revealed that the cheques were deposited by the Industrial Consumers on the last day of the due dates and the amounts thereof were credited to the account of the Company after a delay ranging between 2 and 17 days without levy of late payment surcharge. The receipt of payment after delay without levy of surcharge was in violation of the provisions *ibid.* Neither the period of ten days for payment through cheques from the date of delivery of energy bills was specified for these consumers nor the directions in line with the provisions were ever issued to the concerned banks to clear such cheques and credit the amount to the accounts of the Company within due date of payment. Also, the Company had never investigated the reasons for delayed clearances of the local cheques deposited by these consumers without any surcharge.

The receipt of payment after delay without surcharge in one circle alone resulted in revenue loss of ₹ 41.33 lakh on account of surcharge during the period from May 2011 to October 2012 as detailed in the **Appendix 3.5.** In the absence of any specific instructions to collect payment through cheques before scheduled due date similar loss due to evasion of payment of surcharge by consumers in other Circles of the Company cannot be ruled out.

The Chief Engineer Operation (North), Dharamsala stated (May 2013) that the matter was being looked into and all the official concerned had been advised to keep a strict watch on bank balances of such consumers while accepting the cheque from them so that the Company does not suffer such type of financial loss in future.

The reply points towards the fact that the present system is deficient and is required to be improved so as to ensure recovery of energy bills within a period of ten days from the date of delivery of bills as *per* the provisions of the

Electricity Supply Code, 2009 failing which the payments deposited through cheques should be received from the consumer along with the prescribed amount of surcharge.

The matter was reported to the State Government in June 2013; their reply was awaited (November 2013).

Himachal Pradesh State Civil Supplies Corporation Limited

3.3 Extra expenditure due to purchase of Soya Refined oil at higher rates

The Company incurred an extra expenditure of ₹ 1.25 crore due to non placement of supply orders for imported oil and purchasing material at higher rates from a private party.

Government of India, Ministry of Consumer Affairs, Food and Public Distribution implemented a scheme for distribution of subsidised imported edible oil during 2008-09 which was further extended up to March 2010. As some of the States failed to lift the substantial quantities of oil under the subsidised scheme in 2008-09, the Government of India decided (August 2009) that imported edible oil would thenceforth be contracted by Central PSUs only after signing a detailed agreement with States and after receipt of advance payment/bank guarantee. Accordingly, the Himachal Pradesh State Civil Supplies Corporation Limited (Company) executed an agreement with the PEC Limited (a Government of India Undertaking) in September 2009 to cover the demand of imported edible oil for September 2009 to March 2010. Clause 2 (ii) of the agreement provided that the buyer shall make 10 *per cent* payment as advance to the PEC Limited and balance at the time of delivery of crude Soya Bean Oil in loose to the packers for refining/packing.

Audit observed (February 2011) that the Company, despite entering into an agreement with PEC Limited, purchased 15.00 lakh litres Soya refined oil for November 2009 from open market at the rate of ₹ 43.55 *per* litre from M/s Ruchi Soya Industries against the imported oil rates of ₹ 37.86 *per* litre. However, the imported Soya refined oil (22.00 lakh litres) was procured from PEC Limited for the month of December 2009 by depositing the advance payment in November 2009 at the rate of ₹ 37.86 *per* litre. Thus, non-placement of supply order for 15.00 lakh litres Soya refined oil for November 2009 on PEC Limited resulted in an extra expenditure of ₹ 85.35 lakh[13] .

Further, the Company requested (November 2009) PEC Limited to procure 2500 MT oil for the month of January and February 2010 for which it demanded (7 December 2009) 10 *per cent* advance payment of ₹ 1.17 crore. However, no advance was paid inspite of the approval of the Managing

[13] 15.00 lakh litre x ₹ 5.69 (₹ 43.55-₹37.86)=₹ 85.35 lakh.

