CHAPTER - III

Compliance Audit Observations

Important audit findings noticed as a result of test check of transactions of the State Government companies are included in this Chapter.

Electronics Corporation of Tamil Nadu Limited

3.1 Establishment of Information Technology specific Special Economic Zone

Introduction

3.1.1 The Special Economic Zone (SEZ) scheme was introduced (April 2000) by the Government of India (GOI) with the objectives of providing Internationally Competitive Environment for earning foreign exchange, attracting Foreign Direct Investment and generating direct and indirect employment. With the growing importance of SEZs throughout the Country, the State Government accorded (August 2006) permission to Electronics Corporation of Tamil Nadu Limited (Company) to establish Information Technology (IT) specific SEZs in Chennai and Tier-II[29] cities. Accordingly, the Company took up establishment of eight[30] SEZs and so far (March 2013) incurred ₹399.27 crore on these SEZ projects. The investment included ₹65.03 crore of GOI's Assistance to States for Development of Export Infrastructure and Allied Activities (ASIDE)[31].

Scope of audit

3.1.2 The status of completion of SEZs and allotments made to the IT entrepreneurs from the SEZ as on March 2013 is given in **Annexure-15**.

From the Annexure, it could be seen that SEZs established in eight locations with an investment of ₹399.27 crore largely remained idle defeating the objective of formation of SEZs in these areas as was evident from the fact that the percentage of allotment ranged from 6 to 42 (except in Sholinganallur). To assess the efficiency of the Company in forming the SEZs and to analyse the reasons for low occupancy, Audit conducted a study of seven out of eight SEZs (except the SEZ at Hosur) during May to July 2013. Audit findings are discussed below:

---

[29] These include Madurai, Trichy, Coimbatore, Tirunelveli and Salem.

[30] Chennai (Sholinganallur), Tirunelveli, Madurai (two), Coimbatore, Trichy, Salem and Hosur.

[31] ASIDE grant is sanctioned by GOI through State nodal agency for export oriented infrastructure projects.

Audit Findings

Planning

3.1.3 Planning of SEZ is a vital pre-operative role which facilitates arranging activities in a phased manner by the developers of the SEZ. However, the Company's planning in formulation of SEZs was deficient as detailed below:

Selection of correct location of SEZ

3.1.4 As per the consultant, the IT companies prefer SEZs which are well connected with Highways and have the feasibility of providing basic infrastructure such as water, power, *etc*. This could be ensured by conducting feasibility studies before commencement of projects. However, Audit noticed that:

- Out of seven SEZ projects test checked, the Company did not prepare feasibility studies for SEZs in Madurai, Salem and Tirunelveli.
- The unproductive investments in SEZs at Tirunelveli and Salem, which were located in rocky and mining areas had already been commented in the earlier Reports of the Comptroller and Auditor General of India for the year ended 31 March 2010 and 2011 (Commercial) – Government of Tamil Nadu, respectively. In respect of the SEZ at Madurai – Vadapalanji, the land was divided into two parts without any connectivity due to existence of railway line between the land which became a bottleneck for marketing of plots in these SEZs (discussed *vide* Paragraph 3.1.11).
- Though the feasibility study for the SEZ at Trichy indicated that it was predominantly a residential city and not an ideal second generation IT destination, the Company went ahead with the construction of an IT park without the strategy for marketing of the plots. This deficiency had affected the marketability of the SEZ in that the occupancy was only 18 *per cent* of the available space (61,126 sq.ft.) even after two years of completion of the IT park building in this SEZ in February 2011.

Absence of Detailed Project Reports

3.1.5 As per the guidelines of ASIDE, the Company should prepare DPR before implementation of SEZ. Audit noticed that:

- In respect of six out of seven SEZ projects (excepting Trichy) test checked, the Company first issued (July 2007 to August 2009) tender notices and awarded contracts for execution of common infrastructure and IT buildings without any DPR. Later, it issued (April to October 2009) work orders for preparation of DPR which violated the guidelines of ASIDE.
- As per the State Government's instructions (December 1996 and May 1997) for any investment above ₹two crore, clearance by the Project Investment Committee (PIC) of Government of Tamil Nadu is mandatory. Even though the Company addressed (August 2008) the Government for clearance of project investments in respect of all the seven projects test checked, no clearance was issued by the Government till date (December

2013). Consequently, these seven projects which involved an investment of ₹390.34 crore were implemented by the Company without PIC's approval.

Land Alienation/Acquisition

3.1.6 During implementation of SEZ projects, the Company acquired 1,588.13 acres of land through Government alienation/allotment at a cost of ₹226.76 crore. Scrutiny of the land acquisition files of seven SEZs test checked indicated that:

- Though the Company had surplus funds ranging from ₹159 crore to ₹221.51 crore during 2007-09**,** it delayed payment of land cost of ₹23 crore to State Industries Promotion Corporation of Tamil Nadu Limited (SIPCOT) (being the seller of the land) up to 272 days (from 16 October 2007 to 13 July 2008) resulting in payment of avoidable interest of ₹0.54 crore[32] for lands acquired in Tirunelveli.
- The conditions for payment of cost (₹37.93 crore) of 26.77 acres of land taken over (during 2006-07) from the Government for formation of SEZ, Coimbatore provided for payment of interest at 12 *per cent per annum* from the date of takeover up to the date of payment of the land cost. However, the Company did not pay both the land cost and interest till date (December 2013) but sought (2006-07) for waiver of interest from the Government. As the waiver proposal was not accepted by the Government till date (December 2013), the Company is facing a liability towards 12 *per cent* interest amounting to ₹27.31 crore.
- In respect of the SEZ Trichy, the Company paid ₹24.03 crore for alienation (January/March 2007) of 147.61 acres of Government land. But, the actual measurement of the land during re-survey (October 2008) was only 141.78 acres resulting in overpayment of ₹93.98 lakh for 5.83 acres of land, which matter was yet (December 2013) to be resolved by the Company.
- In respect of SEZ, Illandhaikulam (Madurai), the Company was yet (December 2013) to pay the agreed (November 2006) amount of ₹1.01 crore to Hindu Religious & Charitable Endowment (HR&CE) Department for 7.14 acres of temple land acquired by it. Further delay in making payment would result in avoidable payment of interest and non-transfer of title deeds in favour of the Company.

Execution of SEZ projects

3.1.7 In seven SEZ projects test checked, the Company created common infrastructure facilities such as roads, water, sewerage, *etc*., at a cost of ₹122.03 crore and constructed IT Park buildings in three SEZs at a cost of ₹43.29 crore through private contractors. The project facilities were completed in six out of seven projects and the remaining project at Salem was under progress till date (December 2013). These projects have already suffered time overrun of 5 to 42 months (up to December 2013). The status of

---

32 Worked out at five *per cent per annum* being the difference between the interest of 15.5 *per cent* paid and the average interest of 10.5 *per cent per annum* earned on fixed deposit.

the projects executed is furnished in **Annexure-16**. Audit analysis of the contract management of seven SEZ projects test checked indicated the following:

Creation of Common Infrastructure facilities

3.1.8 In respect of Sholinganallur and Coimbatore projects, the estimated cost prepared (July/August 2007) by the consultant was ₹26.44 crore and ₹11.90 crore respectively. Against these estimates, the awarded cost to the lowest bidders was ₹34.62 crore and ₹19.05 crore, which was in excess of the estimated cost by 31 and 60 *per cent* respectively. Subsequently, the estimates were revised (December 2007) based on schedule of rates of 2007-08 and the tender excesses were scaled down to 13.15 *per cent* (Sholinganallur) and 11.14 *per cent* (Coimbatore) by the consultant. The BOD, while reviewing (January 2008) these awards directed formation of sub-committees to ensure the correctness of the offered rates of lowest bidders. However, the sub-committees were neither formed nor the reasons for such non-formation of the sub-committee recorded. Audit observed that the estimates were prepared by the consultant in July/August 2007 and the quotations received from the bidders were evaluated and contracts were awarded in November 2007. Therefore, recasting of estimates in December 2007 after award of contract was not in order.

