

CHAPTER - II

	Page
PERFORMANCE AUDITS	11 to 61
<i>2.1 Maharashtra Maritime Board</i>	
<i>2.2 Mumbai Building Repairs and Reconstruction Board</i>	

Chapter II

Home Department

2.1 Working of Maharashtra Maritime Board

Government of Maharashtra in 1996 established the Maharashtra Maritime Board as an autonomous authority to promote cargo movement by developing the ports, enforce Maritime Acts and Rules, develop inland water transport, carry out hydrographic surveys, acquire modern survey equipments, dredgers, barges, navigational aids to carry out its activities efficiently. Scrutiny revealed that long term plan was not formulated for port development; development of six ports was directly awarded to developers without calling for competitive bids; seven out of eight inland water transport projects taken up under centrally sponsored scheme were incomplete/not started even as of December 2012; No Objection Certificates for extraction of sand was given despite moratorium in Ratnagiri and Sindhudurg districts and there was loss of revenue due to incorrect application of wharfage rates. Some of the key findings are highlighted below.

Highlights

MMB did not formulate any master plan for the development of ports and therefore, the development activities were done in an *ad-hoc* manner.

(Paragraph 2.1.6.1)

Development of six ports was awarded to developers through Memorandum of Understanding route on build, own, operate, share and transfer basis for a 50 years period without calling competitive bids.

(Paragraph 2.1.8)

Of the development of six port projects approved through MoU route between 2002 and 2009, two projects sanctioned in March 2002 were yet to be commissioned. Of the remaining four projects sanctioned in 2008 and 2009, while two projects were commissioned, the other two were yet to be started.

(Paragraph 2.1.8.1)

Developers of Dighi and Redi ports were allowed concessional wharfage charges in contravention of the provisions of concession agreements resulting in short receipt of ₹ 10.60 crore. Non-application of prevailing market rates in respect of land transferred to the developers of Dighi and Rewas port resulted in loss of ₹ 31.76 crore to MMB.

(Paragraphs 2.1.8.2 and 2.1.8.3)

The ports being developed at Redi, Dhamankhol Bay and Lavgan were plagued by environmental problems which remained unaddressed by MMB as well as Maharashtra Pollution Control Board.

(Paragraphs 2.1.8.3 and 2.1.8.4)

Thirty six boat builders in five port limits were operating unauthorisedly. Ship building projects were awarded without inviting tenders and MMB failed to ensure that construction activities were undertaken only after obtaining the mandatory environment clearances.

(Paragraphs 2.1.8.6 and 2.1.8.7)

Seven out of eight inland water transport projects approved under the Centrally Sponsored Scheme at a cost of ₹ 29.83 crore during 2003-06 were incomplete/not started even as of December 2012.

(Paragraph 2.1.9)

Vessels were not surveyed before registration in contravention of the provisions of the Inland Vessels Act, 1917. There was shortfall in conduct of annual survey of vessels *vis-à-vis* total registered vessels ranging from 38 to 70 *per cent*. Rules for charging the fees for registration of vessels, alteration to vessels were not notified as required under the provisions of Section 19R of the Inland Vessels Act, 1917.

(Paragraphs 2.1.10.4 and 2.1.10.6)

No objection certificates for extraction of sand in Ratnagiri and Sindhudurg districts were issued by MMB despite moratorium imposed by MoEF on such activity.

(Paragraph 2.1.10.8)

As against the sanctioned strength of 460, the men in position was only 353. The crucial posts were either vacant for long periods or were not filled in.

(Paragraph 2.1.12.3)

2.1.1 Introduction

The Maharashtra State has a coastline of 720 kms with 48 minor port limits from Dahanu on the North to Kiranpani on the South covering five coastal districts *viz.*, Mumbai Suburban, Raigad, Ratnagiri, Sindhudurg and Thane, known as the Konkan coast of Maharashtra. Out of the 48 minor ports limit, 11 ports limit were handling cargo, six ports were handling heavy passenger traffic, 24 port limits were for fishing while seven port limits were mainly used for sand storage. In addition, there are 35 navigable rivers and creeks, which offer a vast potential for development of inland water transport. Development of ports in the State assumes importance in view of growing industrialization along the coast, which also helps to reduce congestion of roads and relatively cheaper mode of traveling. The onus for the development of major ports in India through the Board of Trustees of Major Ports rests with the Government of India (GoI) while non-major ports are developed by the respective State Maritime Boards. Up to September 1996, port development activities were looked after by the Ports Department, Government of Maharashtra (GoM) headed by the Chief Ports Officer.

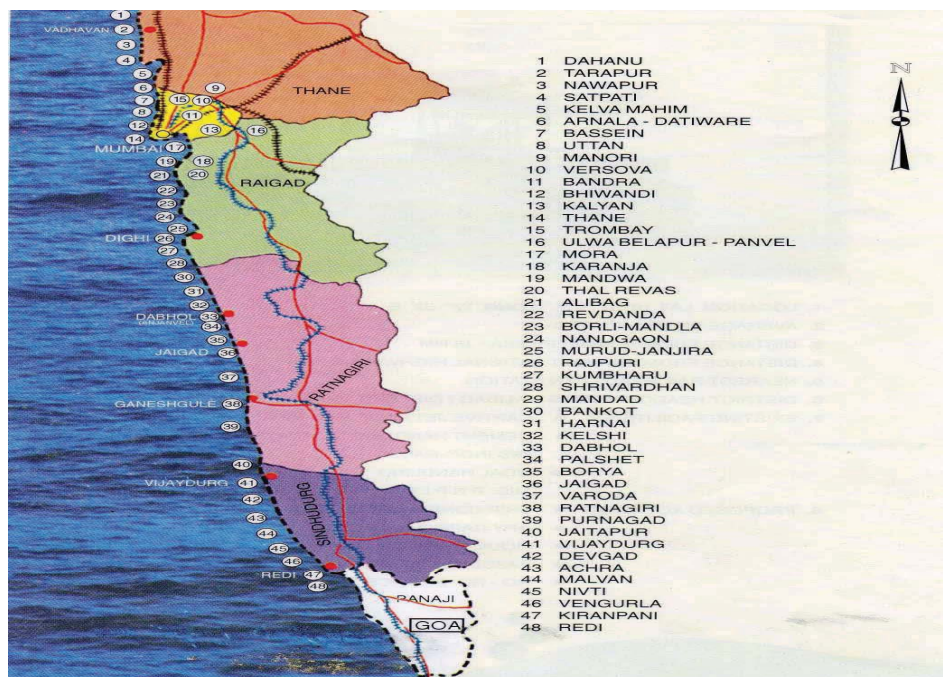
In order to provide more flexibility in development and administration of minor ports, the GoM established (October 1996) the Maharashtra Maritime Board (MMB) under the Maharashtra Maritime Board Act, 1996 (MMB Act) as an autonomous body for implementation of the following activities:

- promoting cargo movement by developing the ports to boost the economic activity;
- enforcing maritime Acts and Rules for administration and conservancy of ports, regulating traffic, revising the fare structures from time to time, licensing of crafts *etc.*;
- developing inland water transport for cargo as well as for passenger movement in inland waters of the State; and
- carrying out hydrographic surveys and other allied investigations along the coastline and acquiring modern survey equipments, flotillas, navigational aids to carry out its activities efficiently.

The cargo handled by MMB during 2007-08 was 11.60 million metric tonne (MT), which gradually increased to 19.90 million MT in 2011-12.

2.1.2 Organisational setup

The Administrative Head of MMB at the Government level is the Principal Secretary (Transport and Ports), Home Department. The Board members comprised Minister of Ports as the Chairman, Minister of State (Ports) as Vice-Chairman, the Chief Executive Officer, MMB (CEO) as the Member Secretary, the Secretaries of three departments *i.e.*, Transport and Ports, Industries and Finance and a representative of Navy as members apart from six other non-official members appointed by the Government. Day to day administrative control and management of affairs of the MMB are carried out by the CEO, who is assisted by the Chief Ports Officer (CPO), Hydrographer and Marine Engineer (ME) having offices in Mumbai. There are five Regional Port Offices, located at Mumbai Suburban, Thane, Raigad, Ratnagiri and Sindhudurg districts headed by Regional Port Officers (RPOs) under the control of CPO. The 48 minor ports limit are divided amongst these five Regional Port Offices as shown in the map below.



A map depicting the non-major port limits on the coastline of Maharashtra

2.1.3 Scope and methodology of audit

A performance audit covering the period from 2007-08 to 2011-12 was conducted between February 2012 and August 2012. For this purpose, records in the Office of the MMB, the Hydrographer, Marine Engineer and all the five Regional Port Offices were test checked. Twenty ports¹ (four ports under each Regional Offices) were selected on simple random sampling basis without replacement. Environmental issues related to development and operation of selected ports and jetties were also examined through scrutiny of records in the office of Maharashtra Pollution Control Board (MPCB). The audit objectives and the audit criteria adopted for the performance audit were discussed with the Principal Secretary (Transport and Ports), Home Department in an entry conference held on 24 April 2012. The exit conference was held on 5 December 2012 with the Principal Secretary (Transport and Ports), Home Department.

2.1.4 Audit objectives

The objectives of the performance audit were to examine whether:

- any long term goals were set for harnessing the unexplored potential of the State's coastline and the efficacy of measures to achieve the goals;
- implementation of port infrastructure projects such as development of ports, multipurpose jetties/ captive jetties, shipyards and inland water transport were as per the guidelines;
- mandated services to be rendered by MMB namely, hydrography, dredging, registration and survey of vessels were adequate and as envisaged in various Acts implemented by MMB;
- revenue from various fees were collected at the prescribed rates;
- funds available with MMB were utilized effectively;
- the key environmental issues were addressed as per notifications issued by GoI/ GoM; and
- proper monitoring system was in place as per norms.

2.1.5 Audit criteria

The criteria adopted for audit were derived from the following documents:

- Port policy of 1996 of GoM as amended from time to time;
- Relevant orders issued by the GoM from time to time;
- Schedule of rates for landing, shipping of goods issued by the GoM; and
- Indian Ports Act, 1908; MMB Act, 1996; Inland Water Vessels Act, 1885; Merchant Shipping Act of 1958; and Maharashtra Marine Fishing Regulation Act of 1981.

¹ Trombay, Kalyan, Panvel and Dharamtar under RPO Mora; Satpati, Kelva, Versova and Bandra under RPO, Bandra; Thal, Revedanda, Rajpuri (Dighi) and Murud-Janjira under RPO Rajpuri; Ratnagiri, Jaigad, Dabhol and Kelsi under RPO Ratnagiri; Vijaydurg, Redi, Jaitapur and Vengurla under RPO, Vengurla

Audit findings

2.1.6 Planning

2.1.6.1 Non-preparation of long term plan for port development

In view of inadequate facilities at various ports, the Home Department, GoM took a policy decision (March 1996) to develop ports through Public Private Partnership (PPP). The MMB was set up in October 1996 for development of ports by adopting a threefold strategy of developing multi-user ports², captive jetties³ and multi-purpose jetties⁴. Audit observed that MMB did not prepare any comprehensive plan that envisaged a long term vision for the ports that builds on its core strengths, establish the goals to be achieved, describe the strategy to be followed to achieve these goals and plan of action to implement the strategy for development of ports in the State. The Industries Department, GoM also decided (October 2007) that MMB should prepare a master plan for development of jetties and ports as per international standards to create congenial atmosphere for setting up industries in the State. The preliminary work for preparation of a master plan was initiated by MMB in June 2008. This was to be further firmed up after studying the wind/wave conditions, sub-soil profile, topography, ownership, connectivity *etc.* However, the work for preparation of master plan was not completed.

MMB stated (December 2012) that based on comprehensive studies (1996) seven sites were short listed for port development and further studies were conducted by RITES in 2000. It was further stated that as the geographical area had not undergone changes, studies every year was unlikely to yield new results. Therefore, no fresh preparation of master plan was undertaken and issues were handled on case-to-case basis.

The reply is not acceptable since MMB on the basis of the recommendation made by the Industries Department had initiated the work for preparation of master plan in the year 2008 and had also engaged the services of Deolitte Touche Tohamastu India Private Limited for identifying shelf of projects for development of ports within MMB's territory and prioritize the potential PPP projects but without success, as discussed below.

2.1.6.2 Non-identification and prioritization of potential projects to be undertaken under Public Private Partnership

In order to streamline the port development activities, MMB appointed (August 2010) Deolitte Touche Tohamastu India Private Limited as consultant to provide investment promotion and project development advisory services for the entire coastline. The consultant was to *inter alia* identify shelf of projects for development of ports within MMB's territory and prioritize the potential PPP projects in the State. Based on the selection done by MMB the projects were to be further developed after conducting detailed techno-commercial studies for selection of private developers. The work order was

² Development of ports which were capable of handling all types of cargo like bulk and break-bulk, containers, petroleum and chemicals *etc.* (operational through out the year).

³ To promote and assist industries in setting up jetties for their exclusive use (not operational during monsoon)

⁴ Jetties established by developers to handle all types of cargo for third party (not operational during monsoon).

issued (August 2010) appointing the consultant for a period of one year (extendable for two years) with a quarterly retainership fees at the rate of ₹ 16 lakh. No formal agreement was entered into with the Consultant.

The consultant submitted (December 2010) a report, including list of 21 projects in Thane and Raigad districts having medium to high development potential. However, up to December 2011, MMB did not take any decision on the report of the consultant and terminated (January 2012) the work order. Retainership fees of ₹ 35.29 lakh (including service tax) for two quarters i.e. during August 2010 to January 2011 was paid in January 2012. Thus, the objective of streamlining the port development activities by identifying, prioritizing the projects for development through PPP remained unachieved apart from wasteful expenditure of ₹ 35.29 lakh on payment of consultancy charges.

MMB stated that the consultant did not provide any material which could convert into PPP project, hence, the contract was terminated.

2.1.6.3 Lack of realistic plan for inland water transport

MMB submitted (June 2009) a proposal to the Department for sanction of 87 works related to construction of new jetties and repair of existing jetties at an estimated cost of ₹ 51.43 crore to facilitate inland water transport to the people residing near the coastal areas. The proposal was approved (June 2009) by the State Cabinet and the Department decided (July 2009) to release ₹ 50 crore under Konkan Vikas Package during 2009-12. The works were to be completed by 2011-12. However, within a span of one year, MMB deleted 33 works⁵ out of 87 sanctioned works after survey, on the ground that the same were not required and included 55 new works (estimated cost ₹ 13.47 crore). The justification for selection of these new works was not on record. Accordingly, MMB submitted a fresh proposal (July 2010) to the GoM for sanction of 109 works at an estimated cost of ₹ 50 crore for approval. Up to October 2012, only 91 out of 109 works were completed.

MMB stated that the original proposal for 87 works was submitted based on readily available information, which was revised, as some of the works were already completed /taken up by other departments.

The reply clearly indicated that the plans initially prepared by MMB for development of inland water transport were not realistic.

2.1.6.4 Non-submission of study report for port development

A delegation comprising the then Minister for Transport and Ports, Minister of State for Ports, Secretary (Transport and Ports) and CEO, MMB visited European countries from 24 June 2010 to 8 July 2010 to collect information about the ports and their activities, study organizational structure *vis-à-vis* responsibility, know about the technologies for both construction and operation of ports, future plans of the ports *vis-à-vis* their expansion in the country and overseas *etc.* Though the study tour was completed, the delegation did not submit any study report as of August 2012. MMB incurred an expenditure of ₹ 29.29 lakh on the study tour for which supporting documents such as flight boarding passes, hotel receipts *etc.*, were not on record.

⁵ Estimated cost of 33 works was ₹ 13.99 crore

MMB stated that the then CEO, MMB and the then Secretary (Ports), GoM had been requested to submit study report and documents such as boarding passes, hotel receipts *etc.*

The fact remained that the study report even if submitted now would not be of much relevance due to passage of time thereby rendering the expenditure of ₹ 29.29 lakh wasteful.