Director obtained in December 2009 to deposit the said amount. Meanwhile, the Company finalised tender in favour of M/s Ruchi Soya Industries, Indore on 6 January 2010 for procurement of 15.00 lakh litre Soya Refined Oil for the month of February 2010 at the rate of ₹ 49.77 *per* litre, which was higher by ₹ 2.65 *per* litre as compared to PEC Limited rates of ₹ 47.12. This also resulted in an extra expenditure of ₹ 39.75 lakh. The advance of ₹ 1.17 crore was actually deposited during 2nd week of February 2010 with PEC Limited which was demanded for the supply of January and February 2010 and the supplies thereagainst were received in March 2010 and onwards. Thus, failure of the Company in procuring imported oil resulted in avoidable expenditure of ₹ 1.25 crore on procurement of 15 lakh litres Soya Refined Oil each for the months of November 2009 and February 2010 from a private party.

The State Government admitted (April 2013) the fact that the Company had confirmed the demand of 2500 MTs Soya Refined Oil to PEC Limited in November 2009 and stated that the Company did not remit the advance due to the fact that the earlier booked quantity was not completed, besides non availability of adequate ready stock with PEC Limited.

The reply was not based on facts because non completion of earlier booked supply was not due to any capacity constraints of the PEC Limited but due to delay in lifting of supply by the transporters appointed by the Company, as was evident from repeated messages sent by the PEC Limited to the Company.

Himachal Pradesh State Forest Development Corporation Limited

3.4 Avoidable payment of interest on discharge of royalty in advance

Failure of the Company in availing the benefit of extended period for payment of royalty in respect of low lying lots for the year 2007-08 and high lying lots for the year 2008-09 resulted in avoidable payment of interest of ₹ 58.83 lakh.

Royalty for trees taken over by the Himachal Pradesh State Forest Development Corporation Limited (Company) from the Government of Himachal Pradesh, Department of Forest (Department) for exploitation is required to be paid to the Government in installments depending upon the working period of lots. Delay in payment of royalty attracts interest at the rate of 9 *per cent per annum*.

The working of low lying lots for the year 2007-08 and high lying lots for the year 2008-09 allotted to the Company by the Department for exploitation was delayed due to the intervention of the Hon'ble High Court of Himachal Pradesh. In view of this, the Pricing Committee of the State Government in its meeting held on 19 August 2008 decided (item No.12) to allow one year extra time for working on low lying lots of 2007-08 and high lying lots of 2008-09 without charging any extension fee and interest on royalty. Consequently, the revised time schedule for payment of royalty for low lying lots/ high lying lots of 2007-08/2008-09 was 18 September 2009 and 28 February 2010

respectively with a grace period of 90 days. Meanwhile, the Company had already deposited the first installment in respect of low lying lots for the year 2007-08 amounting to ₹ 113.25 lakh in June/July 2008.

Audit noticed (May 2012) that the Company, without keeping in view the extended period for payment of royalty in respect of low lying lots for the year 2007-08 (18 September 2009) and for high lying lots for the year 2008-09 (28 February 2010), deposited second installment of low lying lots for the year 2007-08 amounting to ₹ 2.28 crore and first installment of high lying lots of 2008-09 amounting to ₹ 3.04 crore in September 2008 and March 2009 respectively. Further, as the Company was going through a financial crunch the payment of royalty was made after availing cash credit limit from Kangra Central Co-operative Bank at the interest rate ranging between 10 to 11.50 *per cent per annum*.

Thus, the failure of the Company in availing the benefit of extended time schedule for payment of royalty of ₹ 5.32 crore, as allowed by the Pricing Committee in August 2008, resulted in avoidable payment of interest amounting to ₹ 58.83 lakh during the period from September 2008 to February 2010.

The matter was reported to the Management (July 2012) and the State Government (March 2013); their replies were awaited (November 2013).

3.5 Excess payment of royalty

Failure of the Company in restricting the payment of royalty to 50 *per cent* of the prescribed rates for road alignment forest lots resulted in excess payment of royalty and VAT amounting to ₹ 39.22 lakh.

The Pricing Committee (PC) of the State Government decided (May 2011) that royalty will be charged at the rate of 100 *per cent* in respect of road alignment lots which are near to National or State Highways and at a rate of 50 *per cent* in respect of other road alignment lots. The payment of royalty and VAT in respect of timber lots allotted to the Company by the State Forest Department was to be made by the Corporate Office of the Company on receipt of details from the field units.