3.1.9 In respect of SEZ Tirunelveli, the land cost of ₹23 crore for take over of 500 acres of land from SIPCOT included development charges amounting to ₹22.25 crore. As per the terms of allotment, SIPCOT had to develop the land allotted to the Company in a phased manner for which the above development charges was paid. However, the Company, after taking over (April and July 2007) the barren land from SIPCOT, incurred capital expenditure of ₹13.75 crore for development of the land from its own sources, which was unwarranted. The Company is yet (December 2013) to make any claim on SIPCOT for reimbursement of the development charges incurred by it.

3.1.10 Audit further noticed that the Company obtained (July 2007) the approval of GOI for establishment of SEZ in Tirunelveli in an area of only 100 acres. But it awarded (July 2009) the contract for common infrastructure facilities in an area of 380 acres at the cost of ₹32.90 crore. As GOI approved creation of SEZ only in 100 acres of land, the Company subsequently restricted (December 2010) creation of infrastructure in 100 acres of land and the revised work orders were issued for a value of ₹12.76 crore and the work was finally completed in March 2011 for ₹13.75 crore. Audit observed that as per Clause 12(2) of the Tamil Nadu Transparency in Tenders Act, 1998, the authority may cancel the tenders in case of large changes in the scope of work. As the work was scaled down from 380 acres to 100 acres, the Company should have cancelled the tender and resorted to fresh tender. Instead, it accepted the rate of ₹12.76 crore offered by the same contractor which was 35 *per cent* over and above the estimated cost of ₹9.42 crore without ascertaining the reasonableness of the reduced scope of work and was against financial propriety.

3.1.11 In Vadapalanji project, out of 245.17 acres of land acquired (January/February 2007) by the Company for SEZ, only 12 acres of land had direct access to the National Highways and balance portion was located beyond Madurai – Bodinayakanur railway line, which cuts across the SEZ land. The Company itself noted that the construction of Rail Over Bridge (ROB) was an essential pre-requisite to connect the SEZ land with National Highways to facilitate smooth flow of traffic. Therefore, it proposed (October 2007) to construct ROB at a cost of ₹12 crore for inter connecting the SEZ land and also obtained sanction for 100 *per cent* finance from ASIDE grant. However, the Company did not take up the construction of ROB till date (December 2013). The reason for such deferment was also not on record. Though the Company did not take up the work of ROB, it created (January 2011) other infrastructure facilities for a value of ₹15.47 crore. This deficiency affected the marketability of IT plots as discussed *vide* Paragraph 3.1.13

Construction of IT park buildings

SEZ Tirunelveli, Illandhaikulam and Trichy

3.1.12 In addition to creation of infrastructure facilities, the Company took up construction of IT park in three SEZs at Trichy, Tirunelveli and Madurai (Illandhaikulam) at a value of ₹43.29 crore. Examination of files relating to civil works revealed the following:

- As per Rule 14(9) of Tamil Nadu Transparency in Tender Rules, 2000 (Tender Rules) the finally executed quantity of items shall not vary more or less than 25 *per cent* of the requirement mentioned in the tender documents. It was, however, noticed that in all the three SEZs the finally executed items of major works *viz.*, civil works, electrical and other items varied from 38 to 473 *per cent* as detailed in **Annexure-17**. Moreover, in all the three SEZs, the Company executed additional works not contemplated in the original agreement such as high voltage air-conditioner system, improvement to road works, installation of fire fighting equipments, miscellaneous electrical items, *etc*., to the extent of ₹5.30 crore without inviting tenders. Had the Company prepared a proper DPR and correlated the estimates with DPR, large scale variations between the awarded works and the executed works could have been avoided. As these items were executed without calling for fresh tenders or ascertaining the reasonableness of the rates, the execution of the same violated the Tender Rules.

Allotment of SEZ land/space

3.1.13 The Company allots SEZ land to the entrepreneurs on 99 year lease basis by collecting upfront lease charges. The lease charges are fixed based on the market value obtained from the Revenue Authorities of the State Government and after obtaining the approval for fixation of lease charges from the Government. The details of SEZ wise availability and allotment of plots are indicated in **Annexure-15**. Out of the total allotable area of 1,114.71 acres in seven SEZs test checked, the Company so far (December 2013) allotted 416.81 acres of land (37 *per cent*) which included direct allotment of

180 acres of land by the Government in SEZ, Sholinganallur. Similarly, against 1.79 lakh sq.ft. of IT park building completed (February/August 2011) in three SEZs at Tirunelveli, Ilandhaikulam and Trichy, the Company so far (December 2013) allotted 23,055 sq.ft. (13 *per cent*). The balance portion of IT park (1.56 lakh sq.ft.) remained vacant for more than two-and-half years.

Audit observed that:

- The Government while directing the Company to take up SEZ projects specifically instructed (August 2006) adoption of the Public Private Partnership (PPP) mode of execution of SEZ projects to minimise its investment as was being followed by Tamil Nadu Industrial Development Corporation Limited, which also implements SEZ projects. The Government further directed the Company to engage a consultant to identify the suitable PPP partner for successful implementation of the projects. However, the Company neither engaged the consultant nor adopted PPP model for execution of SEZ projects.
- The Company took up concurrently the SEZ projects in all the Tier-II cities without having on hand the feasibility report or DPR to analyse the cost-benefit of the investments.
- The Company erred in selecting mining and rocky areas for SEZs at Salem and Tirunelveli and did not construct the ROB in SEZ Vadapalanji, which was considered essential to operationalise the SEZ. These factors affected the marketability of the plots in these SEZs.
- The Company also took up two SEZs at Vadapalanji and Illandhaikulam in Madurai simultaneously without assessing the market demands. Allotment of 135 acres to three allottees made (September 2007) in SEZ Vadapalanji was subsequently cancelled (November 2009 to January 2010), based on the request of the allottees, indicating the absence of demand in the area.
- In respect of three SEZs at Trichy, Tirunelveli and Illandhaikulam, the occupancy till December 2013 was 13 *per cent* of the total space available. During operation of SEZs, the Company would recover maintenance expenditure incurred by it from the allottees on monthly basis. In respect of three SEZs mentioned above, the unrecovered portion of maintenance expenditure in the last two years up to March 2013 due to poor occupancy amounted to ₹0.91 crore.

Above factors led to poor marketability of five[33] SEZs test checked resulting in project facilities created at the total cost of ₹184.57crore largely remaining unproductive.

Audit further observed that:

- During 2005, the Government allotted 180 acres of land owned by the Company to three[34] IT companies in Sholinganallur at a much lower price of ₹48 lakh per acre against the then prevailing market rate of ₹2.62 crore per acre. Even though the Company suffered a loss of revenue of ₹385.20 crore on these allotments (₹2.62 crore – ₹0.48 crore per acre X 180 acres),

[33] Coimbatore, Ilandaikulam, Vadapalanji, Trichy and Tirunelveli.

[34] 80 acres to one IT company and 50 acres each to two IT companies.

it did not claim compensation from the Government till date (December 2013) for the loss incurred.