2.1.7 Fund management

During the period 2007-12 MMB received budgetary grants from GoM under the budget head of Inland Water Transport, Konkan Vikas Package *etc.*, for hydrographic survey, providing passenger facilities at ports, dredging, purchase of navigational aids *etc.* The revenue of MMB consisted of various fees such as wharfage fees, passenger license fees, ground rent, hydrographic survey fees *etc.*, as governed under MMB Act, besides lease rent for the waterfront leased to various developers and interest on investment of surplus funds.

2.1.7.1 Increase in unutilized funds

The details of the opening balance, capital grants received from the GoI and GoM, expenditure and closing balance for the period 2007-12 are given in Table 1.

Table 1: Details of funds received, expenditure and closing balance during 2007-12
(₹ in crore)

Year	2007-08	2008-09	2009-10	2010-11	2011-12
Opening Balance	45.21	54.75	53.54	92.94	122.71
Receipts	16.26	5.21	42.29	37.16	116.09
Total	61.47	59.96	95.83	130.10	238.80
Expenditure	6.72	6.42	2.89	7.39	39.20
Closing Balance	54.75	53.54	92.94	122.71	199.60

As seen from table above, the opening balance of Government fund amounting to ₹ 45.21 crore as of April 2007 increased to ₹ 199.60 crore by the end of March 2012. The increase in receipts during 2011-12 was mainly on account of funds received for anti-erosion sea works, while the increase in expenditure during 2011-12 was mainly on account of expenditure under Konkan Vikas Package and Sustainable Coastal Protection and Management project. The huge increase in unutilized funds was mainly on account of the following:

- Under Konkan Vikas Package approved by GoM, MMB received (2009-12) ₹ 61.25 crore for providing passenger amenities, purchase of dredgers, constructing fishing jetties on the Konkan coast. MMB utilized only ₹ 25.21 crore (41.16 *per cent*) leaving an unspent balance of ₹ 36.04 crore.
- Under Sustainable Coastal Protection and Management project, MMB received ₹ 11.76 crore during 2011-12 for executing anti-erosion sea works along the coast. However, MMB utilized only ₹ 4.40 crore leaving an unspent balance of ₹ 7.36 crore mainly due to change in design of artificial reef.
- MMB also received (up to 2007-08) ₹ 29.83 crore for developing Inland Water Transport approved by GoI under Centrally Sponsored Scheme to be completed by 2007-08. However, MMB utilized only

₹ 5.26 crore (17.63 per cent) till February 2013, the reasons for which are discussed in paragraph 2.1.9.2.

MMB stated that out of ₹ 199.60 crore an amount of ₹ 47.95 crore has already been utilized till September 2012 and most of the funds would be utilized till the end of March 2013. However, no reasons were given for short/non-utilisation of Government funds.

2.1.7.2 Revenue from operations

The operational receipts of MMB comprised fees collected on behalf of the GoM such as wharfage charges, passenger fees, port dues, ground rent, pilotage charges, hydrographic survey fees *etc.* The year-wise operational receipts during 2007-12 is given in **Table 2**.

Table 2: Revenue from operation during 2007-12

Year	(₹ in crore)				
	2007-08	2008-09	2009-10	2010-11	2011-12
Operational revenue	35.57	32.33	29.68	37.55	53.47

The revenue from operation is utilized for meeting expenditure on pay and allowances, office contingencies, maintenance and repairs to assets owned by MMB *etc.* The increase in revenue from ₹ 35.57 crore in 2007-08 to ₹ 53.47 crore in 2011-12 was mainly on account of increase in wharfage charges.

The working result of MMB during 2007-12 showed that the surplus of MMB increased from ₹ 28.34 crore in 2007-08 to ₹ 44.27 crore in 2011-12, the percentage of surplus to the income earned decreased marginally from 57.12 per cent during 2007-08 to 55.89 per cent during 2011-12. Important comments on the accounts of MMB for the period 2007-11 included under the Separate Audit Reports on which corrective action was not taken though pointed out in the previous SAR, are as follows:

- The value of immovable properties such as building, jetties, anti-erosion sea works, light houses and navigational aids were taken at nominal value of ₹ 1 each. Neither their cost of acquisition were available nor valuation done to depict true and fair picture of assets account.
- The value of land spread over 720 km on the coastline in the State, owned by MMB had not been ascertained as per Section 20 (a) of the Act and shown in the assets account.
- MMB did not maintain assets register and did not carry out physical verification of assets during 2007-11.

2.1.8 Implementation of various projects/activities

The Department had undertaken various projects for development of ports, inland water transport, ship building *etc.*, the audit findings on which are discussed below.

Development of Ports

The Port Policy (March 1996) of the State Government recognized the fact that the seven ports⁶ in Sindhudurg, Ratnagiri, Raigad and Thane districts had greater potential for development through the PPP model by inviting open tenders. The Port Policy was amended in November 2000 and April 2002 as shown in **Appendix 2.1.1**. As the response to the notice inviting tenders (1996) was poor, the Port Policy of November 2000 advocated use of the MoU route and granting greater concessions⁷ and two MoUs were signed in March 2002 for development of Dighi and Rewas ports. The State Government again, without inviting tenders, approved (2006, 2007 and 2008) the development of four ports {Jaigad Port (Lavgan), Jaigad Port (Dhamankhol Bay), Redi Port and Vijaydurg Port } through MoU route. Audit also observed that more than one proposal was received in respect of three⁸ ports, thereby justifying the need for tendering. Pertinently, the Finance Department had also recommended (August 2004, January 2007 and October 2007) inviting tenders for port development. The then Finance Minister also stressed (January 2007) the need for open tendering for selecting suitable developer in view of delay observed in two earlier port projects at Dighi and Rewas awarded through MoU route. Audit also noticed that Gogate Minerals engaged in port operation at Redi port since 2003 represented to the then Finance Minister that they were not aware of Redi port being handed over to another developer without tendering. The Finance Minister directed (February 2008) the Principal Secretary (Ports) to allow Gogate Minerals to match the offer of selected developer before entering into MoU. However, the Department ignored the direction on the ground that the Cabinet had already decided (May 2007) to select the developer.

MMB stated that since there was no clarity on investment, infrastructure requirement or the revenue stream, these sites were considered unsuitable for competitive bidding process and that it was a challenge before MMB to attract entrepreneurs who were willing to invest and take risk of these big projects.

The reply is not tenable as open tenders invited earlier during 1996-2001 may not have received adequate response due to downturn in the economy. However, the economic environment in general was quite robust post 2001-02 and the benefits had percolated to almost all the sectors of the economy, including transportation and logistics sector and the Mumbai Port Trust that faced its worst phase around 2000-02 had admittedly shown positive growth. Given the situation, the approval for development of four ports (two ports in Ratnagiri District and two ports in Sindhudurg District) during 2006-2008 through ‘pick and choose’ method (MoU route) could have been avoided and open tendering, in line with the port policy of 1996, could have been resorted to in order to ensure transparency and competition.

⁶ Redi and Vijaydurg in Sindhudurg district; Ratnagiri, Jaigad, Dabhol in Ratnagiri district; Dighi in Raigad district and Tarapur in Thane district

⁷ Increase in the concession period from 30 years to 50 years, exemption from payment of stamp duty *etc.*

⁸ Jaigad -Lavgan (Choughule Steamships Limited and ESAPL, MFCS); Redi (Ernest Young Shipping and Ship Builders Pvt Limited and TM International Logistics limited) and Vijaydurg (HIPEPL and Bharti Shipyard Limited).

A glossary of important terms used in the performance audit report is given in **Appendix 2.1.2.**

The other audit findings on the port development taken up by MMB through MoU route are discussed in the succeeding paragraphs.

2.1.8.1 Development of projects through MoU route

Under the MoU route, an interested developer approaches MMB for development of a port and submits Techno Economical Feasibility Report. The Techno Economical Feasibility report is scrutinized by MMB through a consultant before approval. On approval by MMB the proposal is sent to the Cabinet for approval. On approval, a Concession Agreement (CA) is executed by the MMB with the developer. Various stages involved in development of ports on BOOST (Built, Own, Operate, Share and Transfer) basis are indicated in **Appendix 2.1.3.**

The salient features of the concessions granted under MoU route are as under:

- The concession period would be for a period of 50 years with an option for MMB to participate to the extent of 11 *per cent* in the equity of the Special Purpose Vehicle (SPV) created for development of port projects up to a period of 10 years from the date of commencement of project.
- The SPV would be authorized to fix the scales of rates for levy of wharfage charge for shipment/landing of cargo of other operators and in turn would share the revenue with MMB at ₹ 3 per MT and ₹ 36 per loaded TEU (Twenty Foot Equivalent Unit) for container cargo being the concessional wharfage charges subject to 20 *per cent* annual increase for the first 15 years from the date of commencement of commercial operations. Subsequent revisions till expiry of the term were to be decided in consultation with the licensee by the licensor/Government taking into account the situation prevailing at that time.
- Government land would be transferred to the developer at the prevalent market rate.

The six projects taken up under PPP and discussed below involved a cost of ₹ 11,599.37 crore⁹ with envisaged cargo handling of 100.23 million tonnes *per annum* (MTPA). Audit observed that despite adopting the MoU route which entailed a number of concession to the developers, only two projects having cargo handling capacity of 10.8 MTPA were operational as on December 2012. The time over run in respect of two projects (Rewas-Aware port and Dighi port) not completed up to December 2012 was more than five years. Of the remaining four projects (Lavgan, Dhamankhol Bay, Redi and Vijaydurg) sanctioned in 2008 and 2009, while two projects (Lavgan and Dhamankhol Bay) were commissioned (Phase – I) between August 2009 and April 2012, construction work on the other two (Vijaydurg and Redi) scheduled for commission by March 2013 and February 2014 have not commenced even as of December 2012. Thus, the purpose of port development for promoting

⁹ excluding cost of Dhamankhol –Jaigad Port –Phase-II and cost of Vijaydurg port since DPR not approved.

cargo movement as envisaged in MMB's objective was defeated. The details of development of six ports are indicated in **Appendix 2.1.4**.

Audit also observed irregularities in valuation of land, irregular grant of concessional wharfage charges, shareholding pattern *etc.* in development of ports as discussed in the succeeding paragraphs.

2.1.8.2 Dighi Port and Rewas (Aware) Port

The development of Dighi and Rewas port was awarded to Balaji Leasing and Industries Company Limited (BLICL) and Amma Lines Company Limited (ALCL) respectively. As per the CA entered (March 2002) with BLICL and ALCL, the phase I of both the projects were to be completed and commissioned by March 2007. While construction of Rewas port has not commenced, only two out of five berths were completed in Dighi port, as of March 2012.

Dighi Port

The development of project was delayed mainly due to delay in achieving financial closure by the developer required for commencement of development activities and delay in resolution of issue of transfer of Mazgaon Dock Limited (MDL) land. Audit observed the following:

- As per clause 3.5.2 of CA, Dighi Port Limited (DPL), a SPV formed by BLICL, the licensee was to pay the value of Government land at market rate prevailing as on the date of transfer. As land admeasuring 128 acres adjacent to Dighi port, transferred (1982) to MDL on lease for carrying out ship repair/shipbuilding activities was not put to use, the then Chief Minister of Maharashtra requested (July 2004) the Ministry of Defence, GoI to restore the land to GoM for development of Dighi port. The then Defence Minister, however, requested (September 2004) to reconsider the proposal on the ground that MDL would require the land for Defence needs. However, land admeasuring 114 hectares leased to MDL was transferred (March 2007) with the consent of the Ministry of Defence to DPL as per the decision taken in a meeting headed by Chief Secretary at a consideration of ₹ 3.44 crore as per the ready reckoner rate (2006) recommended by the Collector. The market value of the land as assessed (2006) by the Government approved valuer appointed by MDL at Dighi village was however ₹ 6.92 crore. Thus, considering the ready reckoner rate instead of market rate of land resulted in undue benefit of ₹ 3.48 crore to the DPL.

MMB stated that valuation of the Collector was accepted being the State authority on this subject.

The reply is not acceptable since the market value of land as per approved Government valuer was available and was to be adopted as per the clause of CA quoted above.

- Besides the transfer of MDL land, MMB entered (January 2010) into a lease agreement for 50 years with DPL for transfer of 77.33 hectares of Government land at Dighi, Nanavali and Maneri. However, MMB considered the rate for valuation of the said land based on Ready Reckoner of 2008 on the basis of order (2008) of Collector allowing transfer of land to MMB, instead

of the market value of the land in 2010. This resulted in undue benefit of ₹ 3.28 crore to the DPL considering the Ready Reckoner rate¹⁰ of 2010.

MMB stated that even though the valuation was based on the ready reckoner rates of the year 2008, the process for taking approval of the GoM, compliance to Government directives was time-taking and the lease agreement was executed in January 2010.

The reply is not acceptable since valuation of land as per market rates should have been done as on the date of transfer of land as per CA.

In the exit conference, the Principal Secretary agreed (December 2012) that the process of approval to the rates for land transfer needed to be streamlined.

- Concessional wharfage charges as per the CA were payable by the developer to the MMB only from the date of commencement of commercial operations of the port. While commercial operations did not commence, MMB extended concessional wharfage charges to BLICL for cargo handled from the existing MMB jetty acquired by it from MMB in May 2005, resulting in short levy of wharfage charges amounting to ₹ 1.84 crore for the period May 2005 to May 2012. The grant of concession wharfage charges to BLICL in violation of agreement was commented upon in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2006. The Public Accounts Committee (PAC) recommended (April 2012) recovery of the differential amount due to grant of concessional wharfage charges.

MMB stated that the option of outright purchase of jetty by DPL (SPV of BLICL) on which cargo operations could be carried out at concessional rate assuming partial port operation was deliberated in the meeting held in February 2004 by the Principal Secretary (Ports). It was further stated that the jetty was very old and lying idle without any repairs and maintenance and therefore, the concessional wharfage charges was allowed to DPL on acquisition of jetty. It was also stated that the PAC accepted this justification in their deliberation of October 2010.

The reply is not acceptable since the concessional wharfage charges as per the CA were available to the developer only from the date of commencement of commercial operations of the port. The PAC recommendation was specific to non-recovery as pointed in the Audit Report. Further, when a developer constructs and maintains a captive jetty, MMB recovers wharfage charges at full rate and not at concessional rate. MMB was not following a uniform policy in charging of rates from SPVs of greenfield port as was evident from the fact that for the greenfield port at Dhamankhol Bay developed by JSW Infrastructure and Logistics Limited, wharfage was recovered at full rate on the coal handled by the SPV for its captive jetty (refer paragraph 2.1.8.4).

Rewas (Aware) Port

The development of Rewas port was affected due to delayed finalization of lead/key promoters and unresolved long pending core issues like, right of way, re-routing of gas pipe line passing through the proposed navigational channel and road connectivity to the port. Further, though the core issues were still unresolved, the MMB transferred (June 2010) inter tidal land (ITL)

¹⁰ Market value of land for 2010 was not available

admeasuring 839.10 hectares @ ₹ 88000 per hectare to the SPV (Rewas Port Limited) on lease for 50 years. The observations are discussed below.

- As per clause 11.2.1 of CA signed in March 2002, the shareholding pattern was to be finalized on the date of signing of CA with ALCL, failing which, within six months of the signing of CA *i.e.* by September 2002. The CA provided for termination of the agreement in the event of the shareholding pattern not being finalized within six months. Further, the lead promoter was to maintain a minimum interest of 26 *per cent* in the SPV till the completion of seven years from the date of commencement of operation. It was noticed that ALCL submitted the shareholding pattern only in July 2006 after issue of show cause notice belatedly by MMB for termination of CA. The shareholding pattern submitted comprised 67.64 *per cent* share holding by Reliance Group Company, 21.36 *per cent* share holding by ALCL (the lead promoter) and balance by MMB which was approved (August 2006) by the High Power Committee¹¹ in contravention of the CA requiring the lead promoter to maintain minimum equity of 26 *per cent*. The delay in finalizing the shareholding pattern contributed to delay in achieving the financial closure due to uncertainty about the lead/key promoters and the consequent delay of more than five years in the commencement of Phase I of the project.