Six[14] Forest Working Divisions (FWDs) of the Company received 46 lots during 2010-11 and 2011-12 from the Forest Department of the State Government which were away from the National or State Highways. As *per* the decision of the PC *ibid.,* the royalty in respect of these lots was payable at the rate of 50 *per cent* of royalty rates applicable for the relevant year. It was, noticed in audit (May 2012 and January 2013) that the concerned Forest Working Divisions did not intimate the Corporate Office of the Company that these lots were far away from National or State Highways. The Corporate Office, however, released the payment of royalty for these lots at 100 *per cent* rates taking them to be near the National or State Highways. This resulted in

[14] Chamba, Chopal, Dharamsala, Kullu, Mandi and Rampur.

excess payment of royalty and VAT amounting to ₹ 39.22 lakh (as detailed in the **Appendix 3.6**).

The Management while accepting (May 2013) the contentions of the audit in principle stated that the revised data sheet has been sent to the Forest Department for their concurrence. The amount of royalty and VAT paid in excess will be adjusted against the due payments after receipt of concurrence of the Forest Department.

The reply of the Management is an admission of the fact that the excess royalty and VAT have been paid which has not been adjusted so far (May 2013). Even if the State Government agreed to adjust the excess royalty paid, the Company still would not be able to recover the VAT amounting to ₹ 4.74 lakh paid to tax authorities. Further, the Company needs to issue necessary instructions to its field units to send complete details of each lot to the Corporate Office so as to avoid re-occurrence of such type of omissions resulting in avoidable expenditure in future.

The matter was reported to the State Government in June 2013; their reply was awaited (November 2013).

3.6 Non-recovery/avoidable payment of Education Cess on tax deducted at source

Failure of the Company in recovering the Education Cess from the purchaser of timber up to September 2009 as *per* the terms and conditions of sale of timber coupled with its regular deposit up to March 2013 even after its discontinuance in October 2009 by the Government of India resulted in loss of ₹ 25.53 lakh to the Company.

As *per* condition 4 of auction/sale of timber; the bid by the bidder shall be inclusive of all taxes whether VAT as applicable and TDS (except surcharge and education cess) under Section 206-C read with section 44 AC of the Income Tax Act 1961. This clearly implies that the Education Cess has not been included in the bid price and will have to be recovered from the bidder in addition to bid price. Further, Education Cess was applicable up to September 2009 at the rate of 3 *per cent* {*i.e.* 2 *per cent* Education Cess (EC) and one *per cent* Secondary and Higher Education Cess (S&HEC)} on the amount of 2.5 *per cent* income tax deducted at source. However, no EC and S&HEC were applicable with effect from 1 October 2009 (Finance Act, 2009) on the tax deducted at source, except in case of payment of salary to residents and non residents.

Audit scrutiny (May 2011) of records showed that the Company did not recover Education Cess amounting to ₹ 3.51 lakh in addition to bid amount from various purchasers[15] of timber as *per* the terms and conditions of the auction during the period from April 2009 to September 2009. Since, this was

[15] At six Himkashtha Sale depots, namely Mantaruwala, Baddi, Swarghat, Dhanotu, Nurpur and Bhadroya.

not recovered from the purchasers; the Company had to deposit the same from its own resources. Further, the Company also deposited ₹ 22.02 lakh on account of EC and S&HEC along with the TDS during the period from October 2009 to March 2013 which was discontinued with effect from October 2009 as *per* the Finance Act, 2009.

Thus, failure of the Company in recovering the element of EC and S&HEC paid on TDS during the period from April 2009 to September 2009 coupled with its irregular payment with effect from October 2009 to March 2013 resulted in loss of revenue of ₹ 25.53 lakh to the Company.

The matter was reported to the State Government/Management in February 2013; their replies were awaited (November 2013).

3.7 Excess payment of royalty and value added tax

Failure of the Company in treating the forest lots for the years in which actual extraction work was started for the payment of royalty resulted in excess payment of royalty and VAT amounting to ₹ 20.72 lakh.