- During the period from September 2007 to October 2009, the Company allotted 112.5 acres of land in Illandhaikulam, Vadapalanji, Trichy and Tirunelveli SEZs to 12 entrepreneurs. Though the conditions of allotment stipulated that the entrepreneurs should commence their business activities within two years of allotment, none of the allottees paid the balance lease amount of ₹19.03 crore nor commenced their commercial operation till date (December 2013). Thus, the allotments made in these SEZs did not fulfil the basic objective of increasing foreign exchange earnings and employment generation. However, the Company did not take any deterrent action for these lapses till date (December 2013).
- Though the policy of the Government for the year 2011-12 highlighted the need for aggressive marketing for sale of IT plots, the Company did not have any business plan to market the remaining 697.88 acres out of 1,114.71 acres of saleable land in seven SEZs test checked. In September 2011, the Company sought financial assistance of ₹4.86 crore for road shows and exhibitions for improving the marketability of its land. But, the Government has not responded to the proposal so far (December 2013). As the Company did not have any alternate business plan on hand for marketing of plots, the balance land continued to remain idle for more than two years.

The matter was reported to the Government/Company in October 2013; their reply was awaited (December 2013).

Conclusion

The Government directed the Company to establish IT specific SEZs in Tier-II cities considering the benefits of increased foreign investment and creation of massive employment opportunities within the State. However, the IT SEZs taken up by the Company in cities other than Chennai did not fulfil these objectives as:

- **SEZs were established without conducting feasibility studies and without preparation of DPR.**
- **The land acquired was unsuitable for SEZs (Tirunelveli and Salem).**
- **In Madurai, the Company took up two SEZs (Vadapalanji and Illandhaikulam) without ascertaining the market potential. Moreover, the land selected for Vadapalanji was not contiguous.**
- **The Company could market only 37 *per cent* of the land and 13 *per cent* of the IT space to the IT companies. This was an off-shoot of taking up the ventures concurrently in all the Tier-II cities without ascertaining the marketability of these facilities in these areas.**

State Industries Promotion Corporation of Tamil Nadu Limited

3.2 Unintended benefit

Unintended benefit of ₹43.27 crore was extended to three firms due to not fixing upfront lease charges for land allotment based on current market rates.

State Industries Promotion Corporation of Tamil Nadu Limited (SIPCOT) engaged in industrial development of the State, leases out developed industrial plots to entrepreneurs and collects upfront lease charges for 99 years from the allottees.

While fixing the upfront lease charges for plots, SIPCOT considers the cost of acquisition of land, expenditure incurred on creation of infrastructure facilities and its profit margin. However, in respect of Siruseri Information Technology Park (SITP), where the market price of land was appreciating rapidly, SIPCOT decided (June 2006) to fix upfront lease charges by floating tender. Accordingly, it allotted (December 2007) 0.43 acres of land to M/s DSM Soft Private Limited at ₹4.10 crore per acre based on the highest offer received in December 2007. However, SIPCOT did not continue the tender system for the subsequent allotments in SITP as detailed below:

(i) M/s Cognizant Technology Solutions (CTS), an existing allottee of 35.8 acres of land at SITP was allotted (October 2011) 14 acres of land at ₹4.10 crore per acre adopting the rates of the tender in December 2007. After obtaining the BOD's approval (September 2011) for this allotment, SIPCOT collected the lease charges of ₹57.40 crore in October 2011.

(ii) Similarly, SIPCOT allotted (June 2012) 18 acres of land to M/s Infotel Broadband Services Limited (Infotel) and one acre of land to M/s Vodafone South Limited (Vodafone) (January 2012) on 99 years lease at ₹4.10 crore per acre and the payments were received in June/September 2012.

In this connection, Audit observed that:

- SIPCOT's decision in June 2006 to adopt tender system for land allotment at SITP was based on the fact that the price of land in Siruseri in the vicinity of SITP was appreciating rapidly indicating the need for adopting its lease charges based on market price. However, the allotments were made in 2011 and 2012 based on the rates fixed in 2007 implying that SIPCOT had lost the benefit of appreciation in the land value between 2007 and 2011/2012.

- In the absence of any attempt by SIPCOT to ascertain the market value for SITP land, Audit worked out the value of the land during 2011-12 and 2012-13 as ₹5.06 crore and ₹5.67 crore respectively by indexation method prescribed by the Government (at 12 *per cent per annum*) on the market value of ₹3.21 crore per acre (for 2007-08) intimated by the District Collector, Kancheepuram for SITP. An independent verification by Audit of the records of Sub-Registrar, Thiruporur indicated that sale consideration of ₹5.45 crore to ₹15.71 crore per acre of land was adopted

for sale of land in and around the SITP project area during 2008-11. These factors indicate that the rate of ₹4.10 crore per acre fixed for the above three allotments by SIPCOT was low and did not reflect the current market price during 2011-12. Thus, by not adopting the latest market rates for fixing the lease charges or at the very minimum, by not indexing at 12 *per cent per annum*, the market rates intimated by the revenue authorities, SIPCOT lost the opportunity of earning additional revenue of ₹43.27 crore, which resulted in an unintended benefit to the three private firms.

SIPCOT replied (December 2012) that it was allotting land on 99 years lease basis at the rates fixed on cost plus service charges and it did not adopt the market rates in respect of any of its industrial complexes. The reply was not tenable because the Company considers the market value of the area as one of the parameters for revising the plot cost periodically. Moreover, in respect of SITP the directions of BOD for fixation of upfront lease charges based on tender was not complied with.

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

TIDEL Park Coimbatore Limited and TICEL Bio-Park Limited

3.3 Unintended benefit to private contractors

The two companies violated the provisions of Tamil Nadu Transparency in Tenders Act, 1998 and paid interest free mobilisation advance of ₹47.13 crore to 26 contractors. Consequently, these companies had to forego interest of ₹4.35 crore.

The State Government enacted (December 1998) Tamil Nadu Transparency in Tenders Act, 1998 (Tender Act) and notified (October 2000), the rules thereon (Tender Rules) stipulating the procedures to be followed by the Government Departments and State Public Sector Undertakings for finalisation of tenders. As per Clause 14 (4) (b) of Tender Rules, mobilisation advances may be paid to the contractors up to ten *per cent* of the value of the contract against bank guarantee and shall be recovered in the subsequent bills along with interest.

Audit noticed (January and February 2013) that between August 2008 and September 2012, both the companies issued 26 work orders for a total value of ₹484.58 crore[35] for various civil works and released interest free mobilisation advance of ₹47.13 crore.

Audit observed that:

- TICEL Bio Park availed loan from banks carrying an interest of 12.25 *per cent per annum* and the outstanding loan as on March 2011 and 2012 was ₹14.60 crore and ₹12.44 crore respectively. Similarly, Tidel Park Coimbatore Limited executed the civil works only through borrowed funds of ₹200 crore carrying an interest of 11/11.25 *per cent per annum.* If these companies had levied interest on mobilisation advance as per the Tender

[35] Tidel Park Coimbatore Limited (16 work orders for a value of ₹327.09 crore) and Ticel Bio Park Limited (10 work orders for ₹157.49 crore).

Rules, they could have saved payment of interest to the extent of ₹4.35 crore[36] (Tidel Park Coimbatore Limited: ₹3.28 crore and TICEL Bio Park: ₹1.07 crore).

- The scheduled completion of the contracts mentioned above was between May 2009 and December 2012. However, it was noticed that 17 out of 26 contracts were delayed beyond the due dates with time overrun of 1 to 34 months (calculated up to January 2013 upto which the information was made available). This indicated that the basic objective of release of mobilisation advance, *viz.*, timely completion of the project was not achieved in these contracts.
- The agreements provided for recovery of mobilisation advance within the scheduled date of completion. But the overdue amount of mobilisation advance of the 17 works mentioned above was ₹26 crore (Tidel Park Coimbatore Limited: ₹24.53 crore and TICEL Bio Park Limited: ₹1.47 crore), which led to blocking up of funds of companies with the contractors.

Thus, by extending interest free mobilisation advance in contravention of the Tender Rules, these companies had foregone interest of ₹4.35 crore, which resulted in extension of unintended benefit to private contractors to the same extent.