MMB stated that the show cause notice was issued to ALCL citing delay in project implementation, who in turn submitted share holding pattern with a new entity taking majority share holding in the project, which was approved after legal scrutiny. The reply was, however, silent regarding 21.36 *per cent* shareholding by ALCL as against the stipulated 26 *per cent*.

- The approach channel of Rewas Port passed through the water channel of Mumbai Port Trust, a Central Government Organization, for a length of 17 km. The Ministry of Shipping (GoI) in September 2011 turned down the request made by GoM (June 2011) for free Right of Way and directed it to resolve the issue through mutual agreement between Mumbai Port Trust and Rewas-Aware Port Authorities. However, a proposal containing justification regarding Right of Way had been submitted by MMB to MbPT only in October 2012.

- The submerged gas pipelines of GAIL¹² and IPCL¹³ were passing through the proposed navigational channel of Rewas port. Despite willingness of GAIL and IPCL to absorb the cost of re-routing, the resolution of this issue was held up pending clearance of Right of Way.

MMB stated that the SPV has intimated that the dredging work for pipeline would start by March 2014.

- The road alignment proposed in the Detailed Project Report (DPR) for development of Rewas Port was passing through the shipyard project also entrusted to the same developer (ALCL). However, on re-alignment, the road was found to be interfering with the Tata's coal jetty project, approved by MMB in February 2010.

¹¹ A committee of Secretaries headed by the Chief Secretary of the State established in April 2002 for implementation of the port development policy and water transport policy

¹² Gas Authority of India Limited

¹³ Indian Petrochemicals Corporation Limited

MMB stated that a final decision on road alignment would be taken keeping in view the progress of the project.

▪ MMB transferred (June 2010) 839.10 hectare of ITL to the SPV. Audit noticed that the valuation of the land was done based on the ready reckoner rate (₹ 88,000 per ha) for 2008 on the basis of instruction issued (2009) by Home Department allowing transfer of land to MMB instead of the prevailing ready reckoner rate of 2010 (₹ 3.86 lakh per hectare) at the time of transfer¹⁴ resulting in undue benefit of ₹ 25 crore to the SPV.

MMB stated that the valuation was based on the ready reckoner rates of the year 2009 and after obtaining the approval of the Board and GoM, the lease agreement for transfer of ITL was executed in June 2010.

The reply is not acceptable since valuation should have been done as on the date of transfer as per CA. In the exit conference, the Principal Secretary agreed that the process of approval to the rates for land transfer needed to be streamlined.

2.1.8.3 Redi Port and Vijaydurg Port

The development of Vijaydurg and Redi ports were awarded to Hindustan Infrastructure Projects and Engineering Private Limited (HIPEPL) and Ernest Shipping and Ship Builders Pvt. Ltd. (ESSBPL) respectively. As per the CA entered with the SPV (Vijaydurg Ports Limited (VPL)- March 2008 and Redi Ports Limited (RPL)-February 2009), the phase I of both the projects were to be completed and commissioned by March 2013 and February 2014 respectively. Both the projects were kept on hold due to moratorium imposed by Ministry of Environment and Forest, GoI (MoEF) on account of ecological degradation caused by the projects being implemented in Ratnagiri and Sindhudurg districts. The following irregularities were noticed during audit:

Redi Port

MMB extended concessional wharfage charges to RPL for an old jetty acquired (April 2009) by it from MMB for exporting bulk cargo from the first day of acquisition itself, even before creating any additional asset. This resulted in short levy of ₹ 8.76 crore during the period from May 2009 to April 2012 besides the loss of service tax amounting to ₹ 90.25 lakh to the exchequer.

MMB stated that the concessional wharfage was applied in accordance with the Board's decision taken earlier in respect of Dighi port.

The reply is not acceptable since the concessional wharfage charges as per the CA were available to the RPL only from the date of commencement of commercial operations of the port.

For port operations, a developer/operator is required to obtain Consent to Operate from the State Pollution Control Board (MPCB in this case) and comply with the conditions laid down under Section 25 of the Water Act, 1974; Section 21 of the Air Act, 1981; and Hazardous Waste Rules, 2008. RPL handled 34.87 lakh MT of cargo during the period May 2009 to April 2012 from the existing Jetty acquired from MMB. However, consent to

¹⁴ Market value of land was not available

operate the cargo handling activity was not obtained from MPCB nor any action taken by MPCB. Serious concerns were also raised by the public on the ongoing activities (September 2011) with the District Collector during environmental public hearing. On joint verification of port by Audit with MMB officials it was observed that the iron ore was stored in open space without ensuring measures to mitigate the adverse impact of the dust spreading into open air.

MMB stated that instructions would be issued to RPL for taking necessary precautions for storage, transportations and handling of cargo from existing facilities.



Iron Ore stored in open space

Vijaydurg Port

Audit observed that the promoter *i.e.*, HIPEPL was involved in mobile communication sector (operating BPL Mobile till 2004-05) and entered into port sector by establishing HIPEPL in 2005-06. Evidently, HIPEPL lacked experience in port sector.

HIPEPL did not submit the shareholding pattern within six months of signing of CA as stipulated in the agreement. The SPV (VPL) submitted (August 2009) the shareholding pattern with 67.64 *per cent* of the shares to be held by Gremach Infracore Private Limited and 21.36 *per cent* by Hindustan Transport Infrastructure Ventures Private Limited (a subsidiary of HIPEPL), only when notice for termination of CA was issued (July 2009) by MMB. The shareholding pattern was further revised in August 2010 with 63 *per cent* share to be held by Privilege Hitech Infrastructure Limited (in place of Gremach Infracore Private Limited) which was approved by MMB in September 2010. The delay in taking action on the part of MMB, in spite of failure of VPL to submit the share holding pattern in time, enabled the lead promoter to change the key promoters frequently.

MMB did not furnish any specific reply for not taking action to ensure that VPL finalized the shareholding pattern within the stipulated time.

2.1.8.4 Jaigad (Lavgan and Dhamankhol Bay) Port

Jaigad (Lavgan) Port is located inside Jaigad creek at Ratnagiri District, about 90 nautical miles south of Mumbai. Chowgule Steamships Ltd. (CSL) submitted (February 2003) a proposal for entire development of Jaigad Port (greenfield port) which involved construction of one Jetty and a Shipyard at Jaigad (Lavgan) in Jaigad creek and two jetties at Dhamankhol bay. The

proposal was approved by State Cabinet in May 2006. The Department also approved (January 2007) the proposal of JSW Infrastructure and Logistics Limited (JSWIL) for construction of captive port facility covering the entire Dhamankhol bay within the same port limits of the Jaigad port for its 1200 MW¹⁵ thermal power plant with slated expansion to 2400 MW. At the same time, JSWIL expressed interest to develop a green field port at Dhamankhol Bay and submitted a revised proposal in January 2007. However, since the proposal was overlapping with the project of CSL, the Principal Secretary (Ports) convened (November 2006) a meeting with both the developers. Finally, the proposal of CSL was modified to build a Shipyard with shiplift system and one jetty at Jaigad (Lavgan) and the construction of two jetties at Dhamankhol Bay initially proposed by CSL was excluded. MMB also approved (October 2007) the revised proposal of JSWIL of January 2007 for greenfield port, which included construction of two jetties with backup facilities in Phase I and five jetties in Phase II at Dhamankhol Bay. Finally, MMB entered into CA for development of greenfield port with both the developers through MoU route - with CSL in Jaigad (Lavgan) in March 2008 and with JSWIL at Dhamankhol Bay in June 2008, within the same port limit of Jaigad Port.

On completion of Phase I by JSWIL (July 2009), MMB approached custom authorities for landing and shipping declaration of the constructed portion. On an enquiry from the custom authorities about the rationale for separate declaration of the limit of Dhamankhol Bay sought by MMB, it was clarified by MMB (July 2009) that Dhamankhol Bay is a 'port facility' within the limits of Jaigad Port.

Audit observed that the term 'port facility' has not been defined in any Act or State Government policy governing the activities of port. Thus, the decision of the GoM to convert the initial proposal of JSWIL of captive port to greenfield port by citing Dhamankhol Bay as a port facility benefited JSWIL, as the wharfage charges for green field port were significantly less¹⁶ than that of captive port.

MMB stated that CSL were conservative in their approach while JSWIL were ready to make huge investment in construction of break-water and infrastructure and therefore, it was decided to accommodate additional number of berths to handle various cargoes to spread out the huge cost and to explore the full potential of the port.

The reply is not tenable as JSWIL was benefited by way of lower wharfage charges as discussed in the succeeding paragraph. The reply also clearly indicated that the initial approval given to CSL for development of the entire Jaigad port through MoU route was not judicious, as CSL was admittedly not geared up to make substantial investment.

The port developer (JSWIL) as per CA was required to pay to MMB wharfage charges at a concessional rate of ₹ 3 per ton of cargo or @ ₹ 36 per loaded TEU for container cargo during the first year from commencement of operation. Thereafter, it was to be increased by 20 *per cent* every year based

¹⁵ Mega Watt

¹⁶ For coal, the captive charges were six times more than the concessional charges

on the rate of preceding year for the next 15 years subject to the following provisions:

- Initial four million tonnes *per annum* (MTPA) of coal brought by the licensee for use at the power plant of JSW Energy (Ratnagiri) Ltd. was to be charged at ₹ 15 per Metric Ton (MT) or at the prevailing rates for the captive jetties from time to time.
- For the cargo beyond four MTPA concessional rate was applicable on an expenditure of ₹ 50 crore on Phase II facilities as per DPR.

The basis on which the limit of four MTPA of coal for captive use was fixed was not on record. Audit noticed that the coal requirement for the power plant of JSWIL was assessed at 4.8 MTPA as per the DPR submitted (January 2007) by the developer. Thus, fixing a lower limit in the CA resulted in undue benefit to the developer. The coal based power plant of JSWIL was planned for expansion from 1,200 MW to 2,400 MW in the fourth year which would result in increase in the import of coal for captive use from 4.8 MTPA to 9.6 MTPA. Fixation of limit without considering the increase in import of captive coal would result in undue benefit of ₹ 7.02 crore¹⁷ in the fourth year of operations (after expansion of capacity).

MMB stated that in order to encourage the port to handle more cargo and thereby increase revenue of MMB, in terms of volumes of cargo it may not be prudent to apply harsh measures to the port developers.

The reply is not acceptable as the concessional wharfage charges would be applicable only on the cargo over and above the quantity required for the captive thermal power plant.

Environmental issues in Jaigad Port

Audit noticed that the ports being developed at Dhamankhol Bay and Lavgan within Jaigad Port limits were plagued by environmental problems which remained unaddressed by MPCB, as discussed below:

- JSWIL was accorded environmental clearance by MoEF (May 2007) for import and handling of the coal in the port by conveyor belt for captive thermal power plant at Jaigad. Scrutiny of records in MPCB revealed that its proposal for expansion of the project was rejected in January 2012 due to moratorium in Ratnagiri and Sindhudurg. Despite this, JSWIL was transporting third party coal by trucks and handling cargo other than coal like iron ores, lime, molasses *etc.* JSWIL also constructed five tanks for storage of molasses in the port area without any environmental clearance as noticed from the notices issued by MPCB and joint inspection conducted by MPCB in April/ May 2012. On being pointed out in audit (October 2012) MPCB stated that closure directions had been issued (October 2012) to the port of JSWIL.
- MoEF issued environment clearance to cargo handling facility project (October 2010) and Coastal Regulation Zone (CRZ) clearance to shipyard repairing project (April 2009) subject to fulfilling certain specific and general

¹⁷ ₹ 18.75 per MT captive rate for coal notified by GoM in July 2011 – ₹ 6.22 per MT being the concessional rate in the fourth year (₹ 3 per MT compounded at 20 *per cent per annum*) x 5.6 MTPA (9.6 MTPA – 4 MTPA)= ₹ 7.02 crore

conditions by CSL. Scrutiny in audit revealed the following specific violation by CSL :

- developer did not submit the details about the quantity of dredged material with location of disposal of the dredged material;
- developer carried out blasting for piling in sea base affecting marine life as well as carried out excavation which caused huge air pollution coupled with handling of excavated materials without providing sufficient mitigating measures;
- developer commissioned two stone crushers and ready mix plant without obtaining consent of MPCB and CRZ clearance; and
- developer did not provide any sewage treatment plant to treat sewage generated from approximately 300 workers residing in labour colony.

However, MPCB failed to take decisive action and allowed CSL to complete the project for cargo handling without fulfilling environment conditions.

2.1.8.5 Non-adherence to MMB Act and non-compliance to lease agreement

MMB entered into agreement with various parties interested in using the waterfront, jetties *etc.* As per clause 24(b) of MMB Act, 1996 contracts for leasing waterfront, jetties, waterways and corresponding infrastructure facilities for a term exceeding five years required prior approval of GoM. Scrutiny of contracts entered into by MMB revealed the following:

- MMB allowed continuous operation of Dhanwatay Jetty at Kelshi (district Ratnagiri) by Ashapura Minerals Ltd (AML) through various short term agreements of 15 months since January 2004 for export of bauxite, thereby avoiding approval of GoM.

MMB stated that short term agreements ensured that no monopoly was established at the MMB Jetty. Further, short term agreements also allowed inclusion of other operator(s), in case the existing operator was not able to fulfill MMB's expectations in terms of quantity of cargo and revenue.

The fact remained that MMB did not obtain the prior approval of GoM before allowing AML to undertake jetty operations for prolonged period, violated the provisions of MMB Act, 1996.

Further, MMB allowed shipment of bauxite to AML without any environmental clearance. Audit also observed that MMB permitted AML dredging of navigation channel for removal of bauxite spilled by it into the channel from time to time, without any environmental clearance and without ascertaining the quantity of material spilled through hydrographic survey data and the quantity required to be dredged. MMB, thus, abdicated its role as a conservator of ports by not insisting on the requisite clearances before allowing dredging activities.

MMB stated that AML had approached environment department for NOC to carry out dredging but was unable to get it, despite continuous follow up.

The reply is not tenable because in the absence of necessary environmental clearance cargo operations from the jetty should not have been allowed to commence.

- MMB entered into a user license agreement (April 2004) with Swarnburg Shipping and Marine Services Private Limited (SSMS) for five years for ferry services operations between Dhapoli and Dhopawe in Ratnagiri district. It was observed that MMB granted interim extensions to SSMS from time to time (through short-term agreements) and the last extension was granted up to October 2014. Thus, by granting extensions via short term agreements, the MMB evaded the approval of GoM.

MMB stated that interim permission was granted to SSMS to avoid public inconvenience.

2.1.8.6 Irregularities in ship-building and repair projects

For ship-building and repair projects, a developer applies to MMB evincing interest for the project and submits Techno Economic Feasibility Report (TEF report)/Business Plan. After vetting of TEF report, Letter of Intent (LoI) is issued to the developer, subject to obtaining of environment clearance by the developer within a period of 24 months from the date of signing of lease agreement. Thereafter, MMB enters into a lease agreement with the developer for five years and forwards the proposal to the GoM for extending the lease up to 30 years. In the event of environmental clearance not being obtained within the stipulated period, the agreement stands cancelled as per clause 3 of the lease agreement, with no liabilities to MMB.

Audit observed that GoM did not formulate any policy for leasing the waterfronts to developers for ship-building projects. The MMB, without inviting tenders, entered into lease agreements with eight developers for ship-building and repair projects during 2009-11. The lease agreements were executed with these developers without verifying their past experience in ship-building. MMB also failed to ensure that construction activities were undertaken only after obtaining environmental clearance. The details are indicated in **Appendix 2.1.5**.