As *per* decision taken by the Pricing Committee (Department of Forests) in a meeting held on 28 October 1999, all the marking lists containing category/species-wise details of trees marked for extraction which are taken over by the Divisional Manager before 15 September in case of sub-tropical areas and 15 December for the temperate areas will be considered to have been sent for the year in question. If there is any delay, these lots will be considered for the subsequent year. Further, the Pricing Committee decided (September 2007) {Item No.1(A)(iii)} that the lots handed over after the stipulated date of handing over, unless otherwise stated, shall be considered as next year's lot except in cases where the Company manages to start work on the lot during the same year. Such lots shall be considered as lots of the year of handing over.

Audit noticed (February/May 2012) that Forest Working Divisions, Shimla, Sawra and Mandi received five lots during 2008-09 after due dates and the Divisional Managers of these divisions allotted/started the extraction work during the year of receipt (2008-09). In view of the decision of the Pricing Committee *ibid.* these lots were to be treated as the lots for the year 2008-09. However, the Company treated these lots as the lots for the year 2009-10 and paid royalty applicable for the year 2009-10 which was higher as compared to the rates for the year 2008-09. Thus, the failure of the Company in correctly regulating the payment of royalty by treating these five lots for the year in which the actual extraction work was started resulted in excess payment of royalty and VAT amounting to ₹ 20.72 lakh (as detailed in the **Appendix 3.7**).

The matter was reported to the Management (July 2012) and the State Government (March 2013); their replies were awaited (November 2013).

Himachal Pradesh Power Corporation Limited

3.8 Loss of interest due to delay in recovery of mobilisation advance

Failure of the Company to recover mobilisation advance in a time bound manner resulted in avoidable interest loss of ₹ 9.40 crore.

Common contractual and financial prudence demands that recoveries of interest free advances made to the contractors out of borrowed funds should be made promptly so as to avoid any extra financial loss of interest to the Company. To regulate such recoveries, the Central Vigilance Commission (CVC) had also issued guidelines (April 2007) which stipulated that recovery of mobilisation advance to any contractor should time based and not to be linked with the progress of works so as to reduce the scope for its misuse.

The Himachal Pradesh Power Corporation Limited (the Company) awarded (June 2010) the works relating to construction of 100 MW Sainj Hydro Electric Project to M/s Hindustan Construction Company Limited at a total cost of ₹ 431.00 crore with the scheduled date of completion of July 2014 (48 months). As *per* provisions contained in clause 14.2 of the contract agreement entered into (June 2010) with the contractor, an interest-free mobilisation advance aggregating ₹ 43.10 crore[16] was allowed to the contractor in three instalments between August 2010 and March 2011 which was released as *per* stipulated time schedule against bank guarantee of the corresponding amount.

Audit observed (February 2012) that the entire amount of the advance so allowed remained with the contractor up to 1 February 2013 without any recovery as the contractor failed to execute specified 30 *per cent* quantity of work even after the expiry of 31 months (up to January 2013) from the date of award (June 2010) against the scheduled time of completion of work of 48 months due to slow pace of work attributed to him only. The recovery against mobilisation advance was, however, started from February 2013 in the 23rd running account bill when the agreed 30 *per cent* progress of works was achieved by the contractor. The delay in adjustment of advance assumes significance as the Company has been borrowing funds for the execution of this project from the Asian Development Bank carrying interest at the rate of 10 *per cent per annum*. Thus, linking its recovery with the progress of work instead of recovering it in a time bound manner as *per* CVC's guidelines *ibid.* resulted in avoidable loss of interest of ₹ 9.40 crore[17].

[16] ₹ 21.55 crore in August 2010, ₹ 10.77 crore in February 2011 and ₹ 10.78 crore in March 2011.

[17] The interest loss has been worked out at the rate of 10 *per cent per annum* from the date of release of installments to 1 February 2013.

The State Government stated (June 2013) that the advance payment has been made to the contractor as *per* the clause 14.2 of General Condition of Contract. Further, as *per* the revised guidelines of February 2008 the decision to stipulate interest free mobilisation advance rests at the level of the Board of Directors in the organisation.

The reply did not address the core issue raised by Audit that recovery of interest free mobilisation advance should be in a time bound manner on monthly basis and should not be linked with the progress of work as stipulated in the CVC guidelines especially when the advance had been released from the interest bearing borrowed fund.

3.9 Excess payment of Infrastructure Development Charges

Payment of advance cost share towards infrastructural development charges in addition to full estimated cost resulted in excess payment of infrastructure development charges of ₹ 38.60 lakh to HPSEBL.