TICEL Bio-Park Limited replied (November 2013) that it need not follow the Tender Rules as the payment of interest free mobilisation advance was made with the approval of its BOD. The reply was untenable because the Tender Act and Rules are to be followed by all the Government Departments and State PSUs.

The matter was reported to the Government in September 2013; its reply was awaited (October 2013).

State Express Transport Corporation of Tamil Nadu Limited

3.4 Unintended benefit to a private firm

Failure to include a clause for levy of Liquidated damages and Payment of enhanced Excise Duty on chassis supplied beyond the delivery schedule resulted in an unintended benefit of ₹4.05 crore to a private firm.

State Express Transport Corporation of Tamil Nadu Limited (SETC) purchases more than 80 *per cent* of its chassis requirement from M/s Ashok Leyland Limited (AL) at the rates finalised by the Institute of Road Transport (IRT)[37] through tender. A review of supply of chassis by AL to SETC indicated that:

- AL did not adhere to the supply schedule during 2009-10 and 2010-11. During 2009-10, AL supplied only 30 out of 100 chassis ordered within the scheduled delivery period of October 2009 and in

[36] Worked out at the rate of 12.25 *per cent per annum* for Ticel Bio Park and 11 *per cent per annum* for Tidel Park Coimbatore Limited.

[37] Society formed by the Government for common procurement of chassis, tyres, tubes, spares, *etc*., for all the State Transport Undertakings.

2010-11, it did not supply any of the ordered quantity of 100 chassis within the scheduled delivery period of December 2010. The balance quantities were received in both years from February to April 2011 and 2012 respectively.

- During the two years ending 2011-12, the purchase orders for supply of 100 and 473 chassis by AL were issued in October 2010 and November 2011 respectively. However, SETC entered into agreements with AL in May 2011 and April 2012 respectively after receipt of 65 out of 100 and 121 out of 473 chassis ordered during the above period.
- While IRT had issued a common format of agreement incorporating the penal clauses for delays in supply to all State Transport Undertakings, SETC did not adhere to this format during 2011-12 and did not incorporate the clause on Liquidated Damages (LD) in the agreement.

The financial implications of these deficiencies are discussed below:

(i) As per the supply schedule of 2011-12, AL was to commence supply by December 2011 and complete 90 *per cent* of the ordered quantity of 473 chassis by February 2012. AL, however, delivered only 62 chassis (13 *per cent* of the ordered quantity) in February 2012. The balance quantity was supplied[38] between March and November 2012. SETC proposed (April 2013) levy of LD of ₹2.89 crore for the delays in supplying the chassis ranging from 4 to 36 weeks upto November 2012, but could not enforce the same for want of LD clause in the agreement.

(ii) The terms of PO provided for payment of Excise Duty at 10 *per cent*. However, SETC entered into an agreement with AL on 12 April 2012 and agreed to pay applicable Excise Duty and Cess at the time of supply. In the meantime, GOI increased the basic Excise Duty on chassis from 10 *per cent* to 12 *per cent* (17 March 2012) and decreased to 11 *per cent* (12 May 2012). As SETC made payments for Excise Duty on the date of supply as per the terms of agreement, payment of increased Excise Duty for the delayed supply of 371 chassis from 17 March 2012 to November 2012 resulted in an avoidable extra expenditure of ₹1.16 crore to SETC.

The Government replied (August 2013) that it directed SETC to recover ₹4.05 crore being the LD and excess amount of Excise Duty paid to AL.

TIDEL Park Coimbatore Limited

3.5 Undue benefit to a private contractor

TPCL extended undue benefit of ₹2.18 crore to the civil contractor by exceeding the provisions of the agreement.

Government of Tamil Nadu ordered (February 2007) establishment of a new Joint Venture (JV) company *viz.*, Tidel Park Coimbatore Limited (TPCL) jointly by Electronics Corporation of Tamil Nadu Limited (ELCOT) and Tamil Nadu Industrial Development Corporation Limited (TIDCO) to

[38] March 2012 – 60 chassis, April 2012 – 70 chassis, May 2012 – 122 chassis, June 2012 – 48 chassis, July 2012 – 63 chassis and August to November 2012 – 48 chassis.

implement the IT Special Economic Zone (SEZ) in Villankurichi in Coimbatore district. The GOI certified (May 2008) that TPCL would be the co-developer of the SEZ project and ordered (June 2008) exemption from levy of duties and taxes including Value Added Tax (VAT) on materials used for development of SEZ. Similar notification was issued (March 2011) by the Government of Tamil Nadu with retrospective effect from May 2008.

TPCL awarded (September 2008) contract for civil works for a firm price of ₹206.89 crore (excluding VAT) to M/s B.E. Billimoria & Company (Billimoria). As per tender conditions and provisions of the agreement between TPCL and Billimoria, the payment for civil works was to be made excluding VAT. When the project was in progress and the State Government's notification on VAT exemption was awaited, TPCL made an unsolicited offer (April 2009) to Billimoria to reimburse VAT paid on the material procured for civil works and accordingly reimbursed (March 2009 and April 2010) VAT amounting to ₹2.98 crore in two instalments.

After receipt of VAT exemption notification (March 2011) from the State Government, TPCL recovered (April 2011) the reimbursements made during March 2009/April 2010. However, Billimoria claimed (May 2012) that VAT was charged by numerous traders/vendors before receipt of the State Government notification and it was not practicable to claim refund of VAT from these traders as per the notification. Therefore, TPCL once again refunded (October 2012) ₹2.18 crore of VAT.

Audit observed that:

- By virtue of the exemption notification issued by GOI in July 2008 and as per the conditions of tender/agreement, Billimoria was not entitled for reimbursement of VAT on the materials used for SEZ project. As such, TPCL's *suo motu* offer in April 2009 to refund VAT was not warranted even at the first instance and was an undue favour to Billimoria in excess of the agreed payments.
- As per Government notification dated March 2011, it was the responsibility of the traders/vendors supplying material for SEZ projects to get refund of VAT from the Commercial Tax Department by submitting a declaration issued by the contractors of SEZ projects and countersigned by the co-developers of SEZ *i.e.*, TPCL. However, TPCL refunded VAT at the second instance from its borrowed funds which not only violated the Government notification but also resulted in undue benefit to Billimoria to the extent of ₹2.18 crore and avoidable loss to itself to the extent of ₹2.95 crore (including loss of interest of ₹0.77 crore[39]).

TPCL replied (September 2013) that it reimbursed VAT as per tender conditions and in the absence of Government Order for VAT exemption. The reply is not tenable as the tender conditions stipulated that TPCL would not reimburse in any case the taxes paid by the contractor irrespective of the same being included in the quoted rates or not. Belated receipt of Government

[39] Calculated at the interest on borrowings at the rate of 11 *per cent per annum* for the refund of ₹2.18 crore from March 2009/April 2010 up to August 2011 for the first refund and from October 2012 to July 2013 for second refund.

Orders for VAT exemption could not explain reimbursement of VAT by TPCL which was not provided for in the tender conditions stated above.

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

State Transport Undertakings

3.6 Idling of equipment

Purchase of On Board Units by three State Transport Undertakings without having financial arrangements for their operations led to equipment worth ₹1.95 crore lying idle for more than three years.

The Vehicle Tracking and Control System (VTCS)[40] creates two way communication between On Board Units (OBUs) fitted into buses and a centralised server which uses the global positioning and geographic information systems to locate the movement of buses. VTCS was initiated (2003) as a Centrally sponsored scheme and was implemented (2006) as a pilot project in Metropolitan Transport Corporation Limited (MTC) and State Express Transport Corporation Limited (SETC) up to September 2008. Subsequently, MTC purchased (December 2008) 495 OBUs at a cost of ₹83.60 lakh and connected the same with the central data centre installed during the pilot project. Between January 2009 and September 2012, MTC incurred ₹2.87 crore[41] for operation of the 495 OBUs.