To an audit query, MPCB confirmed (December 2012) that of the eight developers, only one developer had been granted environmental clearance by MoEF and one developer did not apply. The MPCB, however, did not furnish any information on the remaining six developers.

MMB admitted that specific policy for setting up ship building and repair projects was yet to be formulated and agreed to take appropriate action against the defaulters.

2.1.8.7 Lack of action on unauthorized boat builders

Section 35 (1) of the MMB Act, 1996 stipulates that no person shall make, erect or fix any wharf, dock, quay *etc.* within the limits of a port without prior permission of MMB. Section 35 (2) further stipulates that if any person makes, erects, or fix any wharf, dock, quay *etc.* without permission, MMB may by notice, require such person to remove the same, failing which MMB may remove it at the expense of such person. Scrutiny of records in the 20 port

limits test-checked revealed that 36 boat builders in five port limits¹⁸ were operating (March 2012) without obtaining requisite permission from MMB as indicated in **Appendix 2.1.6**. These unauthorized boat builders had constructed 78 vessels (barges, pontoons, grab dredgers *etc.*) during the last two years (2010-12). Further, from the records produced to audit, 19 boat builders in Vasai port limit were operating unauthorisedly since April 2007. Pertinently, audit also observed that the RPO, Mora (covering Kalyan, Bhiwandi and Thane port limits) was unauthorisedly recovering boat launching fees from these boat builders, instead of initiating action against them. As no efforts were made to regularise these activities by entering into lease agreements for use of waterfronts, MMB lost the opportunity to recover lease rent from these boat builders. Audit observed that MMB could have earned an estimated annual revenue of approximately ₹ 20 lakh¹⁹ on account of lease rent from a single boat builder, considering an area of 73,600 sq m (for inter tidal land) and an area of 85,700 sq m (for under water land) leased to one boat builder for setting up a shipyard.

In the exit conference, the CPO stated that appropriate action against unauthorised boat builders would be taken.

2.1.9 Implementation of inland water transport projects

Inland water transport (IWT) projects is an economical, environment friendly and a preferred mode of transport in the coastal region of Maharashtra with an estimated 1.5 crore passengers (2008-09) using IWT annually in the coastal districts of Maharashtra.

For development and up-gradation of IWT by way of construction of jetties, navigational aids, approach roads, passenger amenities *etc.* the Ministry of Shipping, GoI, sanctioned eight²⁰ Centrally Sponsored IWT Projects at a total cost of ₹ 29.83 crore in a phased manner between 2003-04 and 2005-06. The cost of each IWT project was to be shared between GoI and GoM in the ratio of 90:10. MMB received entire grants of ₹ 29.83 crore from GoI and GoM by March 2008.

2.1.9.1 Defective agreement with consultant

MMB appointed a consultant²¹ by inviting limited tenders (five only) and concluded eight agreements between March 2004 and June 2006 at a total cost of ₹ 1 crore for overall implementation of eight IWT projects. As per the consultancy contract, the consultant was required to determine the scope of the work, conduct preliminary studies, prepare the plans, draw the estimates, tendering, supervision of work and commissioning of the project.

Audit scrutiny revealed the following inadequacies:

¹⁸ Vasai, Kalyan, Bhiwandi, Belapur and Thane

¹⁹ This audit observation is based on a lease agreement entered into by MMB with Panduronga Timbolo Industries in April 2011 for setting up a shipyard at village Sakhari-Trishul (district Ratnagari)

²⁰ Vishnupuri, Rajpuri, Mandwa, Karanja, Janjira, Agardanda, Ishapur and Dighi

²¹ M/s Kashec Engineers Pvt. Ltd., Pune

- The consultancy contract did not protect the financial interest of the Board as the consultant was paid 65 *per cent* upfront²² in seven out of eight IWT projects, even before commencement of work.
- The consultant was paid a consultancy fee of ₹ 95.11 lakh²³ on account of eight IWT projects up to July 2007. Of the eight projects, ₹ 51.00 lakh was paid in respect of five projects, of which, four²⁴ projects did not commence at all and one project at Rajpuri was abandoned in the initial stage itself.
- The consultant opted out (September 2007) from six projects (except Mandwa and Vishnupuri) without assigning any reasons. However, no penalty was levied on the consultant as the agreement did not contain any penalty clause on account of failure of consultant to complete the work.
- MMB after time lapse of more than four years invited (January 2012) fresh tenders for appointment of consultant for implementation of five²⁵ incomplete IWT projects. Though, two bids were received the CEO, MMB decided (January 2012) to cancel the tender due to inadequate response and appointed (May 2012) the same consultant (Kashec Engineers Pvt. Ltd., Pune) who, incidentally, did not participate in the tendering process, on the ground that it would facilitate adjustment of previous payments made to him.

MMB stated that a LoI had been issued to the consultant in June 2012. The terms and conditions set out in LoI were accepted by the consultant by reducing the current offer by 0.20 *per cent* with reference to the earlier quoted rates.

2.1.9.2 Execution of projects

Out of eight IWT projects, works on three projects²⁶ were not taken up by MMB due to defective plans and designs submitted by consultant and Ishapur project was not initiated at all. Of the remaining four projects, two projects namely Vishnupuri and Mandwa were stated to have been commissioned by MMB and two projects namely Dighi and Rajpuri were incomplete as of December 2012.

Audit, however, observed that in case of Mandwa, of the total project cost of ₹ 4.11 crore, works amounting to ₹ 3.36 crore relating to dredging, break water of 150 m, fire fighting *etc.* were not taken up. The status of implementation of eight IWT projects is indicated in **Appendix 2.1.7**.

Further, utilisation certificate in respect of the eight projects was not furnished to audit. MMB confirmed (February 2013) that no utilization certificate was submitted to GoI against the expenditure of ₹ 5.26 crore incurred on these projects out of ₹ 29.83 crore received from GoI/GoM.

²² At the time of issue of work order to the civil contractor

²³ Mandwa (₹ 20.80 lakh), Vishnupuri (₹ 17.11 lakh), Dighi (₹ 6.20 lakh), Rajpuri (₹ 18.29 lakh), Janjira (₹ 8.63 lakh), Ishapur (₹ 2.18 lakh), Karanja (₹ 14.59 lakh) and Agardanda (₹ 7.31 lakh)

²⁴ Janjira, Karanja, Ishapur and Agardanda

²⁵ Janjira, Karanja, Rajpuri, Dighi and Agardanda

²⁶ Janjira, Karanja and Agardanda

2.1.10 Adequacy of services rendered by the Board

MMB is engaged in various regulatory works such as dredging, survey of vessels, issue of certificates to Vessel Masters/engine drivers by holding examinations (through the Chief Surveyor-cum-Marine Engineer) and registration of vessels through the five RPOs. MMB also issues NOCs for sand dredging on the basis of hydrographic survey.

2.1.10.1 Under-utilization of dredging unit

To maintain smooth navigation of vessels among the minor ports, dredging is carried out in the navigational channels near passenger and fishing jetties by the Marine Engineer (ME) through one dredging unit comprising one dredger, one hopper barge²⁷ and one motor launch.

Audit observed that MMB did not have any annual plan for carrying out dredging in the navigational channels. The dredged quantity for maintenance of navigational channels decreased drastically from 1.55 lakh cum in 2007-08 to 48,100 cum in 2010-11 and further to 23,100 cum in 2011-12 (up to January 2012). Audit also observed that as against two sanctioned posts each of Dredger Master and Dredger Engineer, only one post in each of these two categories were filled. The post of Crane Operator was vacant since 2006 and the work was carried out through a *Khalashi* till December 2011. Due to shortage of staff, dredging of navigational channels was not done, though there was continuous demand for dredging from various passenger/fishing societies thereby causing difficulties in plying vessels.

MMB stated that the process of filling the vacant post was being undertaken.

2.1.10.2 Non-recovery of dredging cost

Esselworld Infrastructure Limited (EIL) having a jetty at Gorai creek requested (August 2006) MMB to carry out dredging of navigation channel between Marve-Esselworld and Gorai-Esselworld, Mumbai. MMB submitted (January 2008) the proposal to the Principal Secretary, Ports for dredging of 1.80 lakh cum at an estimated cost of ₹ 4 crore. The Principal Secretary, Port submitted the proposal to the Finance Department in January 2009. The Finance Department recommended (in the same month) to recover some portion of the dredging cost from EIL and balance through increase in passenger levy.

MMB dredged (January and March 2009) 45,625 cum of the navigation channel near the jetty owned by EIL at a cost of ₹ 1.01 crore²⁸. However, MMB did not recover any cost from EIL for the dredging work as recommended by the Finance Department.

MMB did not furnish any specific reply relating to the issue.

2.1.10.3 Avoidable expenditure in procurement of hopper barges

MMB issued a tender notice (August 2009) for purchase of four hopper barges. Two bids were received which were opened in November 2009. After evaluation of price bids, the offer of Vijay Marine Services (VMS) at ₹ 11.36 crore was found to be the lowest.

²⁷ A device required for storing and transporting the material excavated by the dredger

²⁸ On the basis of dredging of 1.80 lakh cum at a cost of ₹ 4 crore

MMB sought (March 2010) the opinion of Dredging Corporation of India Limited (DCIL) for technical and financial suitability of the offer. However, DCIL refused (April 2010) to give its opinion. In the meanwhile, the validity of the offer expired in May 2010. MMB again invited (November 2011) fresh tenders for procurement of four hopper barges and the offer of VMS at ₹ 20.23 crore was again found to be the lowest. After negotiations (April 2012), VMS reduced its offer to ₹ 20.21 crore and MMB concluded a contract in April 2012 at a cost of ₹ 20.61 crore, including taxes and duties amounting to ₹ 40.42 lakh.

While MMB did not seek any technical and financial opinion the second time, failure of MMB to finalise the tender within the validity period led to an avoidable extra financial burden ₹ 8.85 crore²⁹.

MMB stated that due to delay and subsequent refusal in giving opinion by DCIL, retendering had to be resorted to.

The reply lacks conviction as audit observed that DCIL's refusal came in April 2010 and therefore, MMB had sufficient time to conclude the contract at the initial rates itself within the validity period.

2.1.10.4 Lapses in issue of survey certificates to vessels

Under Section 3 of Inland Vessel Act, 1917 inland mechanical propelled vessels should not proceed on voyage or be used for service without a survey certificate issued by Chief Surveyor-cum-Marine Engineer, which is renewable every year. Further, under Section 11 of the Act, survey certificate has to be issued every year and there is no provision for extending the survey. Survey includes inspection of a mechanically propelled vessel and every part thereof, including the hull, boilers, engines and other machinery and all equipments and articles onboard, such as, fire extinguishers, life saving appliances, insurance of the vessel against third party risks *etc.*

It was observed that effective mechanism for conducting survey did not exist in MMB as several breaches in adhering to the mandatory requirements were noticed as indicated below:

- Up to December 2011, none of the owners of inland mechanical propelled vessels obtained survey certificates before applying for registration as required under section 19 D of the Inland Vessel Act, 1917. It was only in December 2011 that ME issued instructions to RPOs to ensure submission of survey certificates before registration of vessels.
- There was significant shortfall in survey of vessels as shown in **Table 3** below.

Table 3: Shortfall in survey of vessels during 2007-12

Year	2007-08	2008-09	2009-10	2010-11	2011-12
Vessels registered (nos)	894	1075	1242	1406	1570
Vessels surveyed (nos)	512	662	691	819	464 (upto 6 February 2012)
Shortfall percentage	43	38	44	42	70

²⁹ ₹ 20.21 crore - ₹ 11.36 crore (being the difference between the basic offers)

MMB stated that the shortfall in survey was due to extensions granted in the survey period in respect of mild steel vessels only, while in case of inland vessels of wooden and FRP type, compulsory annual inspections were carried out.

The reply is not acceptable as under Section 11 of Inland Vessel Act, 1917 survey certificate has to be issued every year and does not distinguish between vessel type - either steel or wood.

- Vessel-wise records of the registered vessels were not maintained to keep track of renewal of survey certificate.

MMB stated that the present software is being upgraded which would facilitate maintenance of proper records.

- As per the Inland Vessel Act, 1917 the State Government was required to make rules prescribing the requirement of life saving appliances, apparatus to be kept for extinguishing fire *etc.* However, the State Government did not prescribe any rules in this regard. Scrutiny of 10 illustrative cases of survey certificate issued to passenger launches revealed that in seven cases, provision for life-jackets were made only up to five *per cent* of the total passenger capacity of the vessel instead of 100 *per cent*. In three cases, life-jackets were not provided at all. The ME issued annual survey certificates to these vessels without ensuring the availability of life-jackets.

MMB stated that it has issued a circular in April 2011 for provision of 100 *per cent* life-jackets on all passenger launches, in addition to ringbuoys and buoyant apparatus.

- As per the instructions issued (May 2003) by MMB, fire-fighting appliances to be used on inland vessels should be tested in the fire fighting service workshops duly registered with the Director General of Shipping, GoI. As of March 2012, ME appointed two agencies for inspection of equipment used by the vessel owners, of which, one agency *viz.*, Marine Marketing Services (MMS), appointed in May 2011, was not registered with DG, Shipping as a fire fighting service workshop. Thus, 36 survey certificates issued by ME on the basis of inspection certificates given by MMS, were not valid.

MMB stated that it being a regulatory body and satisfied with the facility availed in the workshop of MMS, it was not mandatory to have DG, Shipping approved workshop.

The reply is not tenable as per Section 52 of Inland Vessels Act, 1917, only the State Government is empowered to make rules for protection of inland mechanically propelled vessels from accidents.

- In four cases, ME issued survey certificates without obtaining fire-fighting certificates, in violation of the Act.

2.1.10.5 Non-conducting of survey of vessels through Government surveyors

As per section 4 of Inland Vessels Act, 1917, annual survey of mechanically propelled vessels needs to be conducted through public servants appointed by the State Government by notification in the official gazette. Audit scrutiny

revealed that MMB carried out the survey of vessels through temporarily empanelled (September 2007) three private individuals having experience in marine field, on contract basis. The initial contract was valid for a period of one year, which was extended from time to time up to January 2012 without re-inviting applications for fresh empanelment.

The MMB stated that though the posts for Marine Surveyors were advertised in 2009 and interviews conducted for the same, qualified candidates were reluctant to join due to less remuneration.

The reply is not tenable as the surveys were got conducted through private individuals, in violation of the Act.

2.1.10.6 Registration of vessels through Regional Port Officers

The GoM, under Section 19 B (1) of Inland Vessels Act, 1917, appointed (June 2001) RPOs as the registering authorities for all inland mechanically propelled vessels plying within the inland waters. The five RPOs registered 1570 inland vessels under the Act up to March 2012. Audit scrutiny revealed the following:

- Rules for charging fees for registration of vessel, alteration to vessels were not notified by the State Government as required under provision of Section 19 R of the Act.
- As per the regulations issued by DG, Shipping in September 2004, all mechanised vessels used for water sports activities were required to be registered under the Inland Vessels Act, 1917 after ensuring its seaworthiness by the surveyors. Non-mechanised vessels used for water sports activities were only to be allotted an identification number (ID). Audit observed that 167 mechanised vessels³⁰ (127 vessels in RPO, Mora and 40 in RPO, Rajpuri) used in various water sports activities were allotted only IDs without registering the same under the Act and without ensuring their sea worthiness. Further, 39 speed boats used for water sports though registered by RPO, Rajpuri were not surveyed by ME.

MMB stated that all vessels engaged in water sports have been given IDs after ensuring their seaworthiness by RPOs.

The reply is not acceptable as all the mechanized vessels were required to be registered under the Inland Vessels Act, 1917 after ensuring their seaworthiness through surveyor.

