

## Compliance with DPE Guidelines

### 5.1 Introduction

The Bureau of Public Enterprises (BPE) was set up in 1965 to provide policy and overall guidance to the Central Public Sector Enterprises (CPSEs) and act as a centralized coordinating unit facilitating continuous appraisal of the performance of CPSEs. In May 1990, BPE was conferred the status of a full-fledged Department and is now known as the Department of Public Enterprises (DPE) in the Ministry of Heavy Industries and Public Enterprises.

#### Role of DPE in issuing guidelines/directives to CPSEs

- The directions/ instructions are given to CPSEs through Presidential Directives as well as Guidelines issued by Administrative Ministries or DPE.
- **Presidential Directives** are issued by the Administrative Ministries to the concerned CPSEs whenever the situation so warrants and are **mandatory** in nature. For the purpose of maintaining uniformity, such Directives are to be issued in consultation with the DPE if these relate to single CPSE and with the concurrence of the DPE if these are applicable to more than one CPSE.
- **Guidelines** could be issued either by the Administrative Ministries or the DPE as the case may be and are **advisory** in nature. The Board of Directors of the CPSEs will have the discretion not to adopt these guidelines for reasons to be recorded in writing. The Board Resolution on the subject giving the reasons therein is to be forwarded both to the Administrative Ministry concerned as well as to the DPE.

### 5.2 Non-compliance with DPE guidelines

DPE formulates policy guidelines pertaining to CPSEs in areas like performance improvements and evaluation, financial management, personnel management, Board structures, wage settlement, training, industrial relation, vigilance, performance appraisal, etc.

Instances were noticed in Audit wherein the CPSEs had not complied with guidelines issued by DPE. There were 2 Audit Paras, involving 2 CPSEs violating the DPE guidelines, printed in the CAG's Audit Report No.8 of the year 2012-13. These are summed up in the following table:

Sl. No.	Subject Area	Number of			₹ in crore)		No. of cases in which violation continues	₹ in crore)
		Audit Paras	CPSEs	Cases	Monetary Value	Recovery of irregular payment		Subsequent irregular payment
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	Excess payment of Performance related pay	1	1	1	43.18	Nil	1	95.60
2	Non-recovery of irregular subsidy extended to employees	1	1	1	3.05	2.43	Nil	Nil
<b>Total</b>		<b>2</b>	<b>2</b>	<b>2</b>	<b>46.23</b>	<b>2.43</b>	<b>1</b>	<b>95.60</b>

### 5.3 Status of 'Follow-up' on non compliance

Audit reviewed the corrective action taken by CPSEs to recover the irregular payments above and issue of directives for future compliance and more importantly, the role played by the DPE in ensuring the recovery of irregular payment and remedial action by CPSEs on audit issues as discussed below:

#### 5.3.1 Excess payment of Performance related pay

While clarifying on the elements of Profit Before Tax (PBT) for computation of performance related pay, DPE recommended (November 2010) that 'the profit of CPSE is expected to come out from the specified objective and core activity and that extra ordinary items like valuation of stock, grant waived by Government, sale of land etc (list of items is not exhaustive) will not be included in calculation of PBT as far as performance related pay is concerned'. Audit observed that this recommendation was violated by one CPSE and an amount of ₹ 43.18 crore for the performance related pay was irregularly paid.

Audit further observed that the CPSE did not recover the irregular payment and made a subsequent irregular payment of ₹ 95.60 crore.

#### 5.3.2 Non-recovery of irregular subsidy extended to employees

DPE guidelines issued in November 2008\* clearly stated that 'with implementation of the 'Cafeteria Approach', all subsidies towards electricity, canteen/meal coupons etc. will stand withdrawn in case of executives'. Audit observed that these guidelines were violated by one CPSE and an amount of ₹ 3.05 crore was irregularly paid. However, the CPSE recovered an amount of ₹ 2.43 crore till July 2013 and also stopped the irregular payment.

### 5.4 Oversight role of DPE

The DPE, being the nodal agency dealing with the affairs of CPSEs, is expected to monitor the adoption of its guidelines by the CPSEs' Boards and also monitor compliance with these guidelines.

\* DPE OM No.2(70)/08-DPE(WC)

Though the DPE guidelines are advisory, for good corporate governance, there should be an appropriate mechanism to enforce accountability of the Administrative Ministries and CPSEs to the compliance to DPE guidelines.

Audit review of the institutional arrangement that DPE has in place to ensure compliance to its guidelines revealed that:

- **DPE did not maintain database as to which of the CPSE Boards adopted its guidelines;**
- **DPE did not have a mechanism to ensure compliance with all its guidelines;**
- **DPE did not write to CPSEs for recovery of irregular payments pointed out by Audit.**

In essence, the role of DPE in ensuring compliance with its own guidelines by CPSEs was not effective.

DPE stated (January 2012) that it was proposing to the Cabinet Secretariat (Secretary, Performance Management) to include 'compliance to DPE guidelines' as mandatory objective in Annual Results Framework Document (RFD) of the Administrative Ministries under which the respective CPSEs fall.

## 5.5 Directives of Parliamentary Standing Committee on Industry

Department-related Parliamentary Standing Committee on Industry in its 216th Report, presented before Parliament on 19-4-2010, recommended that "in order to play a meaningful and effective role in getting the policies and guidelines implemented by the CPSEs, DPE should ask for the compliance Report from the CPSEs about the implementation of the policies and guidelines formulated by it from time to time and separate paragraph thereon may be incorporated in the "Annual Report of DPE".

Accordingly, in July 2010 and June 2011, DPE requested Administrative Ministries to furnish reports regarding compliance of its guidelines by CPSEs by June of every year. DPE introduced compliance with a few of its guidelines as one of the parameters in MoUs of 2012-13, with mandatory weight of 5. However, as per the MoUs guidelines of 2013-14, the compliance will not be a mandatory parameter, but Task Force will have liberty to impose penalty of negative marks upto 5 depending on degree/ seriousness of non-compliance.

## 5.6 Recommendations:

- **DPE should set up suitable institutional arrangement to ensure compliance with all its guidelines for ensuring good corporate governance.**
- **On non-compliance issues reported in Audit, DPE/Administrative Ministries should ensure timely remedial action.**