Regulation 8 of the Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005, *inter alia*, envisaged that the applicant shall, before the commencement of work, deposit 100 *per cent* estimated cost of the works involved, on receipt of demand from distribution licensee. Condition 3.2 of Chapter-III of Himachal Pradesh Electricity Supply Code, 2009 stipulates that in case of a new connection exceeding 100 KW load, the consumer shall apply for grant of Power Availability Certificate (PAC) on payment of advance cost share towards Infrastructure Development Charges (IDC) at the rate of ₹ 1000/- *per* KW of the load applied for. Condition No. 3.2.5 further stipulates that on submission of application for supply of connection, the licensee should adjust the amount of the advance cost share towards initial estimated amount payable under the Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005.

With a view to construct the Sainj Hydro Electric Project, the Himachal Pradesh Power Corporation Limited required power connection from the Himachal Pradesh State Electricity Board (now HPSEBL). To supply construction power to the Company, the existing substation at Sainj was required to be augmented along with construction of 11 KV dedicated feeder. On the basis of estimates prepared by the HPSEBL for this work, the Company deposited the entire infrastructure cost of ₹ 4.09 crore in April 2009. After completion of all the formalities, the Company applied for (September 2011) consolidated PAC with total connected load of 3,860 KW and Contract Demand of 4,290 KVA power required for construction of Sainj Hydro Electric Project.

During audit it was noticed that while issuing PAC in January 2012 in favour of Sainj Hydro Electric Project for a load of 3,860 KW with contract demand of 4,290 KVA, the HPSEBL also demanded ₹ 41.88 lakh, which included ₹ 38.60 lakh on account of advance cost share towards infrastructural

development charges at the rate of ₹ 1000 *per* KW for total connected load of 3,860 KW along with a non refundable earnest money of ₹ 3.28 lakh as security deposits. Since the Company had already deposited full infrastructure cost of ₹ 4.09 crore in April 2009, the demand of ₹ 38.60 lakh on account of advance cost share towards infrastructural development charges was not justified. The Company instead of protesting the demand for advance cost share towards infrastructural development charges, deposited the entire cost of ₹ 38.60 lakh in January 2012. Thus, the deposit of advance cost share towards infrastructural development charges, in addition to full estimated cost, resulted in excess payment of Infrastructure Development Charges of ₹ 38.60 lakh to the HPSEBL.

The Management stated (May 2012) that their office was stressing upon the HPSEBL authorities for refund of the said amount as *per* the clarifications/instructions issued by HPERC. The Management further added (August 2012) that the Supply code 2009 was notified in May 2009 which made it mandatory to have a PAC for any applicant exceeding 100 KW demand and accordingly the payment of ₹ 38.60 lakh was deposited with HPSEBL in January 2012 for availing PAC for a load of 3,860 KW. Moreover, release of connection has not been achieved and final adjustment would be made after release of connection is fully achieved.

Both the replies of the Management are contradictory to each other. Further, the reply given later on is not acceptable as the advance cost share towards infrastructural development charges was to be paid in advance at the time of application for load and was adjustable at the time of depositing the estimated cost. In this case the company had deposited the entire cost (April 2009) before the issue of PAC and as such there was no necessity to deposit advance cost share towards infrastructural development charges in January 2012.

The matter was reported to the Government in May 2013; their reply was awaited (November 2013).

3.10 Excess payment of Net Present Value for diversion of forest land

Failure of the Company in verifying the details of calculation of NPV as intimated by the Forest Department before release of payment for diversion of forest land resulted in excess payment of NPV amounting to ₹ 95.03 lakh with consequential interest loss of ₹ 33.26 lakh.

Government of India, Ministry of Environment & Forest (MoE&F) accorded approval (14 September 2009) for diversion of about 48 hectare forest land in Kullu District in favour of Himachal Pradesh Power Corporation Limited (Company) for the construction of 100 MW Sainj, Hydro Electric Project (Project). Paragraph-2 of the sanction stipulates that the State Government shall charge the Net Present Value (NPV) of the diverted forest area from the user agency as *per* the guidelines issued by the Ministry of Environment and Forests (MoE&F) in February 2009. The funds as received from the user agency were required to be transferred to *Ad-hoc* CAMPA, New Delhi.