2.1.10.7 Issue of certificate of competency by the ME

As per Section 21(1) of the Inland Vessels Act, 1917 an officer notified by the State Government shall grant to a person, who is reported by the examiner to possess the prescribed qualification, a certificate of competency to act as a first-class master, second-class master or sarang or as an engineer, first class engine driver or second class engine driver, as the case may be, onboard a mechanically propelled vessel.

The Department notified (June 2001) ME, CPO and RPOs as the examiners for the purpose of examining the qualifications of the candidates desirous of

³⁰ Speed boats, motor boats, Jet Ski/water scooters *etc.*

obtaining such certificates. The ME conducted eight examinations between 2007-08 and 2009-10 for issuing competency certificates. However, there were inconsistencies in issue of such certificates and violation of the Act, which are discussed below:

- During examinations held between 2007 and 2010, 596, 174 and 113 candidates were declared passed for second-class master, first-class master and first-class engine driver respectively. However, the register showing the issue of competency certificates to the candidates indicated issue of competency certificates to 606, 175 and 114 candidates respectively. Thus, 12 candidates were issued certificates without being declared passed in the examination. Further, comparison of the list of candidates who appeared for examination (September 2008) with the list of candidates declared passed (October 2008) revealed that five candidates for second-class master and one candidate for first-class master were declared passed, even though their names did not appear in the list of candidates who appeared for examination in September 2008. Thus, an infallible system for conducting the examination and issue of competency certificate was not in place.

MMB accepted the fact and stated that such irregularities would be avoided in future.

- Though ME, CPO and the RPOs were notified as examiners, the CEO, MMB entrusted (May 2012) the responsibility of conducting the examination to Board of Examinations for Seafarers Trust (BEST), a private trust, in violation of the Act/Notification of June 2001.

In the exit conference, the CEO, MMB stated that a proposal for notifying BEST had been forwarded to GoM.

2.1.10.8 Performance of hydrographic Section

The Hydrographer of MMB conducts hydrographic survey, geo-technical survey/geo-physical survey and issues NOCs to District Collectors for extraction of sand in navigational channels on the basis of hydrographic survey. Following deficiencies were noticed in adherence to the mandatory provisions laid down by GoM before issue of NOCs for sand extraction:

- As per the Government Resolution (GR) issued in October 2010 for sand extraction, it was mandatory to obtain environmental clearance from State Level Environment Impact Assessment Committee³¹ (SLEIAC) before issue of NOC. Further, due to concerns raised on ecological degradation on account of a large number of projects proposed/implemented in Ratnagiri and Sindhudurg districts falling in the Western Ghat region, a panel of ecology experts was constituted by the MoEF for suggesting effective measures, pending which a moratorium was imposed in January 2011 prohibiting any development activity in these districts.

In view of the moratorium, SLEIAC decided (14 March 2011) not to clear any proposal for sand extraction in these two districts. However, MMB issued (after 14 March 2011) NOCs to the Collector, Ratnagiri in six cases for extraction of 7.77 lakh brass³² (21.99 lakh cum) of sand and to the Collector,

³¹ Formed under MoEF Notification (September 2006) to deal with environmental issues at the State level

³² One brass = 2.83 cum

Sindhudurg in eight cases for extraction of 13.49 lakh brass (38.18 lakh cum) of sand, overlooking the moratorium and the decision of the SLEIAC.

Further, MMB also issued 23 NOCs to the Collector, Thane for extraction of 24.12 lakh brass (68.26 lakh cum) of sand from locations other than that cleared by SLEIAC.

MMB stated that the final permission for extraction was given by the Collectors and the responsibility of seeking all other permissions and clearances rests with the Collectors and not with MMB.

The reply is not acceptable since MMB should not have issued the NOCs in the first place by overlooking the moratorium and the decision of the SLEIAC.

- The Principal Secretary, Revenue and Forest Department (R&FD) directed (March 2011) the CEO, MMB to conduct the Environmental Impact Assessment (EIA) study and submit reports in respect of all sand blocks within the creeks under Thane, Raigad, Ratnagiri and Sindhudurg districts by May 2011. However, MMB did not conduct any EIA study as of December, 2012. Consequently, the sand extraction continues in these districts without any assessment of the damage to the environment.

MMB stated that funding was not provided by R&FD and it was decided in a meeting chaired by Additional Chief Secretary (Revenue) that EIA Studies would be undertaken through Collectors locally.

The fact remained that no EIA was conducted either by the MMB or Collectors. Incidentally, the MPCB also confirmed to audit in December 2012 that neither MMB nor the Collectors had approached it for any EIA study in this regard.

- As per para 11 of the GR of October 2010 issued by R&FD, the use of suction pump for sand extraction was to be allowed only in public interest, where manual extraction was not possible. In violation of the provision, MMB issued six NOCs (March to November 2011) to the Collector, Thane for extraction of sand through 126 suction pumps from locations which were already reserved for manual extraction.

MMB stated that Revenue Department had given permission for sand extraction by suction pump in the public interest and accordingly NOCs were issued.

The reply is not acceptable as permission for sand extraction through suction pumps was granted for locations which were reserved for manual extraction and therefore, the rationale of 'public interest' does not hold. Further, the permission granted by the Revenue Department in public interest was conditional, subject to seeking permission from MPCB, which was not taken.

2.1.10.9 Deficiency in fixing and recovering hydrographic survey fees

As per Section 41 of the MMB Act, 1996 prior sanction of GoM was required for the recovery of any charges for the services specified in the Act. The Revenue Department, GoM fixed (December 2003) a survey fee of ₹ 16,000 for each day of hydrographic survey in respect of sand blocks auctioned by the Collectors. For individuals or societies, to whom permission was granted (without auctioning process), MMB unilaterally fixed (2004) the survey fee at

₹ 8,000 per 1,000 brass for issue of NOCs for sand extraction, which was further reduced (September 2008) to ₹ 1,500 per 1,000 brass.

MMB stated that Section 41 of the Act deals with scale of rates in respect of services provided by the Board and that the issue of NOCs for sand extraction was not a service provided by the Board.

The reply is not factual as audit observed that MMB was issuing NOCs to various Collectors for sand extraction which clearly indicated this being a service provided by it under section 37 of the MMB Act.

Instances of non-levy and short levy of hydrographic survey fee are detailed below:

- Though the survey fee was reduced from ₹ 8000 per 1000 brass to ₹ 1500 per 1000 brass from September 2008, the Hydrographer recovered the survey fees in two cases at the reduced rate in August 2008 itself leading to short levy of ₹ 29.51 lakh³³, besides loss of service tax of ₹ 3.65 lakh (12.36 per cent of ₹ 29.51 lakh).

- Though for sand extraction RPOs were not authorised to issue NOCs, two RPOs³⁴ issued 2,392 NOCs between April 2007 and March 2009. Further, hydrographic survey fee in respect of these NOCs issued for extraction of 22.67 lakh brass of sand was not recovered resulting in loss of revenue of ₹ 1.73 crore worked out at prevailing rates (₹ 8,000 per 1,000 brass up to September 2008 and ₹ 1,500 per 1,000 brass thereafter) besides loss of service tax of ₹ 21.40 lakh (at 12.36 per cent of ₹ 1.73 crore).

During exit conference CPO stated that the situation has now been rectified.

2.1.11 Revenue Generation at ports

As per Section 37 of MMB Act, 1996, MMB levy fees as per the regulations approved by the State Government for various services such as, stevedoring, landing, shipping or trans-shipping passengers and goods between vessels in port *etc.* The main source of revenue was from landing and shipping fees (wharfage), ground rent, lease rent, passenger levy, hydrographic survey fee and port dues.

2.1.11.1 Short-levy of wharfage charges

Audit observed short levy of wharfage charges amounting to ₹ 2.37 crore due to wrong application of rates as discussed below:

- As per the notification (August 2001) issued by the GoM, wharfage charges on certain commodities were to be levied on derived weight *i.e.* T (Meas)³⁵ instead of actual weight of these commodities. Scrutiny in audit revealed that in 13 cases the Port Inspector, Trombay applied wharfage charges based on actual weight instead of T (Meas) resulting in short levy of ₹ 17.47 lakh.

- MMB levied wharfage at ₹ 22.50 per MT applicable for multipurpose jetty on 25.31 lakh MT bauxite handled by Ashapura Minechem Ltd at MMB owned Dhanwatay jetty in district Ratnagiri between January 2004 to March

³³ 4,54,000 brass x ₹ 6.5 per brass (8 – 1.5) = ₹ 29,51,000

³⁴ Mumbai Suburban (Bandra) and Thane (Mora)

³⁵ One T(Meas) is equivalent to 1.41584 cubic meters (50 cubic feet)

2012 instead of ₹ 30 per MT applicable for MMB jetty resulting in short levy of ₹ 1.90 crore.

- Wharfage charges at the rate of ₹ 30 per MT applicable for multipurpose jetty was levied in respect of 2.43 lakh MT of stone cargo handled by JSWIL at MMB owned Usgaon jetty between 2007 to 2009 as against ₹ 40 per MT applicable for MMB jetty resulting in a short levy of ₹ 24.30 lakh.
- The cargo³⁶ handled by PNP Enterprises Ltd at a multipurpose jetty in Shahabad (Dharamtar Port under RPO, Mora) was levied wharfage at the rate ₹ 28 per MT as against ₹ 28.13 per MT stipulated in the State Government notification (July 2011) resulting in short levy of ₹ 4.91 lakh as of March 2012. Similarly, in Port Revadanda reckoning of wharfage charges at ₹ 28 per MT instead of ₹ 28.13 per MT resulted in short levy of ₹ 0.88 lakh as of May 2012.

Short-levy of wharfage charges of ₹ 2.37 crore indicated weak internal controls in MMB.

MMB accepted the facts and stated that the issue of recoveries has been taken up with the concerned agencies.

2.1.11.2 Non-assessment of minimum guaranteed revenue

MMB entered into a lease agreement (May 2008) with Indo Energy International Ltd (developer) for setting up a multipurpose terminal at Sanegaon village, district Raigad. As per agreement, the developer was required to inform MMB about the committed cargo every year in the month of March for the following year, in order to ensure minimum guaranteed revenue to MMB. Scrutiny of records revealed that there was decline in revenue from ₹ 63.35 lakh (3.04 lakh MT coal handled) in 2010-11 to ₹ 52.41 lakh (1.91 lakh MT coal handled) in 2011-12. However, MMB neither ensured that the developer declared the committed cargo nor did the agreement stipulate any minimum limit, to protect the financial interest of MMB.

MMB stated that henceforth, the provision regarding committed cargo would be enforced.

2.1.11.3 Levy of passenger fees

GoM vide notification (January 2000) prescribed a fee of ₹ 5 and ₹ 2 per passenger for travel by special and ordinary class respectively in luxury launches. Test check in audit revealed the following deficiencies:

- **Short-levy of passenger fee:** Four catamarans (luxury launches) having air conditioned deck (special class) as well as an ordinary deck were being operated during September to May each year from Mandwa to Gateway of India. However, MMB levied a uniform fee of ₹ 2 per passenger irrespective of the class of travel (ordinary or special). The short-levy could not be worked out by audit in the absence of data on passengers who travelled by special class.

MMB accepted the audit observation.

³⁶ Mill Scale, Iron Ore, Iron Ore Pallates, Iron ore fine, Coal and Coke

▪ **Non-implementation of revised passenger fee:** MMB submitted (November 2008) the revised rates for passenger fee, which was approved by the GoM belatedly in June 2010. While issuing notification, the then CEO of MMB observed (July 2010) that the approved revised rates were on the lower side. However, MMB neither took any action to revise the rates based on the observation made by CEO nor issued notification for the rates already approved by the GoM in June 2010. The details of the revised passenger levy *vis-à-vis* levy at old rates are indicated in the **Appendix 2.1.8**. Due to failure to notify the revised rates approved by GoM in June 2010, MMB is suffering continuous loss on account of short-levy of passenger fees.

MMB stated that the revised passenger levy rates have been submitted to the GoM in November 2012 for approval.

2.1.12 Monitoring

2.1.12.1 Role of MMB in respect of coastal security

The first meeting of the State-level Coastal Security Coordination Committee was held under the Chairmanship of the Chief Secretary in March 2010 wherein coastal security issues, registration issues, operation of fishing and non-fishing vessels *etc.* were discussed and directives issued to MMB. Accordingly, MMB constituted (March 2010) an internal committee to give top-most priority to security arrangements along the coastline. Though, various action plans were chalked out subsequently in the meetings of the committee held between March 2010 and October 2010, MMB did not implement the action plans as discussed below:

▪ RPO, Ratnagiri filed 66 FIRs against illegal barge movement and fined 211 barges for operation of vessels by unauthorized personnel. RPO, Vengurla, issued 50 notices to the operators of fishing boats for using them as passenger boats. However, MMB did not submit any proposal for amendments to the Act for empowering the RPOs and Port Inspectors to take action against the defaulters.

MMB stated that necessary proposal for empowering the RPOs and Port Inspectors under Inland Vessels Act, 1917 would be submitted to the State Government for making rules under the Act.

▪ In the meetings mentioned above, it was decided to obtain disaster management plans from the port operators. Though disaster management plans were received by MMB from four out of 18 operators, follow-up action to obtain disaster management plans from the remaining port operators was not taken.

MMB stated that a total of 10 out of 18 operators have submitted their disaster management plans and the remaining eight operators have been requested (September 2012) to submit the same.

2.1.12.2 Under-utilization of speed boats for coastal security

For the purpose of patrolling the State's coastline, MMB approved (October 2007) procurement of six speed boats each costing ₹ 1.05 crore with single engine capacity of 225 HP and carrying capacity of 15 persons. However, despite availability of funds of ₹ 145.02 crore at its disposal, MMB procured (February 2009) only five speed boats with reduced engine capacity of 135 HP

and carrying capacity of six persons at the total cost of ₹ 60 lakh (@ ₹ 12 lakh each). These five speed boats were suitable to withstand wave height of only 1.2 metres.

Audit observed that three out of five speed boats allotted (May 2009) to three³⁷ RPOs, who had their ports jurisdiction in the open sea, were hardly utilized as the boats were not capable of withstanding wave heights of three to four metres occurring in open sea and due to limited fuel capacity. Moreover, RPO Bandra did not take possession of one speed boat due to non-availability of sea-worthiness certificate. RPO, Mora having its port jurisdiction within the creek area where the wave height is less, was using the fifth speed boat.

Audit further observed that MMB was in the process of procurement of higher capacity speed boats (twin engine with engine capacity of 125 HP each) since January 2011. Final orders were yet to be issued (November 2012).

Injudicious decision of MMB to procure lower capacity speed boats resulted in under-utilization/ non-utilization of four out of five speed boats thereby rendering an expenditure of ₹ 48 lakh unfruitful. Further, payment of ₹ 63.93 lakh³⁸ made up to October 2011 to a private agency for manning³⁹ the boats was also rendered unfruitful. Moreover, the objective of ensuring coastal security through patrolling was defeated.

MMB accepted the audit observation and stated that tendering process for six new speed boats had been completed. It further stated that in future four number of ‘Masters’ shall operate the speed boats after training, which would reduce the manning charges.

2.1.12.3 Manpower management

As per the recommendations (June 2006) of the High Power Committee, the Department resolved (October 2006) to revise the staffing pattern of MMB and create 45 new posts. As against 460 sanctioned posts, the men in position (MIP) was 353 as of March 2012. The adverse impact of key posts lying vacant is discussed in **Table 4**.