During finalisation of rate contract for purchase of chassis for 2009-10, the nodal agency of STUs *viz*., The Institute of Road Transport (IRT) finalised the rate contract for purchase of OBUs at the rate of ₹13,000 per unit. Accordingly, three STUs, *viz*., MTC, Tamil Nadu State Transport Corporation (Madurai) Limited and Tamil Nadu State Transport Corporation (Coimbatore) Limited purchased (July 2009 and March 2010) 1,500 OBUs costing ₹1.95 crore.

Audit further noticed that the above STUs were already incurring operational losses in their activities and MTC was incurring around ₹10 lakh per month for operation of the OBUs already installed. Given this background, none of the STUs, which purchased OBUs during 2009-10, analysed the financial feasibility of operation of OBUs before purchasing them in large scale. Consequently, since the OBUs were received (August 2009 and March 2010), they were kept idle till date (December 2013) as MTC did not connect them with the centralised server available with it and the other two STUs did not purchase the requisite software nor did they establish the data centre necessary to put into use these OBUs.

---

40 The advantage of the system includes (i) tracking and tracing the buses to know its position and route history, (ii) intimating the passengers about the expected arrival time of buses at the selected bus stops and (iii) inter voice active response system with the crew of buses during break downs.

41 The operational expenditure includes annual maintenance charges/service charges paid to Ashok Leyland for maintenance of the centralised server positioned in their premises (₹69.20 lakh), charges for project management to Siemens Limited (₹85.14 lakh), annual maintenance for data centre and LED display (₹55.01 lakh) and leased line charges and sim charges to Bharat Sanchar Nigam Limited (₹77.35 lakh).

Thus, by purchasing OBUs without having financial arrangement for their operation, three STUs kept the equipments worth ₹1.95 crore idle for more than three years without any beneficial use.

Two of the STUs, *viz*., MTC and TNSTC (Coimbatore) Limited admitted (July 2013) that the OBUs purchased were not operated till date due to their financial crunch but added that efforts were being made to install the OBUs in the buses in future.

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

Tamil Nadu Generation and Distribution Corporation Limited

3.7 Avoidable extra expenditure

TANGEDCO incurred avoidable extra expenditure of ₹254.05 crore due to purchase of power at much higher rates in contravention of the directives of the Government of Tamil Nadu and Tamil Nadu Electricity Regulatory Commission.

Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO), purchases power from Co-generation power plants[42] and bio-mass power producers on the basis of long term Power Purchase Agreements (PPAs) and from power traders through tenders. TANGEDCO noted (October 2008) that co-generation/bio-mass power plants contemplated rescinding the existing PPAs with it and tried to sell power at higher rates to the traders. TANGEDCO further noted that such a move would result in recycling of power at a higher cost to it by the traders and therefore, approached (October 2008) the Government to issue orders restraining these generators from selling power to any organisation other than TANGEDCO by invoking special provisions of Section 11 (i) of the Electricity Act, 2003. Based on the above proposal, the Government issued the orders on 27 February 2009.

Meanwhile, Tamil Nadu Electricity Regulatory Commission (TNERC) directed (14 October 2008) TANGEDCO to terminate the existing PPAs of co-generation and bio-mass power producers and issue a separate tender for purchase of power from these sources to enable it to revise the price of power supplied by these sources based on market rates. Contrary to the above directions, the Board of TANGEDCO decided (November 2008) to keep the PPAs in abeyance and permit them to sell power generated by use of coal during the crushing and non-crushing season to third parties under short term intra-State open access system. While taking the above decision, the Board was not apprised about the earlier submission made to the Government in October 2008, restraining the power producers from selling power to the traders.

Subsequently, TANGEDCO invited bids on two occasions (May 2009/May 2010) from power traders for supply of 500 MW power and issued (July 2009/August 2010) purchase order to Reliance Energy Trading Limited, PTC

[42] As per TNERC's tariff orders, co-generation means a process by which two or more form of energy including electricity, is produced.

India Limited and Tata Power Trading Company Limited[43]. The purchase of power from PTC and Tata Power Trading Company to the extent of 1,587 Million Units (MUs) (out of the total purchase of 1,894 MUs), at the rates ranging from ₹4.74 to ₹6.75 per unit was actually sourced from the co-generation plants and bio-mass based power producers within the State.

Audit analysis of these purchases indicated that:

- The Government Order of February 2009 directing all power generators in Tamil Nadu to supply all electricity generated either to TANGEDCO or to any other HT consumer within the State was actually at the behest of TANGEDCO. However, TANGEDCO's subsequent decision to allow the power producers to sell the power to the traders contradicted its earlier stand and the Government order of February 2009. As TANGEDCO also failed to initiate the tender process for purchase of power produced by co-generation units/bio mass generation plants within the State as per the directives of TNERC, it was forced to purchase the same power from the traders at higher rates.
- When the tender for purchase of power from traders was under finalisation, TNERC revised the tariff for purchase of power from co-generation (April 2009) and bio-mass (May 2009) power producers which ranged from ₹3.801 to ₹3.836 per unit. Under these circumstances, purchase of power generated by 23 such co-generation/bio-mass units within the State through traders at rates ranging from ₹4.74 to ₹6.75 per unit was in excess of the fair price fixed by TNERC and resulted in additional extra expenditure to TANGEDCO to the extent of ₹254.05 crore.

The Government admitted (November 2013) that the power offered by PTC included the power generated by some co-generation units within the State and further stated that in as much as the PPAs with these co-generation units were kept in abeyance, acceptance of these sources of power was in order. The reply is not tenable as the PPAs with the co-generation units have been kept in abeyance and the same power was purchased through power traders at much higher rates. This constituted extra expenditure to the tune of ₹254.05 crore by TANGEDCO.

3.8 Infructuous expenditure

Inadequate follow-up by TANGEDCO in exploring the coal mine identified as source of fuel for two of its upcoming thermal projects led to not only losing the source of fuel but also resulted in financial loss of ₹12.19 crore.

Ministry of Coal (MOC) allotted (July 2007) the Mandakini B coal block in Odisha, with estimated coal reserves of 1,200 million MTs to TANGEDCO and three[44] Public Sector Undertakings (PSUs) of other States. The allotment with equal share to each of the PSUs required that the allottees should jointly or through a separate company formed for this purpose, apply for Prospecting

[43] The trader was issued letter of acceptance only in August 2010.

[44] Odisha Mining Corporation Limited, Assam Mineral Development Corporation Limited and Meghalaya Mineral Development Corporation Limited.

Licence (PL) and also jointly furnish Bank Guarantee (BG) equivalent to ₹97.50 crore within three months of allotment. Milestones[45] for development of the block were also prescribed with a condition that in case of slippage in adherence to the milestones, the allotment would be cancelled and 50 *per cent* of the BG invoked.

A review in audit of the progress achieved in exploration of the coal block revealed that from the date of allotment, the joint efforts taken by the PSUs were insufficient and the project became a non-starter as none of the critical milestones was adhered to. Even though formation of a separate company jointly by all the four allottees was the first step for applying for PL, it was formed only in February 2009 *i.e.*, after a delay of more than 15 months. Further slippages in achieving other milestones like purchase of geological report, filing application for mining, submission of mining plan, request for forest clearance, land acquisition *etc*., with delays ranging from two to 2 1/2 years resulted in MOC issuing three show cause notices (October 2009, October 2010 and May 2012) and finally cancelling the allotment itself in December 2012. Fifty *per cent* of the BG equivalent to ₹48.75 crore was duly invoked as per the conditions of allotment. As there was no possibility of taking up the project further, TANGEDCO decided (April 2013) to exit from the joint venture.