Accordingly, a bill amounting to ₹ 4.30 crore on account of NPV of 47.993 hectare of diverted land was raised by the Forest Department in September 2009. The bill was raised by applying the rates of ₹ 8.97 lakh *per* hectare as applicable for dense forest having density between 10 to 40 *per cent*. The payment was released by the Company on 25 September 2009.

Audit noticed (February 2012) that there were 2,344 trees in this particular forest area (as mentioned by the Conservator of Forests, National Park, Shamshi) on the basis of which actual density of the diverted forest worked out to 6.11 *per cent* (*i.e.* less than 10 *per cent*). Therefore, the diverted land had a forest cover of less than 10 *per cent* and fell under the category of 'Open Forest' for which a rate of ₹ 6.99 lakh *per* hectare was applicable for computation of NPV. Thus, the payment of NPV at the rates ₹ 8.97 lakh *per* hectare which was applicable for 'Dense Forest' having forest density between 10 to 40 *per cent* resulted in excess NPV payment of ₹ 95.03 lakh to the Forest Department. As the Company is constructing project with funds borrowed from the Asian Development Bank, the payment of excess NPV further resulted in interest loss of ₹ 33.26 lakh[18] during the period from October 2009 to March 2013.

The Management stated (January 2013) that the Forest Department had clarified that the density calculation of any forest was based on the ocular/ visual estimate by the forest officials and field functionaries followed by ground truthing. In this case, the same procedure had been followed and therefore, the rates charged by the Forest Department were correct. The Management further stated (March 2013) that the State Government has prescribed (January 2004) the procedure for determining the percentage wherein 100 *per cent* forest cover for mixed crop of tree (mature and young) shall be worked out by taking one mature tree equal to two young tree or *vice versa* . Since the number of trees involved in the proposal depicts presence of high number (949) of mature trees (class III and above) and has to be classified as *per* notification *ibid.* and accordingly the calculation done by the DFO justify the rates applied.

The reply was not satisfactory as the Company should have asked for the details of calculation in support of the NPV bill before release of payment. The second reply of the Management (March 2013) was not only in contradiction to its earlier reply but also an afterthought to justify release of payment without any details of calculation. This was evident from the fact that the percentage of density still remained less than 10 *per cent*, even if worked out on the basis of details now furnished in the second reply.

The matter was reported to the Government in February 2013; their reply was awaited (November 2013).

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18 ₹ 95.03 lakh at the rate of 10 *per cent per annum* simple interest from October 2009 to March 2013 (42 months).

Himachal Pradesh Tourism Development Corporation Limited

3.11 Non recovery of Workers' Welfare Cess

Failure of the Company in recovering the Workers' Welfare Cess from the contractors resulted in non-recovery of ₹ 14.22 lakh besides attracting penalty for non-payment of cess to the cess authorities.

Government of India notified (November 1995) "The Building and other Construction Workers' Welfare Cess Act, 1996" with a view to augment the resources for the Building and Other Construction Workers' Welfare. As *per* the Act, cess was to be levied and collected at such rates not exceeding two *per cent* but not less than one *per cent* of the cost of construction incurred by an employer. Accordingly, the Government of Himachal Pradesh, belatedly, framed (4 December, 2008) rules which became applicable with effect from 8 December, 2008. The State Government also constituted (March 2009) the Workers Welfare Board for this purpose. According to the rules, all Government Departments and Public Sector Undertakings carrying out construction activities were required to deposit cess with the Himachal Pradesh Building and Other Construction Workers Welfare Board on the total cost of construction incurred excluding cost of land and compensation paid to workers under the Workmen's Compensation Act.

In view of the above, the Company was required to deduct workers welfare cess from December 2008 at the rate of one *per cent* of the cost of construction in respect of the bills from different contracts entered into by the Company and remit the amount of cess so deducted to the cess authorities.

We noticed (February 2012) that despite the above instructions of the Government, the Company did not recover the cess from the Contractors' bills as required under the Act *ibid.* Resultantly, during 2009-10, 2010-11 and 2011-12 (up to November 2011), against the expenditure of ₹ 1,421.65 lakh incurred by Company on various contracts, the Workers' Welfare Cess amounting to ₹ 14.22 lakh could not be recovered from the contractors.