³⁷ Vengurla (Malvan), Ratnagiri and Rajpuri

³⁸ February 2009 to June 2011: (4 boats X ₹ 49635 X 29 months) + July 2011 to October 2011 (4 boats X ₹ 39708 X 4 months) = ₹ 63,92,988

³⁹ Crew required for operation of speed boats

Table 4: Adverse impact of key posts lying vacant

Post kept vacant	Adverse impact on working of MMB
Surveyor (Group A Post)	One post of surveyor was created vide aforementioned Resolution to assist Marine Engineer in conducting survey of inland water vessels. The post was vacant since its creation up to December 2012 and as a result, the statutory duty of survey of vessels was outsourced to a panel of individuals appointed in contravention of the Inland Vessels Act, 1917.
Law Officer	This was a newly created post vide Resolution of October 2006 which was lying vacant since its creation up to December 2012. As a result, the works pertaining to framing of legal agreements and resolution of legal disputes were outsourced.
Dredger Master/ Dredger Engineer/ Crane Operator	Against two sanctioned posts each of Dredger Master and Dredger Engineer, only one post in each category was filled. The post of crane operator was vacant since 2006 and the work was carried out through a Khalashi till December 2011. Due to shortage of staff, the maintenance dredging work was neglected.

In addition to above, the Hydrographer held additional charge of the key post of Chief Ports Officer from January 2005 to May 2010 and again from March 2011 to December 2012. In view of intricate issues involved in BOOST projects it was necessary to have a dedicated project management team as envisaged in the CAs (Dighi and Rewas). The MMB failed to set up a team as envisaged in the CA and the huge workload was handled by only one Port Superintendent and two Port Inspectors (PIs) in the planning branch at MMB Headquarters.

The staffing position (December 2012) at 48 ports revealed that no Port Superintendent was posted in 11 major cargo handling ports and the operations were handled by PIs; independent charge of 15 ports were given to Assistant Port Inspectors (APIs); the activities in nine ports were handled by PI/APIs as an additional charge. The remaining 13 ports were handled by the PIs as an independent charge.

MMB stated that there were certain vacant posts such as Law Officer and some technical cadres, which would be filled up by advertisement and promotion. It further stated that the post of CPO would be filled up within short period of time. It further added that the posting of Port Superintendents would be made on cargo handling ports within a short period of time.

2.1.12.4 Oversight by the High Power Committee

A High Power Committee (HPC) under the chairmanship of the Chief Secretary with Principal Secretary (Planning), Principal Secretary (Finance), Principal Secretary (Urban Development), Principal Secretary (Transport, State Excise and Ports), Principal Secretary (Revenue), Principal Secretary (Law and Judiciary), Secretary (PWD), Executive Director (Maharashtra State Road Development Corporation), CEO, MMB and the Deputy Secretary, Home Department as members was constituted (April 2002) by the Government to approve and review various port projects and water transport projects from time to time, according approval to amendments in various agreements, resolution of difficulties faced while implementing projects of Port development and IWT, creating and approving posts for work of Port development and IWT. The HPC was also empowered to take final decision

with regard to setting up of projects including modification of the provisions of the policy.

Audit observed that though the HPC was meeting regularly, resolution of long pending core issues⁴⁰ were not at all discussed at any of the HPC meetings. The HPC also did not discuss the necessity of a master plan for development of the ports. The CAs also did not provide any condition stipulating access to the original books of accounts of the SPVs to MMB and MMB auditors.

2.1.12.5 Monitoring the activities of SPVs

The six port development projects were being implemented through SPVs established as per the CA. The CA provided for mortgage of assets leased by MMB to SPVs for raising of loans for the projects. MMB, however, did not obtain the books of account or the details of utilization of loans raised by SPVs against the mortgaged assets to ensure that the loans were utilized for port development activities.

2.1.12.6 Constitution of the Board

As per Section 3(4) of the MMB Act, the Board was to be constituted with seven official members and six non-official members having expertise in marine related issues. In January 2005, the GoM cancelled the appointment of all the non-official members, the reasons for which were not available on record. As a result, subsequent meetings of the Board were held without the non-official members. Non-appointment of non-official members for more than seven years denied MMB the benefits of the experience of non-official members from diverse fields.

MMB stated that the matter would be taken up with GoM for appointment of non-official members.

2.1.12.7 Indecision of the Board in construction of administrative building

MMB acquired a land admeasuring 2,981.18 sqm⁴¹ at Bandra-Kurla Complex, Mumbai from Mumbai Metropolitan Regional Development Authority (MMRDA) for constructing an administrative building. Lease premium of ₹ 27.41 crore was paid (September-December 2005) and the lease deed entered into in August 2006. However, despite a lapse of more than six years MMB failed to take concrete decision on construction of administrative building on the land acquired.

The delay in decision-making resulted in additional liability of ₹ 9.59 crore (35 *per cent* of ₹ 27.41 crore) towards additional lease premium⁴², apart from a recurring rental liability of ₹ 2.34 lakh per month on account of continued hiring of administrative office at Ballard Pier, Mumbai. Further, the indecision

⁴⁰ Valuation of inter tidal land transferred to Rewas Port Limited, valuation of land transferred to Dighi Port Limited, resolution of issues in Rewas Project before transfer of huge tracts of land, recovery of wharfage charges at concessional rates without ensuring the commercial operation of Redi and Dighi Port, review of IWT projects *etc.*

⁴¹ With maximum permissible built-up area of 6,450 sq m

⁴² As per clause 2 (e) of the lease deed entered into with MMRDA, MMB had to pay a penalty of 35 *per cent* of the lease premium (₹ 27.41 crore) to MMRDA on account of delay of two years in construction of administrative building on the acquired land beyond the total permissible time limit of four years

also resulted in huge increase in the cost of construction of administrative building from an estimated ₹ 10 crore in June 2005 to ₹ 100 crore in July 2009.

During exit conference, the CEO, MMB stated that the delay in construction of administrative building was on account of various permissions to be given by MMRDA itself and MMB was following it up with the Chief Minister, who is the chairman of MMRDA.

2.1.12.8 Internal Audit Wing

MMB had an Internal Audit Wing (IAW) under the control of Accounts Officer assisted by one Assistant Accounts Officer and one Assistant Port Supervisor. Since there was no sanctioned post for the IAW, MMB resolved (September 2010) to constitute a full fledged IAW and a proposal in this regard was forwarded (September 2010) to GoM for approval, which was pending as of March 2012. The internal audit of the different units of MMB was in arrears since 2008-09 which has been commented in the Separate Audit Reports on the accounts of MMB for the year 2008-11.

2.1.13 Conclusion

MMB did not formulate any long term plan for the development of ports and therefore, the development of port activities was done in an ad-hoc manner. MMB did not streamline the port development activities by identifying and prioritizing the projects for development through Public Private Partnership. MMB awarded the development of all the six ports without inviting competitive bids. Out of the six ports taken up under Public Private Partnership with envisaged cargo handling of 100.23 million tones per annum, only two ports having cargo handling capacity of 10.8 million tonnes per annum were operational as of December 2012. Seven out of eight inland water transport projects approved under the Centrally Sponsored Schemes during 2003-06 were incomplete/not started even as of December 2012. No objection certificates for sand extraction were issued in two districts where moratorium was in force. MMB did not take any action against the unregulated boat building activities. Regional Port Officers of MMB registered the vessels without certificate of survey issued by the Chief Surveyor-cum-Marine Engineer. There was shortfall in conduct of annual survey of vessels *vis-à-vis* total registered vessels. MMB did not follow the provisions of the Act while conducting examinations for competency certificate. The High Power Committee constituted by Government to review various port projects did not discuss vital issues related to valuation of land, extending concessional wharfage charges prior to commencement of commercial operation of the port, review of projects under IWT *etc.* in the meetings. There were vacancies in key posts and monitoring was lax. Non-levy and short-levy of fees/charges for various services rendered by MMB indicated weak internal controls. As of March 2012, there was huge surplus fund mainly due to unspent Government grants.

2.1.14 Recommendations

The Government may:

- Advise MMB to prepare a master plan for the development of ports and ensure transparency in selection of developers;

- Ensure that the terms of the concession agreements entered into with the developers of the ports projects under public private partnership are duly enforced;
- Ensure that MMB completes the long pending inland water projects in a time bound manner;
- Ensure that the no objection certificates for sand extraction are not given where moratorium has been imposed;
- Ensure that MMB follows the provisions of the Act while conducting examinations for competency certificate;
- Ensure that vacancies in crucial posts are filled up urgently; and
- Advise MMB to utilize the Government grants in a time bound manner.

The matter was referred to the Government in October 2012; their reply was awaited as of January 2013.

Housing Department

Maharashtra Housing and Area Development Authority

2.2 Mumbai Building Repairs and Reconstruction Board

Performance audit on the working of the Mumbai Building Repairs and Reconstruction Board (MBRRB), established in 1971 for repairs and reconstruction of old and dilapidated cessed buildings in Mumbai, was conducted with a view to assessing the impact of implementation of various programmes. Audit scrutiny revealed that repairs, reconstruction and redevelopment projects were implemented without adequate plan, resources and monitoring. As a result the pace of reconstruction of cessed buildings by the MBRRB was found to be slow. Some of the significant findings are highlighted below.

Highlights

The adequacy and integrity of surveys conducted by MBRRB for ascertaining the old and distressed cessed buildings requiring major repairs was suspect. There were 37 deaths and injury to 39 persons between 2008 and 2011 due to collapse of seven cessed buildings, even as these buildings were surveyed by the Board. MBRRB also did not have a prioritised list of cessed buildings which required immediate structural repairs as mandated by MHADA Act.

(Paragraphs 2.2.6.1 and 2.2.6.2)

At the end of March 2012, the arrears in collection of cess and short-remittances by MCGM and the State Government to MBRRB was pegged at ₹ 907.81 crore which crippled MBRRB's ability to undertake increased repairs and reconstruction works. Structural repairs to 3,187 buildings though identified were not sanctioned due to fund constraints.

(Paragraphs 2.2.7.1 and 2.2.8.1)

Redevelopment of 562 old cessed buildings undertaken by private developers under Development Control Regulations 33 (7) was delayed by one to 20 years from the date of issue of NOC by MBRRB. In two cases MBRRB sustained a loss of ₹ 2.05 crore on account of short-recovery of 652.28 sqm of built-up area from the developers.

(Paragraphs 2.2.8.3(a) and 2.2.8.3(b))

Of the 20,661 transit tenements held by MBRRB as of October 2012, 8,824 transit tenements (43 per cent) were encroached upon by unauthorised persons. MBRRB also did not succeed in freeing 323 reconstructed tenements from the trespassers even after time lapse of 14 years.

(Paragraph 2.2.8.5)

The system of internal controls in the Board was deficient for it did not provide the management with reasonable assurance that assets were

safeguarded against loss, transactions and program management activities were executed in compliance with laws and regulations and that exposure to errors and irregularities was minimum.

(Paragraph 2.2.8.7)

2.2.1 Introduction

In the island city of Mumbai there are many old buildings built before 1940 and the rents paid by the tenants were frozen at the 1940 rates as per Bombay Rents, Hotel and Lodging Houses Rates Control Act, 1947. Since landlords received very little rent they did not show interest in maintaining the buildings and many of them were on the verge of collapse. Therefore, the State took upon itself to repair and wherever necessary, reconstruct these buildings. For this purpose, the State Government established the Mumbai Building Repairs and Reconstruction Board (MBRRB) in 1971 under the Bombay Buildings Repairs and Reconstruction Act, 1969⁴³ for carrying out repairs or reconstruction of dangerous cessed buildings⁴⁴. With the enactment of Maharashtra Housing and Area Development (MHAD) Act, 1976 and the formation of Maharashtra Housing and Area Development Authority (MHADA) in 1977, the activities of the MBRRB were brought under a separate wing of Bombay Housing and Area Development Board. In November 1992, a separate MBRRB was created under MHADA for carrying out the following activities in respect of the cessed buildings:

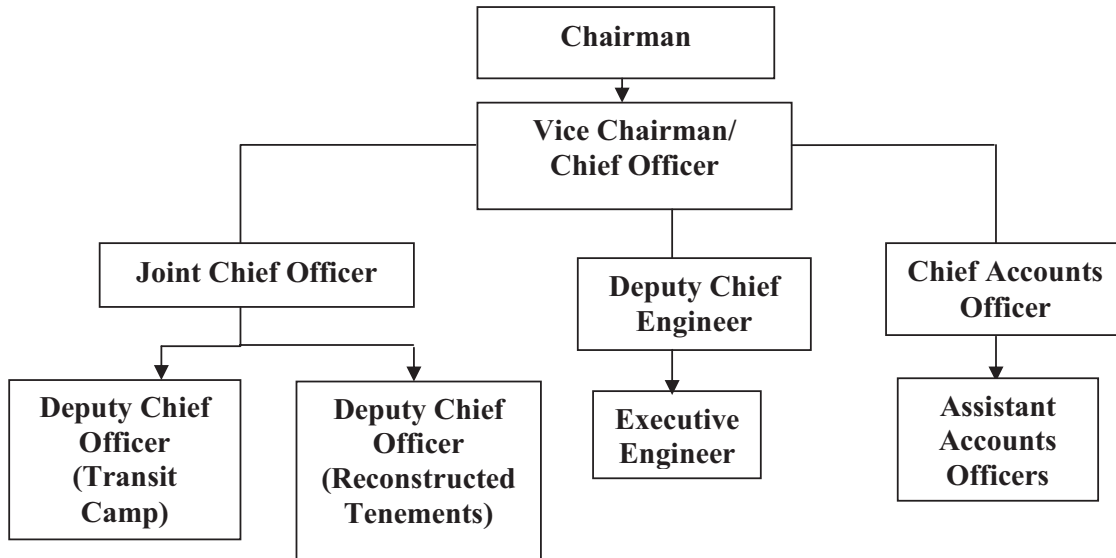
- Undertake and carry out structural repairs to the old and dilapidated buildings, without recovering any expenses from the owners or occupiers of such building;
- Provide temporary or alternative accommodation to the occupiers of any such buildings, when repairs are undertaken or a building collapses;
- Undertake, from time to time, the work of ordinary and tenantable repairs in respect of all the premises placed at the disposal of the Board;
- Move the State Government to acquire old and dilapidated buildings which are beyond repairs and to reconstruct or to get such buildings reconstructed;
- Issuance of 'No Objection Certificate' for redevelopment of old dilapidated building through private developers under Rule 33(7) of Development Control Regulation of 1991 (DCR); and
- Recover service charges from the tenants of transit camps and reconstructed tenements.

⁴³ The Act was replaced by MHADA Act, 1976

⁴⁴ A cessed building in Mumbai is one that was built before 1 September 1940 and up to 30 September 1969. Under Section 82 of the Maharashtra Housing and Area Development Act, 1976, a cess, known as the Mumbai Repairs and Reconstruction cess, is to be contributed by tenants of private buildings. It is a tax commonly referred to as the "repair fund"

2.2.2 Organisational setup

MBRRB is divided into four zones and 15 divisions. The organisational setup of MBRRB is as follows:



2.2.3 Audit objectives

The objectives of performance audit were to examine whether:

- planning was done properly to identify the dangerous buildings and requirement of repairs worked out effectively and efficiently;
- sufficient funds were available commensurate with planning;
- buildings taken up for reconstruction/repairs were completed as per plan;
- buildings taken up for redevelopment under DCR 33(7) were completed in time and eligible tenants were allotted tenement in the redeveloped buildings; and
- an effective monitoring and control system existed.

2.2.4 Audit criteria

The audit criteria used for the performance audit were:

- Provisions of MHADA Act, 1976;
- Development Control Rules, 1991;
- Government resolutions issued from time to time;
- Resolutions, circulars and orders issued by the MBRRB from time to time;
- Study group reports.

2.2.5 Scope and methodology of audit

The performance audit on the working of MBRRB was conducted during January 2012 to May 2012, covering the period 2007-08 to 2011-12. For this

purpose, records in Housing Department, Head office of MBRRB, two zones⁴⁵ (out of four zones) and five⁴⁶ divisions (out of 15 divisions) were selected on the basis of maximum number of cessed buildings. An entry conference was held on 29 March 2012 with the Principal Secretary, Housing Department, wherein the scope of audit, audit objectives and the audit criteria adopted for performance audit were discussed. Audit findings were discussed with the Principal Secretary, Housing Department in the exit conference held on 04 October 2012.