Audit observed that while approving the investment proposal on this captive mining project, the Board of TANGEDCO directed (October 2007) that any investment/BG was to be released only after formation of a separate company and after exercising due diligence as to the capabilities of that company to successfully undertake mining exploration. However, TANGEDCO released (April-October 2008) its share of equity (₹ two crore) and BG (₹24.38 crore) even before formation of the separate company. Had TANGEDCO exercised due diligence and invested its share in the project as directed by the Board and closely monitored implementation of project, it would not have suffered loss of ₹12.19 crore (being TANGEDCO's share in ₹48.75 crore of BG invoked by MOC) as a result of de-allocation.

Thus, inadequate follow-up by the allottee PSUs including TANGEDCO in developing and exploring the coal mine which was identified as a source of fuel for two upcoming thermal projects not only resulted in losing the source of fuel but also in financial loss of ₹12.19 crore to TANGEDCO.

While concurring with the facts, the Government replied (November 2013) that the concept of joint allocation of one coal block to many PSUs of different State was unworkable. It added that though it incurred capital expenditure considering the long term benefits of the coal mine, the project failed only due to non issue of PL by the Odisha Government.

The fact, however, remained that MOC resorted to de-allocation not only because of slippage in obtaining PL, but also due to non achievement of other milestones and unsatisfactory progress in development of the coal mine and end-use plants by the allottee PSUs. The fact also remained that TANGEDCO

[45] Milestones, *inter alia,* included (i) purchase of Geological report by October 2009, (ii) obtaining approval for mining plan by June 2010, (iii) obtaining forest clearance by April 2011 and (iv) obtaining Mining Lease by October 2011.

prematurely released its share of BG and equity even before formation of the separate company resulting in the stated loss.

3.9 Loss of revenue

TANGEDCO failed to comply with Tamil Nadu Electricity Regulatory Commission's orders regarding sharing of Clean Development Mechanism benefits resulting in loss of revenue of ₹11.72 crore.

As per the Clean Development Mechanism (CDM) adopted by United Nations Framework Convention on Climatic Change (UNFCCC)[46] and ratified (August 2002) by the GOI, all projects leading to real, measurable and long term mitigation of green house gases in the country are entitled to CDM benefits. The CDM would be in the form of Certified Emission Reduction (CER) credits issued to eligible entities of the country which have been registered with UNFCCC which could be sold to other organisations throughout the world. TNERC, in its comprehensive Tariff Orders issued between March and May 2009, stipulated that CDM benefits should be shared on gross basis starting from 100 *per cent* to the developers in the first year and thereafter reducing by 10 *per cent* every year till the sharing becomes equal at 50:50 between the developer and the distribution licensee (TANGEDCO). The above decision was reiterated by TNERC in its revised tariff order issued in July 2012.

Audit conducted a test check to verify the extent of compliance of the stipulation of TNERC by TANGEDCO and observed the following:

- TANGEDCO had so far entered into agreements with 35 power projects. As per UNFCCC registry, all these projects had obtained CDM Registration. However, in none of these projects had TANGEDCO initiated the modifications in the clauses of the agreement for sharing of CDM benefits in line with the tariff orders of TNERC till date (December 2013).

- As per UNFCCC's monitoring reports,[47] 19 out of 35 projects which obtained CDM certification had actually earned CDM benefits for the monitoring period from January 2003 upto August 2012 equivalent to 66,34,770 credits. As TANGEDCO had not incorporated the required clause in the agreement for sharing of carbon credits as stipulated by TNERC, it lost its entitlement for a share of 3,90,628 credits. The value of these credits amounted to ₹11.72 crore[48] (at the exchange rate of US $ 6[49] for each credit and ₹50 per US $). Audit ascertained (June 2013) from another State PSU *viz*., Tamil Nadu Newsprint and Papers Limited that it

---

[46] This is an environment treaty with the goal of preventing human interference on the climatic system.

[47] Monitoring of carbon emissions is carried out on a monthly basis with the data required for calculation, transmitted to an accredited agency who prepares monthly CER reports. These monthly reports form the basis for the monitoring reports.

[48] TANGEDCO's share worked out for the periods after issue of TNERC's tariff orders from March 2009 for wind, bio-mass and co-generation.

[49] Minimum of the average price of CER during the period December 2008 to December 2011 as per the World Bank Report on State and Trends of the Carbon market 2012.

traded carbon credits at the rate of Euro 1.52 to Euro 13.13 per credit during 2009-10 to 2012-13.

The Government replied (November 2013) that based on Audit Observations, TANGEDCO had taken initiative to collect the share of CDM benefits and once its collections are made, the same would be passed on to the consumers.

3.10 Delay in filing appeal

TANGEDCO failed to appeal in time before Tamil Nadu Electricity Regulatory Commission (TNERC)/Appellate Tribunal for Electricity (APTEL) which led to loss of opportunity of recovering additional cost of ₹1.90 crore.

Ind Bharat Powergencom Limited (IBPL), a coal based thermal power generating company at Tuticorin requested (17 September 2009) TANGEDCO to accept the power generated during the trial run of its first unit of 3 X 63 MW plant. TANGEDCO agreed to purchase power from IBPL and pay for the energy pumped into grid at 90 *per cent* of the purchase rate of firm power[50] as approved by TNERC. Between 17 September and 31 December 2009, IBPL supplied 33.29 Million Units (MUs) of power to TANGEDCO.

Later on, TANGEDCO directed (March 2010) IBPL to approach TNERC for fixing the rate for the power supplied by it. Based on a petition filed (August 2010) by IBPL for fixation of the rate and settlement of its dues, TNERC held (19 October 2010) that:

- The payment for entire supply of 33.29 MUs of power be made at the lowest fuel cost of a similar type of coal based thermal station.
- Ennore Thermal Power Station (ETPS) was a comparable station and its variable cost during October to December 2009 at ₹1.94 per unit (as indicated by TANGEDCO) be paid to IBPL.
- An appeal, if any, was to be filed against this order with APTEL within 45 days from the date of its order.

Audit noticed that though the time limit for filing appeal with APTEL against this order lapsed on 3 December 2010, TANGEDCO did not file any appeal within the due date. However, the Board of Directors of TANGEDCO decided (May 2011) that ETPS was a 40 year old thermal station and hence, its normative variable cost was not comparable with the power station of IBPL. Therefore, TANGEDCO worked out the normative variable cost of a new 63 MW plant similar to that of IBPL at ₹1.37 per unit and filed (June 2011) a review petition before TNERC and also sought condonation for the delay of 231 days in filing the review petition.

As TNERC declined to condone the delay and dismissed (June 2011) the review petition, TANGEDCO filed (December 2011) an appeal before APTEL for condonation of delay. APTEL also dismissed (May 2012) the petition of TANGEDCO on the ground that the delay in filing review petition with

[50] Firm power means the power committed and contracted by generators of power and infirm power means the energy supplied over and above the firm power and is interruptible at short notice.

TNERC was not properly explained. Consequently, TANGEDCO paid (November 2012) ₹6.46 crore to IBPL for 33.29 MUs of power supplied by it at the rate of ₹1.94 per unit.

Thus, TANGEDCO lost an opportunity of representing its case before TNERC and APTEL for recovery of additional cost of ₹1.90 crore[51] paid to IBPL.

The Government replied (October 2013) that TANGEDCO filed the review petition not with the intention of fighting the tariff awarded by TNERC, but to establish the principle that the tariff for 'infirm power' should not be made taking into account the variable cost of old plant. The fact, however, remained that there were delays in filing the review petitions both before TNERC and APTEL.

3.11 Loss of revenue

There was revenue loss of ₹1.49 crore due to incorrect interpretation of the statutory provisions for effecting High Tension service connection.