Non-recovery from the contractors not only violated the provisions of Cess Rules, 1998 but was also punishable for non-payment of cess to the authorities as *per* Section 9 of the *ibid.* Act.

The State Government while admitting (April 2013) the fact that there was abnormal delay of three years in implementation of said rules stated that the delay in deducting the cess was due to non availability of related documents which were to be supplied by the Labour Department for getting registration in this regard. The registration certificate was issued in November 2011 and after that the Company started deduction of labour cess.

The reply of the State Government was not acceptable as the necessary formalities should have been completed immediately after notification of rules by the State Government in December 2008.

Himachal Pradesh Tourism Development Corporation Limited, Himachal Pradesh State Civil Supplies Corporation Limited and Himachal Pradesh General Industries Corporation Limited

3.12 Excess EPF contribution

Failure to limit employer's contribution towards Employees' Provident Fund as prescribed in the Employees' Provident Funds Scheme, 1952 resulted in excess contribution of ₹ 15.32 crore.

Para 29 (1) of the Employees' Provident Funds Scheme, 1952 (Scheme) provides that the contribution payable by an employer under the scheme shall be twelve *per cent* of the basic wages, dearness allowance and retaining allowance (if any) payable to each employee to whom the Scheme applies. Para 26 A (2) of the Scheme further provides that where the monthly pay of an employee exceeds ₹ 6,500, the contribution payable by the employer shall be limited to the amount payable on a monthly pay of ₹ 6,500. Para 29 (2) of the Scheme also provides that the contribution payable by an employee to whom the Scheme applies, if he/she so desires, could be an amount exceeding the above limit subject to the condition that employer shall not be under an obligation to pay any contribution over and above his contribution payable under the Scheme. Accordingly, all Public Sector Undertakings covered under the Scheme were required to restrict their contribution to the prescribed limit.

Audit noticed (April 2011 and January 2012) that the Himachal Pradesh Tourism Development Corporation Limited (HPTDC), Himachal Pradesh State Civil Supplies Corporation Limited (HPSCSC) and Himachal Pradesh General Industries Corporation Limited (HPGIC) contributed employers' share at the rate of twelve *per cent* of the pay without applying the prescribed limit of ₹ 6,500 in contravention of the provisions of the Scheme *ibid*. This resulted in an excess contribution of ₹ 15.32 crore during the years 2009-10 to 2012-13 by the three companies (as *per* details given in **(Appendix 3.8)**.

The State Government in respect of HPSCSC stated (May 2013) that the para 29(1) of the Employees Provident Funds Scheme provides only rates of contribution i.e., twelve *per cent* of the basic wages, dearness contribution and retaining allowance and para 29(2) provides the contribution payable by employee under this scheme be equal to the contribution payable by the employer in respect of such employee. The Management of HPGIC stated (June 2012) that the HPGIC was formed on 01 April 1988 upon the transfer of industrial units of Himachal Pradesh State Industrial Development Corporation Limited to erstwhile Himalaya Fertilizers Limited and some of the employees working in HPSIDC Head Office were transferred to HFL which was later re-named as HPGIC and these employees are covered under Provident Fund Trust Rules applicable from 1 April 1975. The State Government in respect of HPTDC stated (September 2013) that the BOD of the Company decided (June 2012) that the contribution of the employer towards EPF be linked with profit or loss of the Company. In case the

Company in a particular year after making CPF contribution runs in to loss then from the next year onward the contribution will be restricted on ₹ 6,500.

The reply of the State Government was not acceptable as para 26 (6) and para 26 A (2) of the Scheme do not empower the employer to contribute over and above the limit fixed under para 29 and as such, the excess contribution was in violation of the Employees Provident Funds Scheme, 1952 and the reply of HPGIC was not tenable as the employees pointed out by audit belonged to Country Liquor Bottling Plants, Mehatpur and Parwanoo, of the Company who were covered under Employees' Provident Funds Scheme, 1952. The reply in respect of the HPTDC was also not tenable as the BOD was not empowered to link the statutory limit with the profit or loss of the Company.

Shimla **(SATISH LOOMBA)**
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Countersigned

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