Audit Findings

The audit findings are discussed in the succeeding paragraphs.

2.2.6 Planning

A plan is a blueprint for goal achievement that specifies the necessary resource allocations, schedules, tasks, and other actions. Scrutiny in audit revealed the following deficiencies in planning:

2.2.6.1 Inadequate survey of buildings

The MBRRB conducts every year survey of cessed buildings to identify dangerous buildings as well as to ascertain the repairs to be carried out to cessed buildings. During such survey if any cessed building is found to be in a dilapidated condition and likely to collapse during monsoon then such building is declared dangerous and notice directing the occupants and the landlord to vacate the building is served. After carrying out structural repairs or reconstruction of such building the occupants are re-housed in the repaired or reconstructed building.

Audit scrutiny revealed that MBRRB was conducting survey of old and dilapidated buildings only by visual inspection to ascertain the distress/dangerous portion of the buildings.

MBRRB stated (October 2012) that most of the cessed buildings being composite and complex in nature, it was difficult to physically ascertain the deterioration or distress of structural members of the buildings. Therefore, there was no other option but to adopt the visual inspection methodology. During exit conference, the Deputy Chief Engineer, MBRRB informed (October 2012) that non-cooperation by tenants, existence of false ceiling in the cessed buildings, location of cessed buildings in narrow lanes *etc.*, were other practical reasons that confined the surveys to only by visual inspection.

While it is difficult to measure the efficacy of the survey methodology adopted by the Board, the fact that 37 deaths and injury to 39 persons between 2008 and 2011 due to collapse of seven cessed buildings, even after survey by the Board, is a pointer to inadequacies in the current system of survey.

2.2.6.2 Inadequate data on structurally weak cessed buildings

Sub-section (1) read with subsection (3) of section 88 of the MHADA Act mandates the MBRRB to undertake immediate structural repairs to those buildings which are reported to collapse, upon receipt of report of Municipal

⁴⁵ Zone II and IV

⁴⁶ Division I, II, III, F(North) and G (North)

Commissioner or its authorized officers. Sub-section (2) of section 88 of the Act further stipulates that MBRRB will prepare a list of cessed buildings that require immediate structural repairs in the order of priority, considering the degree of exigency and availability of resources.

However, MBRRB did not prepare any prioritised list of cessed buildings requiring immediate structural repairs. In the absence of priority list, it was not possible to verify whether the repair works were undertaken in order of priority as stipulated in the Act.

The Principal Secretary, Housing Department agreed in the exit conference that non-existence of priority list for carrying out repairs to the cessed buildings was a fact and an area of concern. The Principal Secretary further stated that there was a need to maintain transparency in notifying the norms, criteria and the principle followed in identification and prioritisation of repairs to the cessed buildings.

2.2.6.3 Absence of time bound plan for reconstruction and redevelopment of cessed buildings

As per the provisions of MHADA Act, where the whole building collapses or the building which cannot be repaired at a reasonable cost and rendered unfit for habitation, the MBRRB may, through the State Government, acquire such property and take further action to reconstruct new building on the site to accommodate the displaced occupiers and provide accommodation to the other tenants living in transit camp tenements based on seniority. Further, to accelerate the phase of reconstruction, State Government introduced (1984) the policy of allowing increased Floor Space Index (FSI)⁴⁷ for redevelopment of cessed building through participation of tenants and owner. Housing Policy of the State Government also emphasized (2007) reconstruction/redevelopment of old cessed building in order to provide better houses to the occupiers of the cessed buildings.

Audit, however, observed that MBRRB did not prepare any time bound plan or perspective plan for redevelopment of cessed buildings, indicating the broad nature of work to be done, resources required to do the works, time frame for repairs or reconstruction, mode of redevelopment - whether to be done on its own or through private developers. Consequently, out of 19,642 cessed buildings identified for reconstruction/redevelopment, MBRRB could reconstruct/redevelop merely 1,482 cessed buildings. Thus, the Board's objective to provide better dwelling units to the tenants of old and dilapidated buildings suffered due to absence of time bound plan for reconstruction and redevelopment.

MBRRB agreed that the percentage of reconstruction of buildings has reduced since 1999.

The reasons for poor performance in reconstruction and redevelopment are discussed in the succeeding paragraphs.

2.2.7 Financial management

The financial resources of the MBRRB comprise the following:

⁴⁷ The ratio of the total built-up area allowed to be constructed on the plot to the plot area

- Cess levied by the State Government and collected by the Municipal Corporation of Greater Mumbai (MCGM) from the owners of the cessed buildings, which is credited to the Bombay Repairs and Reconstruction Fund maintained by MBRRB;
- Annual grants/contributions made to the MBRRB by the State Government, MCGM and MHADA as per the provisions of the MHADA Act;
- Service charges recovered from the reconstructed tenements and transit camp tenements; and
- Other receipts on account of compensation, penalty, fines *etc.*

During 2007-12, the total receipts of the MBRRB from all sources aggregated to ₹ 655.72 crore and the expenditure was ₹ 701.84 crore.

2.2.7.1 Arrears in collection of cess

The responsibility for collection of repair and reconstruction cess, as per the provision of the MHADA Act, is entrusted to MCGM. The cess so recovered is to be remitted⁴⁸ to State Government within 15 days from the date of collection for further remittance to MBRRB. Further, the State Government is also required to contribute to MBRRB an amount equal to the amount recovered as cess by MCGM.

There was shortfall in remittances by MCGM to the State Government, shortfall in remittances by the State Government to MBRRB as well as short remittance of State Government's share to MBRRB, as indicated in the **Table 1** below:

Table 1: Statement showing amount of cess pending recovery from Government

(₹ in crore)									
Year	Cess to be remitted ⁵ to Govt. by MCGM	Cess credited to Govt. by MCGM	Amount of Cess not credited to Govt.	Amount of cess passed on to MBRRB by Govt.	Amount of cess retained by Govt.	Grant due from Govt. equal to cess recovered by MCGM	Actual Govt. grant to MBRRB	Balance contribution pending from Govt.	Amount of cess as well as contribution pending from Govt.
1	2	3	4 (2-3)	5	6 [3-5]	7	8	9 (7-8)	10 (6+9)
1997-07	382.24	382.24	Nil	279.76	102.48	402.36	357.13	45.23	147.71
2007-08	43.95	0.79	43.16	44.08	(-)43.29	46.26	38.00	8.26	(-)35.03
2008-09	43.41	21.54	21.87	22.30	(-)0.76	45.70	38.00	7.70	6.94
2009-10	74.33	60.64	13.69	46.55	14.09	78.24	38.00	40.24	54.33
2010-11	39.49	54.39	(-) 14.90	68.28	(-)13.89	41.57	38.00	3.57	(-)10.32
2011-12	57.97	63.28	(-)5.29	41.90	21.38	61.02	34.20	26.82	48.20
Total*	641.39	582.88	58.53	502.87	80.01	675.15	543.33	131.82	211.83

*Note: Does not include amount prior to 1997; Source: Data collected from Accounts Officer, MBRRB

At the end of March 2011, an amount of ₹ 637.45 crore was pending recovery towards repair cess to be collected from the tenants of dilapidated buildings by MCGM from 1997. More than 51 per cent of the arrears (₹ 326.18 crore) related to the period prior to 2007-08.

⁴⁸ The amount of cess to be remitted was after adjusting five per cent towards cost of collection by MCGM

Thus, the arrears in collection of cess and short remittances by MCGM as well as State Government worked out to ₹ 907.81⁴⁹ crore which impacted the finances of MBRRB and its ability to undertake the repairs and reconstruction works. This was demonstrated by the fact that against 7,736 buildings identified for structural repairs, estimates for only 4,549 repairs works were sanctioned, of which, repairs to 3,083 buildings were taken up during 2007-12 due to shortage of funds with the MBRRB. Further, the accounts of MBRRB did not depict the receivables from Government.

MBRRB accepted the facts and stated that the Government is being requested to give directions to MCGM for direct remittance of amount recovered by it to MHADA rather than through the Government.

2.2.7.2 Poor recovery of rent and service charges

The expenditure incurred by MBRRB towards payment of water charges, electricity charges, cost of sanitation, operation of water pumps *etc.*, in respect of reconstructed buildings was recoverable as service charges from the tenants. MBRRB also allots transit tenements to developers to accommodate project affected persons temporarily. Conditions regulating allotment of transit camps to developers *inter alia* required the developers to pay one year rent⁵⁰ in advance and three months' rent as earnest money deposit to MBRRB. Penalty was also leviable in case the developer failed to return the transit camp tenements within the prescribed time.

During 2007-12, MBRRB assessed service charges and rent to the extent of ₹ 121.75 crore, against which, the amount recovered was only ₹ 64.29 crore (53 *per cent*). The arrears of service charges and rent as on March 2012 stood at ₹ 57.46 crore. Out of the total arrears, an amount of ₹ 24.12 crore was pending recovery as of August 2012 from the 24 developers to whom 1,125 transit tenements were allotted between 1997 and 2011 (**Appendix 2.2.1**). The MBRRB neither fixed any recovery targets nor maintained any records to keep track on recoveries or initiated any action for surrender of tenements for non-payment of service charges.

MBRRB stated that notices had been issued to all the developers to make payment of outstanding dues within seven days and surrender the allotted tenements, since the allotment periods were already over. MBRRB added that the Housing Department had also been requested to instruct the concerned development authorities⁵¹ to initiate action against the developers for non-payment of dues and non-surrender of tenements.

2.2.8 Implementation of repair and reconstruction works

2.2.8.1 Delay in execution of structural repair works

The structural repairs works to the cessed buildings were carried out by MBRRB at the Permissible Cost Limit⁵² (PCL) of ₹ 1,200 per sqm from

⁴⁹ ₹ 637.45 crore + ₹ 58.53 crore + ₹ 211.83 crore = ₹ 907.81 crore

⁵⁰ Rent was recoverable from the developers whereas service charges were recoverable from the tenants

⁵¹ Municipal Corporation of Greater Mumbai and Slum Rehabilitation Authority

⁵² It is the ceiling limit of the cost of the structural repairs per sqm as may be specified by the State Government by notification in the official gazette

March 2004 to September 2008 and at ₹ 2,000 per sqm thereafter. Cost exceeding the ceiling limit was to be borne by the occupiers of the building.

Though MBRRB in the survey conducted during 2007-12 identified 7,736 cessed buildings for structural repairs, yet only 4,549 buildings were sanctioned for structural repairs. Structural repairs to the remaining 3,187 buildings were, however, not sanctioned due to fund constraints. Further, of the 4,549 buildings sanctioned for structural repairs, works in respect of 1,466 buildings were not taken up due to fund constraints and non-cooperation by tenants.

Scrutiny of monthly progress reports prepared by the five test-checked divisions revealed that repair works of 1,223 buildings though sanctioned were yet to commence (March 2012). In three divisions⁵³, 707 structural repair works were pending due to non-conducting of first joint inspection⁵⁴, non-receipt of plans and estimates from architect, non-payment of excess amount over PCL by the tenants, non-finalisation of agency for undertaking the repair works *etc.* The reasons for pendency of repairs in the remaining 516 buildings were not indicated in the monthly progress reports in two divisions⁵⁵. None of the divisions had maintained any records showing the year wise pendency of the cases. Further, the monthly progress report submitted by the divisions to MBRRB head office did not show the position of work sanctioned but not taken up, in order to enable the management to take appropriate decision in the matter.

MBRRB attributed the pendency of structural repairs of 516 buildings to lack of resources, non-cooperation of occupants of cessed buildings and their reluctance to pay repair cost beyond the PCL. MBRRB added that all the wards in the respective divisions were now maintaining an updated list of buildings pending for repairs.

2.2.8.2 Delay in reconstruction of dilapidated cessed building

The MBRRB identified 2,360 cessed buildings for reconstruction till March 2012, of which, reconstruction proposals in respect of only 1,326 buildings were processed. However, reconstruction of only 941 out 1,326 proposed buildings was completed. Of the remaining 385 processed cases, 295 cases were found not feasible due to narrow plots, reserved plots *etc.*, in 31 cases the work was in progress while in 59 cases the building proposals were pending at various level *viz.*, Collectors, MCGM *etc.* Out of 59 pending cases, 16 cases (27 *per cent*) were pending with MCGM for approval of plans. The MBRRB did not establish any mechanism for speedy clearance of proposals pending with MCGM despite the fact that the buildings in question were dilapidated cessed structures.

No contracts were awarded by the MBRRB for the reconstruction of the buildings during the period 2007-12. However, based on the reconstruction work taken up prior to 2007-08, the MBRRB had fixed yearly targets for the reconstruction of tenements. As against the target of 1,173 tenements fixed

⁵³ Division I, II and II

⁵⁴ Inspection of buildings conducted by concerned Engineer and Architect appointed for the buildings for preparation of repair estimates

⁵⁵ G (North) and F (North)

for reconstruction during 2007-12, the MBRRB completed reconstruction of only 234 tenements as shown in the **Table 2** below.

Table 2: Statement showing targets and achievements for reconstruction of tenements

Particulars	2007-08	2008-09	2009-10	2010-11	2011-12	Total
Target fixed	490	177	486	Nil	20	1173
Target achieved	Nil	177	39	Nil	18	234

Delay in reconstruction of dilapidated cessed buildings and shortfalls in meeting the targets displaced 7,872 inhabitants from the cessed buildings, who continued to occupy the transit camps for period ranging from one year to over 25 years as of March 2012.

MBRRB stated that all the cessed buildings which are declared dangerous are subsequently acquired by the Board and thus, become actionable for reconstruction by it. However, the targets remained unachieved due to court cases, dispute between owners and tenants, delay in vacating old buildings by the occupiers *etc.*, which were beyond its control. MBRRB further added that all the Deputy Chief Engineers of the zone have been directed to review the progress of the approvals of the plans for reconstruction quarterly and submit the status to the Chief Officer.

The fact remained that delays in execution of structural repair works and reconstruction of dilapidated cessed buildings puts the lives of the inhabitants in jeopardy. Huge pendency only demonstrated the inability of the MBRRB to put in place robust and workable systems and procedures for reconstruction of old cessed buildings.

2.2.8.3 Redevelopment of cessed buildings

Considering the slow pace of reconstruction of cessed buildings by the Board, the Government felt that the pace of redevelopment could be increased with the participation of landlords, tenants and private developers. With this in view, the Government framed the Development Control Regulations (DCR), 1991 for Mumbai. Regulation 33(7) of the DCR permitted redevelopment of old and dilapidated cessed buildings by the cooperative housing societies in collaboration with private developers.

The audit findings on test check of 66 redevelopment cases at random out of 283 cases sanctioned by MBRRB under rule 33(7) of DCR are discussed in the succeeding paragraph.

(a) Delay in redevelopment of cessed buildings by private developers

Though incentive/additional FSI was provided under DCR, only 553 buildings were redeveloped out of 19,642 cessed building as of March 2012. Redevelopment in respect of 562 buildings was under execution as of March 2012. However, delay in the redevelopment of these cessed buildings from the date of issue of no objection certificate (NOC)⁵⁶ by MBRRB ranged from one year to 20 years as indicated in **Table 3** below.

⁵⁶ NOC is issued by MBRRB after fulfilment of a number of conditions which *inter alia* included a stipulation to complete the redevelopment works for rehabilitation of old occupiers within 30 months from the date of issue of NOC

Table 3: Delay in redevelopment of cessed buildings by private developers

Delay (in years)	More than 20	15-20	10-15	5-10	1-5	Total
Number of buildings under redevelopment	1	42	99	148	272	562

MBRRB stated that there were several reasons for delay in execution of development works undertaken under NOC by private developers. Significant among them were non-cooperation and litigation cases filed by the unwilling/non-participating tenants, delay in accord of approval by various agencies viz., MCGM, environmental committee, CRZ committee, Heritage committee etc. Further, during the period 2006-2010 (four years), there was a cap on FSI and several other restrictions imposed by the Court, leading to delay in implementation of schemes under DCR 33(7). MMB further stated that NOC holders (private developers) who have not commenced work even after five years are being issued show cause notices.