As per the provisions of 29 (12) (ii) of the Supply Code issued by TNERC in July 2004, for any group housing/commercial complex having a total demand exceeding 5,000 KVA and requiring LT service connection, the consumer shall provide a space for establishment of a Sub-station (SS)/Switching Station. However, there is no such provision in respect of HT and EHT service connection requiring more than 5,000 KVA. Further, as per the regulation of the Tamil Nadu Distribution Standards of Performance, 2004 (Standards of Performance), a new HT service connection has to be extended to the consumers within one month from the date of receipt of application in this regard.

ECCI Info Park Limited (ECCI), Sholinganallur applied (13 June 2007) for an HT service connection for a maximum demand of 6,500 KVA. As per the demand (15 June 2007) of TANGEDCO, ECCI also submitted (October 2007) an undertaking to compensate TANGEDCO at double the market value of the land not provided by it for establishing a 33/11 KV SS within their premises. Based on this undertaking, TANGEDCO registered ECCI's application for supply of HT service connection in January 2008 and accorded (May 2008) administrative approval for the service connection. However, the demand for compensation for land was withdrawn (August 2008) by TANGEDCO as ECCI requested (June 2008) to reduce load requirement from 6,500 KVA to 5,000 KVA. After collection (December 2008) of service connection and other charges amounting to ₹21.62 lakh applicable for 5,000 KVA service connection, the supply availability notice[52] was issued by TANGEDCO on 9 February 2009.

From the above, it could be noticed that TANGEDCO took 20 months for effecting service connection to ECCI from the date of receipt of application *i.e.*, on 13 June 2007 to date of effecting service connection *i.e.*, on 9 February 2009. This was in excess of one month time prescribed in the Standards of Performance of TNERC. Audit analysis of the delay indicated that:

---

51 ₹1.94 – ₹1.37 = ₹0.57 per unit X 33.29 MUs.

52 TANGEDCO will levy demand charges from the date of issue of supply availability notice.

- ECCI requested for supply of service connection for their IT industry which is classifiable as HT service connection and not the places of group housing/commercial complex. Therefore, the direction by TANGEDCO to ECCI to provide for the land for their SS within the premises and subsequent directions to give an undertaking to pay double the market value of the land was unwarranted. TANGEDCO decided in July 2007 to provide service connection to ECCI from its own upcoming SS at Shollinganallur (which was actually commissioned in February 2008). Even after this decision, there was subsequent delay of seven months in registering (January 2008) the application received in July 2007 and further delay of 12 months from the date of commissioning (February 2008) of their new SS to date of effecting the service connection (February 2009). These avoidable delays caused a revenue loss of ₹1.49 crore.[53]

The Government in its reply (November 2013) attributed the delay of seven months up to January 2008 to the incomplete application submitted by the applicant and not providing space for SS. It added that further delay of six months from June to December 2008 was on account of time required for taking some policy decisions by TANGEDCO. It also stated that every effort would be taken to reduce such delays in future. The fact, however, remained that apart from the delays committed by applicant, the delay of 12 months on the part of TANGEDCO in effecting the service connection after commissioning of the new SS in February 2008 had caused the above mentioned revenue loss.

3.12 Overpayment of Customs Duty

Failure to obtain updated information on concessional duty before embarking on the imports coupled with non obtaining the certificate of origin in the prescribed format from the channelising agencies led to overpayment of Customs Duty amounting to ₹0.93 crore.

To meet partial requirement of coal for its thermal stations, TANGEDCO imports coal through channelising agencies. TANGEDCO makes payment to the channelising agencies for the imported coal at an all inclusive High Sea Sales[54] Contract rate excluding Customs Duty. The Customs Duty would be paid directly by TANGEDCO to Customs Authorities.

Consequent to the Preferential Trade Agreement entered into (August-October 2009) by the GOI with the Association of South East Asian Nations (ASEAN), coal imports from Indonesia (which is part of the ASEAN) were extended a concessional customs duty of four *per cent* with effect from 1 October 2010 and three *per cent* from 1 January 2011 (against the normative rate of Customs Duty at five *per cent*). To avail the concessional duty, the importer has to make a claim furnishing details of import along with a

[53] Being the maximum demand charges foregone for 11 months from March 2008 to February 2009 in respect of 90 *per cent* of 5,000 KVA actually sanctioned at ₹300 per KVA after allowing one month time for effecting the service connection as per the Standards of Regulations.

[54] High Sea Sales (HSS) with reference to Section 5 (2) of the Central Sales Tax Act refers to a sale that takes place in the course of import of goods into the territory of India and is effected by a transfer of documents of title to the goods before the goods have crossed the customs frontiers of India.

'Certificate of Origin' in the prescribed format signed by authorised signatories.

Audit noticed that TANGEDCO issued (August 2010) a Purchase Order (PO) for import of three lakh MTs of coal from Indonesia through Tamil Nadu Newsprint and Papers Limited (TNPL). As discharge of coal against the PO was made after 1 October 2010, the import was eligible for the concessional customs duty. But, TANGEDCO did not avail the concession as the condition regarding 'Certificate of Origin' was not fulfilled in the import, which was due to not obtaining the certificate in the prescribed format from the authorised signatories of Indonesia by TNPL.

It was further noticed that TANGEDCO was not aware of the availability of the concession till September 2011 as it was the Clearing and Forwarding agents of TANGEDCO, M/s SICAL Logistics limited who informed about the availability of the concession by which time, most of the consignments had already been discharged.

As Customs Duty was paid at the normal rate of five *per cent* instead of at the concessional rate, TANGEDCO paid excess Customs Duty amounting to ₹0.93 crore. TANGEDCO made an attempt to recover the amount from TNPL after being pointed out (March 2012) by Audit but the attempt was not successful as TNPL rejected the claim stating that the assessment and payment of customs duty was made by TANGEDCO on its own without consulting it.

Thus, TANGEDCO's failure to obtain updated information on the concessions available and their requirements resulted in non availing of concessional duty amounting to ₹0.93 crore.

The Government replied (November 2013) that since the notification for concessional Customs Duty became effective from 1 October 2010, the same could not be anticipated by TANGEDCO when it issued PO to TNPL in August 2010. The reply was not convincing because as per the conditions of PO, the payment of Customs Duty was to be made by TANGEDCO directly to Customs Authorities based on the 'Certificate of Origin' to be provided by TNPL. However, TANGEDCO failed to avail concessional duty as it was not aware of the updated concessions available and thus was not able to obtain the certificate in the prescribed format from TNPL.

3.13 Loss of interest

Inordinate delay in closure of work order of a deposit contribution work resulted in belated recovery of the cost which resulted in loss of interest of ₹0.85 crore.

TANGEDCO while sanctioning (February 2005) a new Extra High Tension service connection for supply of 5,000 KVA to M/s New Zirconium Oxide Sponge Project (NZOSP) in Tuticorin District also decided to erect two dedicated feeders from the 230 KV Auto Sub-station (SS) at Tuticorin up to the premises of NZOSP at the cost of consumer.

The estimated cost of two dedicated feeders chargeable to NZOSP at ₹4.87 crore was remitted by NZOSP in March 2005 and the feeders were energised in September 2007. However, TANGEDCO finalised the cost of erection of feeders only in January 2012 after a delay of more than four years at ₹6.62

crore and requested (June 2012) NZOSP to remit the balance amount of ₹1.75 crore. The amount was remitted by NZOSP on 29 June 2012.