Delay in redevelopment of cessed buildings not only deprived the benefits of redevelopment to the tenants but also delayed the availability of the surplus built-up area⁵⁷ (BUA) to MBRRB which was required to be surrendered by the developers as per third schedule of section 103-I (3) of MHADA Act. The scales showing the percentage of BUA to be reserved for the Board by the developers are indicated in **Appendix 2.2.2**. Audit observed that the surplus area in respect of 231⁵⁸ out of 283 redevelopment cases sanctioned under rule 33(7) of DCR, which were delayed beyond 30 months from the date of issue of NOC, worked out to 7,22,974.61 sq ft which could have facilitated shifting of 2,410⁵⁹ tenants from the transit camps.

As per NOCs issued for redevelopment, the developers were required to submit progress reports of redevelopment works to the Executive Engineer, and upon completion of construction, a joint inspection of the buildings was required to be carried out by MBRRB and MCGM officials. However, in none of the 66 redevelopment cases test-checked, progress reports were submitted by the developers. Further, in none of the cases, construction activities were supervised by MBRRB and MCGM officials, indicating lack of monitoring.

Audit further observed that MBRRB lodged FIR in 29 cases due to non-surrender of surplus BUA by the developers. In six out of 66 cases test-checked (**Appendix 2.2.3**), there was delay of 33 to 108 months in lodging FIRs against the defaulters from the dates of detection of unauthorised occupancy by the Board.

MBRRB accepted that there were delays in surrendering of surplus area by the NOC holders/developers. However, in order to safeguard its interest, it has now been made mandatory for the NOC holders/developers to execute a registered agreement with MHADA for surrender of surplus area, before issue of commencement certificate by MCGM. Now, all the schemes in which surplus area is required to be surrendered are closely monitored at ward level

⁵⁷ Residual area left after accommodating the old cessed occupiers in the redeveloped building as per their entitlement

⁵⁸ For the period from 1987 to 2008, considering rehabilitation of old occupiers within 30 months from the date of issue of NOC for redevelopment

⁵⁹ Number of tenants who could have been re-accommodated considering a minimum area of 300 sq ft per tenement = 7,22,974.61 sq ft ÷ 300 sq ft per tenement

and reviewed periodically. MBRRB added that criminal action against 29 defaulting builders had already been initiated; as a result, some of the builders have surrendered the surplus area.

(b) Short-recovery of surplus built-up area from developers

As per instructions issued by the Housing and Special Assistance Department in January 1989 (and reiterated in July 1991), a developer would not be allowed to have commercial or non-residential area more than what was available in the old and demolished building. In other words, for a building to be reconstructed with FSI 2.00, there would be no surplus accruing to the developer in commercial area, though the building may be having mixed use *i.e.*, residential and commercial. In such a situation, the entire building would be treated as residential and the surplus to be shared by the Housing Board would be worked out on the basis of residential use only, as per column 3 and 4 of the third schedule of section 103-I (3) of MHADA Act (**Appendix 2.2.2**).

Audit observed that in redevelopment of two cessed buildings, the Board allowed the developers final BUA of 3,722.25 sqm and 111.41 sqm respectively, against the BUA of 46.84 sqm and 'nil' sqm originally available in the old building for commercial use. Even as the commercial or non-residential area was significantly more than what was available in the old building, the building was treated as residential and the reservation of surplus area was worked out on the basis of residential use, instead of mixed use, as per column 1 and 2 of the third schedule of section 103-I (3) of MHADA Act. This led to short-recovery of 652.28 sqm of BUA from the developers and resultant loss of ₹ 2.05 crore to MBRRB (**Appendix 2.2.4**).

MBRRB invited reference to Department's letter of July 1991 and reiterated that the entire building should be treated as residential and the surplus BUA should be worked out on the basis of the column 3 and 4 of the third schedule of the MHADA Act, 1976. It further stated that there should be no occasion to apply column 1 and 2 of the third schedule so far as the reconstructed buildings with FSI 2.00 are concerned.

The reply is not acceptable as the Department's letter of July 1991 provides for application of column 3 and 4 of third schedule only for those redeveloped buildings where the final BUA for commercial use is equivalent to the original BUA. However, in cases where the final BUA is significantly more than the original BUA, column 1 and 2 of third schedule will invariably apply.

(c) Irregular acceptance of compensation in-lieu of surplus built-up area

The MHADA Act does not provide for receipt of cash compensation from the developers in lieu of surrender of surplus BUA. However, in contravention of the Act, MBRRB accepted (August 2009) compensation of ₹ 18.69 crore from a developer in-lieu of surrender of surplus BUA of 771.44 sqm in respect of redevelopment of a cessed property⁶⁰. Though this exception was made with the approval of the Principal Secretary, Housing Department in June 2009, it vitiated the underlying objective of utilizing the surplus BUA received from

⁶⁰ Survey no 114; situated in Walkeshwar

the redevelopment schemes to re-house the occupants of other cessed and demolished buildings.

Further, parking spaces are to be provided wherever a property is developed or redeveloped as per scales laid down in Table No.15 under rule 36 of DCR. In the instant case, it was noticed that though MBRRB accepted compensation on the surplus area from the developer, it did not recover a compensation of ₹ 2.33 crore on account of 28 parking lots.

2.2.8.4 Improper maintenance of the master list

Section 90 and 91 of MHADA Act stipulate provision of transit camps to the occupants of old buildings pending completion of structural repairs or reconstruction of old buildings which suddenly collapse or become uninhabitable. The Act further provides for a master list of persons accommodated in transit camps to be maintained by MBRRB indicating the name of the occupier, name of the building from which the occupier was dis-housed, name of the transit camp, date of occupation of transit camp, *etc.* for determining the seniority of allotment in any transit camp. Audit observed that the master list prepared by the MBRRB did not indicate the area occupied by the tenants in the old cessed buildings, thus, failing to ensure that the allotments made in the transit camps were based on the area occupied earlier.

The MHADA Act also stipulated that the occupants of the cessed building who declined accommodation in transit camp had the right for accommodation in the new building free of cost with an area not less than or equal to the area occupied by them in the old building. However, MBRRB neither included the names of such persons in the master list who declined accommodation in the transit camps nor any separate list maintained to ensure that such persons were allotted tenements in the new buildings as per seniority to safe guard their interest. The sanctity of the master list was lost as allotment of surplus tenements in the reconstructed/redeveloped buildings was done in a haphazard manner. Audit observed that MBRRB allotted 175 tenements between 1996 and 2012 to tenants who had vacated their buildings between 1970 and 1991, while 89 tenants who had vacated their buildings upto the year 1975 were awaiting allotment.

Further, there was no system in place to update the master list from time to time. MBRRB conducted a special drive from January 2010 to March 2010 to update the master list. Out of 11,048 applications received by MBRRB, 3,315 applications were rejected due to failure of tenants to furnish the documents of cessed building from where they were dislocated. MBRRB formed (September 2010) four committees to conduct hearing of the remaining 7,733 tenants. These committees after hearing 4,936 applicants (between September 2010 and June 2011) found that only 970 tenants were eligible for inclusion in the master list. No hearing was done after June 2011 despite pendency of 2,797 applications. Lack of drive to update/validate the master list, which was a vital document to ensure transparency and equity in allotment, rendered the task of identification of unauthorized occupants in transit camps difficult, as discussed in paragraph 2.2.8.5 below.

While accepting the facts, MBRRB stated that in some cases the area of old cessed buildings was not available on record. In such cases, the tenants were

eligible for minimum of 300 sq ft of area. MBRRB further stated that as per policy decision taken in March 2011, the allotment of permanent alternate accommodation was being made solely on the basis of seniority and entitlement of the tenant/occupant. A massive computerization drive was also stated to have been undertaken and 35,000 allotment files were being scanned and exhaustive data was being entered in the software. MBRRB added that hearing of the remaining 2,797 applicants would be conducted in next two months after verification of those found eligible and a list of such tenants would be uploaded on the website.

2.2.8.5 Unauthorized encroachment in transit camp tenements/reconstructed tenements

As of October 2012, MBRRB maintained 20,661 transit tenements at various places in Mumbai. The unauthorized occupancy in transit tenements, which was merely 1,700 in 1997, shot up to 8,824 in October 2012. Though the Act empowered MBRRB to evict unauthorized occupants, eviction notices were issued only in 4,153 cases. Speaking orders were issued in 1,305 cases, out of which, 342 unauthorized occupants could finally be evicted. Thus, MBRRB could evict only four *per cent* of the unauthorized occupants as of October 2012. Scrutiny of records in five test checked divisions further revealed that regular supervision/surprise checks of transit camps were not conducted which led to unauthorized occupation of 5,135 out of 10,463 transit *tenements* (49 *per cent*) in the five divisions.

In 1998, MBRRB noticed trespassing in 323 reconstructed tenements. These tenements were purchased by the trespassers through agents or by obtaining bogus allotment orders from MBRRB. A High Power Committee established (May 2000) by MHADA to take decision on the matter, recommended regularisation of all the trespassed tenements. Though the process of regularisation was set in motion in October 2003, it was not accepted by the Government (March 2006) on the ground that it contravened the MHADA Act and Regulation⁶¹. The State Government after time lapse of more than four years eventually directed (August 2010) to take eviction action against 323 trespassers. Accordingly, the Deputy Chief Officer (Reconstructed Tenements) directed (June 2011) all the Executive Engineers concerned to initiate action for eviction. However, even as of October 2012, the Board did not succeed in freeing any of the 323 reconstructed tenements from the trespassers.

Unauthorised encroachment in 8,824 out of 20,661 transit tenements (43 *per cent*) was a matter of grave concern and indicated lack of internal controls in the Department in safeguarding the assets.

MBRRB admitted that there had been unauthorised encroachment in transit camps since inception. The transit camps were scattered at various places and the manpower for management of transit accommodations was limited and insufficient. It further stated that records of allotment of transit camps to the extent of 23,000 files have been computerised. During exit conference,

⁶¹ Section 95A(3) of MHADA Act and Regulation states that any person occupying any premises, land, building or structure of the Board unauthorisedly or without specific written permission of the Board in this behalf shall be liable for summary eviction

Principal Secretary, Housing Department also admitted that unauthorized occupancy has become a nuisance for the Board.

2.2.8.6 Delay in allotment of vacant surplus tenements

The MBRRB received surplus tenements from developers after redevelopment of cessed buildings under DCR 33 (7) as well as through reconstructed cessed buildings under MHADA Act. The tenements so received were meant for re-housing the displaced tenants of cessed buildings as per seniority in the master list. Audit observed that as of October 2012, 627⁶² tenements were lying vacant over a period of 20 years.

MBRRB stated that of the 627 tenements, 63 and 51 tenements having an area of less than 225 sq ft and more than 750 sq ft respectively have been transferred to the Mumbai Housing and Area Development Board, 92 tenements were being allotted to the tenants in the master list, while the remaining 421 tenements were in the process of being allotted through advertisement.

The fact remained that delay in allotment of vacant surplus tenements deprived rehabilitation of the displaced tenants of cessed buildings for significantly long period.

2.2.8.7 Internal control and monitoring

(a) Internal controls

The objectives of a system of internal control are to provide management with reasonable assurance that assets are safeguarded against loss, transaction and program management activities are executed in compliance with laws and regulations, and that exposure to errors and irregularities are minimum. The system of internal controls in the Board was deficient, as indicated below:

- Important records such as priority list of buildings requiring immediate structural repairs was not maintained and the master list of persons accommodated in transit camps from a cessed building was not updated;
- There was no system of carrying out regular supervision/surprise checks of tenements to detect and prevent unauthorised occupation;
- Receipt of monthly progress reports from developers was not ensured and periodical inspections were not conducted to ensure timely completion of repair and reconstruction works;
- The correctness of BUA to be surrendered by the developers was not ensured leading to undue benefit to developers; and
- An internal audit wing, which is part of internal control mechanism and helps the organisation identify the system defects, was not established.

MBRRB stated that as part of e-MHADA, software has already been developed in order to bring transparency and efficiency in the working of the Board. Complete database of cessed buildings having 38 fields has also been

⁶² 285 surplus tenements received from the developers and 342 tenements from the reconstructed buildings

prepared and presented in GIS platform, which will be available to public on the website of MHADA shortly. For periodical review of redevelopment, reconstruction, allotment, NOC *etc.*, detailed management information system has been put in place. On setting up an internal audit wing, the Board stated that the necessary structure and responsibility would be reviewed by a forum of experienced officials within the Board.

(b) Monitoring

The Board of MBRRB consisted of a Chairman and not less than 17 other members including a Vice Chairman and at least three other official members from MHADA. Though the term of office of the Board expired in October 2011, the State Government did not reconstitute the Board resulting in non-holding of Board meetings to monitor the key activities.

All the divisions submitted monthly progress report to their respective Deputy Chief Engineer heading the circle office, for further submission to the Board for monitoring. A test check of monthly progress reports rendered by the divisions revealed that there was no uniformity in the format used for reporting. Though the divisions submitted the details of number of pending repair cases, in none of the reports the period since the works were pending were mentioned. This information was also not available with the divisions. The reports submitted to the Board without age-wise break up of pending works, thus, served no useful purpose in decision-making.

During the period 2007-12, the vigilance and quality control cell of MHADA issued 664 observations to various divisions on quality of repairs and reconstruction works. Of these observations, only 317 observations were complied with.

MBRRB stated that uniform reporting formats have now been issued to all the Executive Engineers of the divisions and the responsibility for ensuring timely submission of reports, its correctness and monitoring have been entrusted to the Deputy Chief Engineers. MBRRB further stated that all the division-in-charge have been instructed to furnish compliance to the observations raised by the vigilance and quality control cell, before December 2012. The monitoring mechanism has also been made more effective through quarterly review.

2.2.9 Conclusion

Despite the fact that MBRRB came into existence in 1971, the pace of repairs and reconstruction/redevelopment of old cessed buildings undertaken by it had been sluggish. Out of 19,642 cess buildings identified, MBRRB reconstructed/redeveloped only 1,482 cessed buildings. The planning was deficient in the absence of priority list of cessed buildings which required structural repairs and lack of time bound plans for reconstruction and redevelopment. The poor recovery of cess and service charges had an impact on the finances of MBRRB thereby impeding its ability to carry out repairs and reconstruction works. Delays in the reconstruction and redevelopment of cessed buildings and consequent shortfalls in meeting the targets on one hand led to dislocation of 7,872 tenants from the cessed buildings who continued to occupy the transit tenements for period ranging from one year to over 25 years, while on the other hand, 627 surplus tenements received from

developers were lying vacant for more than 20 years without allotment. The shortfall in built-up area to be surrendered by the developers to MBRRB, lack of supervision/inspections of tenements to prevent unauthorised encroachments, which stood at a staggering 43 *per cent*, indicated inadequate internal controls in the Housing Department in safeguarding the assets. The master list of persons accommodated in transit camps was not adequately maintained to ensure transparency and equity in allotment.

2.2.10 Recommendations

The Government may :

- Review the adequacy and integrity of surveys conducted by MBRRB while detecting old and dangerous buildings;
- Evolve a transparent policy and criteria for prioritising the repairs of cessed buildings;
- Streamline the planning process in order to ensure that reconstruction and redevelopment of cessed buildings are completed within a fixed time frame;
- Ensure that cess collected and remitted to the Government by MCGM is full and prompt and the Government also releases the matching grants;
- Evolve a sound monitoring and inspection mechanism for effective implementation of NOC conditions in redevelopment of cessed buildings; and
- Take strict and adequate measures for eviction of unauthorised persons from transit camps and reconstructed tenements and fix responsibility against the erring officials.

The matter was referred to the Government in August 2012. The reply furnished by MBRRB was endorsed by the Government in October 2012.