Audit observed that:

- Though the work of energisation of the dedicated feeders was completed as early as in September 2007, TANGEDCO finalised the completion report and worked out the actual expenditure only in January 2012 after a delay of four years and four months. This has resulted in belated cost recovery by TANGEDCO. This was in contravention of the stipulation of the Regulation 45(1) of the Distribution Code of TNERC, which provided for collection of the cost of improvement works from the consumers immediately on completion of the works.
- As TANGEDCO is mainly relying on borrowed funds for its working capital requirements, the delay of 54 months (January 2008 to June 2012) for recovering the cost of ₹1.75 crore (after giving due allowance of a reasonable period of three months for closure of work orders) implied that TANGEDCO suffered interest loss of ₹85.44 lakh[55] during that period which was avoidable.

The matter was reported to the Company/Government in July 2013; their reply was awaited (October 2013).

3.14 Loss of revenue

TANGEDCO violated the provisions of Tamil Nadu Electricity Distribution Code in respect of multiple service connections under Low Tension supply which resulted in loss of revenue of ₹0.71 crore.

The Tamil Nadu Electricity Supply Code (Supply Code) and Tamil Nadu Distribution Code (Distribution Code) regulate the supply and distribution of electricity in the State. As per Regulation 27 (13 and 14) of the Distribution Code, an establishment or a person will not be given more than one service connection within the same door number or sub door number unless there is a permanent physical segregation of the areas for different service connections. Further, as per Regulation 5 of the Supply Code, when the recorded demand of the single Low Tension (LT) service connection exceeded 112 KW, the consumer has the option of converting the LT service connection to High Tension (HT) service connection or pay excess demand charges for the additional load over and above the sanctioned demand.

Test check (April 2012 to February 2013) in Audit of five revenue billing units of TANGEDCO revealed that there were 14 multiple LT service connections having combined sanctioned demand of more than 112 KW in the same premises not having permanent physical segregation. Even though excess demand charges for the sanctioned demand exceeding 112 KW were required to be collected as per Regulation 5 of the Supply Code, TANGEDCO did not levy them from the consumers till date (December 2013). Consequently, TANGEDCO suffered a revenue loss of ₹0.71 crore for the period from April 2012 to September 2013 (the period up to which the latest

[55] Rate of interest adopted is 10.85 *per cent*, which is the average rate of interest at which TANGEDCO availed Cash Credit from 18 banks from 2008 to 2011.

billing particulars were available). It is pertinent to mention that to ensure compliance to the above provisions of the Codes, instructions were issued (October 2012) by TANGEDCO Headquarters to all the Regional Chief Engineers to conduct inspection of premises. But the above instructions were not complied with so far (December 2013).

TANGEDCO replied (July 2013) that the field officers of TANGEDCO had been instructed to issue three months notice to all premises having more than one LT service connection for conversion to HT connection and that the effecting of multiple LT services had been strictly controlled. The fact, however, remained that pending conversion of multiple LT service connections into a single LT HT connection, loss of revenue pointed out by Audit would continue.

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

General

3.15 Follow-up action on Audit Reports

Explanatory notes outstanding

3.15.1 The Audit Reports of the CAG represent the culmination of the process of scrutiny starting with initial inspection of Accounts and records maintained in the various Government Companies and Statutory Corporations. It is, therefore, necessary that they elicit appropriate and timely response from the Executive. Finance Department, Government of Tamil Nadu had issued instructions (January 1991) to all Administrative Departments to submit explanatory notes indicating corrective/remedial action taken or proposed to be taken on the Paragraphs and Performance Audit Reports included in the Audit Reports within two months of their presentation to the Legislature, without waiting for any notice or call from the Committee on Public Undertakings (COPU).

The Audit Reports for the years 2008-09, 2009-10, 2010-11 and 2011-12 were presented to the State Legislature in May 2010, September 2011, May 2012 and May 2013, respectively. Eleven out of 14 Departments, which were commented upon, had not submitted explanatory notes on 52 out of 79 Paragraphs/Performance Audit Reports, as of 31 October 2013, as indicated below:

Year of Audit Report (Commercial)	Total number of Paragraphs/Performance Audit in the Audit Report	Number of Paragraphs/Performance Audit Reports for which explanatory notes were not received[56]
2008-09	24	6
2009-10	19	14
2010-11	20	18
2011-12	16	14
TOTAL	**79**	**52**

[56] Paragraphs/performance audit reports for which no explanatory notes were received but discussed by COPU are excluded.

Department-wise analysis of the pendency is given in **Annexure-18**. The Energy Department is responsible for non-submission of large number of explanatory notes.

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

3.15.2 The Action Taken Notes (ATNs) to the paragraphs included in the Report of the COPU are to be furnished by the concerned Departments within six months from the date of presentation of these reports to the State Legislature. Replies to 146 paragraphs pertaining to 27 Reports of COPU presented to the State Legislature between January 2003 and May 2013 had not been received as of 31 October 2013 as indicated below:

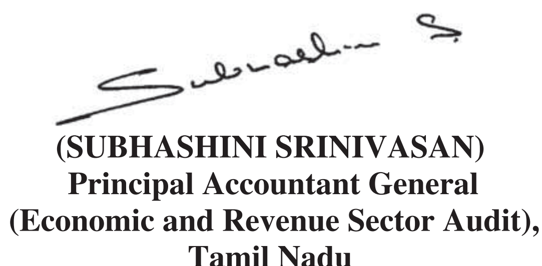
Year of COPU Report	Total number of Reports involved	Number of paragraphs in respect of which replies were not received
2002-03	5	5
2003-04	2	5
2004-05	1	3
2006-07	1	5
2009-10	7	47
2010-11	3	40
2011-12	3	24
2012-13	5	17
TOTAL	**27**	**146**

Response to Inspection Reports, Draft Paragraphs and Performance Audit reports

3.15.3 Audit observations noticed during audit and not settled on the spot are communicated to the heads of the Public Sector Undertakings (PSUs) and departments of the State Government through Inspection Reports. The heads of PSUs are required to furnish replies to the Inspection Reports through the respective heads of Departments within a period of four weeks. Inspection Reports issued up to March 2013 pertaining to 70 auditee units disclosed that 3,384 paragraphs relating to 800 Inspection Reports remained outstanding at the end of October 2013; of these, 200 Inspection Reports containing 613 paragraphs had not been replied to for more than two years. Department-wise break-up of Inspection Reports and audit observations outstanding as on 31 October 2013 are given in **Annexure-19.**

Similarly, Draft Paragraphs and Performance Audit Reports on the working of PSUs are forwarded to the Principal Secretary/Secretary of the Administrative Department concerned demi-officially seeking confirmation of facts and figures and their comments thereon within a period of six weeks. However, seven Draft Paragraphs forwarded to various Departments during the period from June to October 2013, as detailed in **Annexure-20**, had not been replied so far (December 2013).

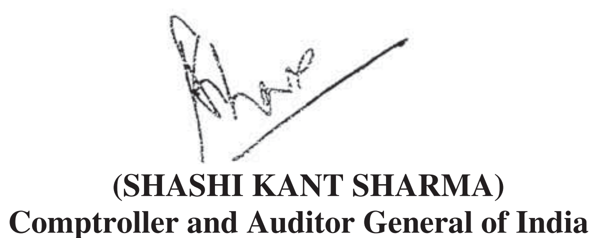
It is recommended that the Government should ensure that (a) procedure exists for action against the officials who fail to send replies to Inspection Reports/Draft Paragraphs/Performance Audit Reports/ATNs on the recommendations of COPU as per the prescribed time schedule, (b) action to recover loss/outstanding advances/overpayments is taken within prescribed time and (c) the system of responding to audit observations is revamped.



Chennai
The 1 April 2014

(SUBHASHINI SRINIVASAN)
Principal Accountant General
(Economic and Revenue Sector Audit),
Tamil Nadu

Countersigned



New Delhi
The 3 April 2014

(SHASHI KANT SHARMA)
Comptroller and Auditor General of India