



CHAPTER-III

CHAPTER-III

3 Transaction Audit Observations

Important audit findings arising out of test check of transactions of the State Government Companies are included in this Chapter.

Government Companies

Madhya Pradesh Audyogik Kendra Vikas Nigam (Ujjain) Limited

3.1 Avoidable payment of interest

Non-filing of annual Income Tax Return within due dates and shortfall in remittance of advance tax resulted in avoidable payment of interest of ₹ 26.77 lakh

As per Section 208 of the Income Tax Act, 1961 (Act), advance tax is payable during a financial year, in every case, where the amount of such tax payable by the assessee during the year is rupees ten thousand¹ or more. Section 234B of the Act stipulates that where in any financial year, an assessee who is liable to pay advance tax under Section 208 failed to pay such tax or where the advance tax paid by such assessee is less than 90 *per cent* of the assessed tax, the assessee shall be liable to pay simple interest at the rate of one *per cent* for every month from the first day of April on the amount by which the advance tax paid fell short of the assessed tax.

Further, Section 234C of the Act provides that if an assessee fails to pay advance tax or the advance tax paid is less than 15 *per cent*, 45 *per cent*, 75 *per cent* and 100 *per cent* of the tax due till 15 June, 15 September, 15 December and 31 March respectively, the assessee shall be liable to pay simple interest at the rate of one *per cent* per month on the amount of the shortfall. In terms of the provision of section 234A, in case the return of income for any assessment year is furnished after the due date, simple interest at the rate of one *per cent* for every month or part of a month is chargeable on the amount of tax on the assessed income less advance tax paid and tax deducted/collected at source.

We observed that the Company had not paid the advance tax within the prescribed time and had also not filed their annual income tax returns (ITR) within the due dates. Scrutiny of records (June 2013) indicated that the Company was irregular in filing ITRs and payment of advance tax at the stipulated percentages on the due dates. Due to delay in finalisation of Annual Accounts for the years 2008-09 to 2011-12, the Company filed the ITRs for the Assessment Years (AYs) 2009-10 in 2010-11, for AY 2010-11 in 2011-12. The Company paid ₹ 26.77 lakh towards interest for AYs 2009-10 to 2012-13 which could have been avoided had the Company correctly assessed and paid the quarterly installments of advance tax on the prescribed due dates.

The Management stated (December 2013) that delay in finalisation of the accounts and absence of accurate estimates of advance tax were the main reasons for delay in payment of advance tax.

¹ Substituted for “five thousand” by the Finance Act, 2009 w.e.f 1.4.2009.

The reply is not acceptable in view of the provisions of Section 210 of the Companies Act, 1956 which states that it is the duty of the Company to place the accounts in the Annual General Meeting of the shareholders within six months of the close of the financial year. Further, the Company could have estimated the tax liability for the respective years on the basis of the margins available on its operating income.

The matter was reported to the Government in July 2014; their reply had not been received (December 2014).

Special Economic Zone Limited (Indore)

3.2 Penal interest on interest of Security Deposits

Failure to fulfill the statutory obligation resulted in avoidable expenditure of ₹ 47.17 lakh on account of penal interest

According to Madhya Pradesh Electricity Regulatory Commission (MPERC), Security deposit (Revision-I), Regulation 2009, Licensee may collect Security Deposit from all consumers in respect of Meters, Lines and Plants and Consumption of electricity. Licensee shall pay interest on Security Deposit to consumers every month at the prevailing Reserve Bank of India's Bank rate by arranging to give a credit through the monthly bill. For the period of delay in payment of interest on security deposit, the Licensee (Company) shall be liable to pay a simple interest on the amount of interest on security deposit payable to consumers at the rate of one *per cent* per month.

We observed (August 2013) that the Company did not pay interest on security deposits to consumers during the years 2009-10 to 2012-13. The interest calculated on security deposit was ₹ 2.33 crore and the Company subsequently adjusted the same in three instalment (January, February and March 2013) in energy bills. The non- payment of interest on security deposits regularly through monthly bills as per MPERC Regulation resulted in payment of penal interest on interest to the tune of ₹ 47.17 lakh.

The Management while accepting the facts stated (October 2014) that the payment of interest on interest was made as per the order passed by Hon'ble MPERC dated 19 February 2014.

The facts remains that the payment of interest on interest on security deposits as per the order of Hon'ble MPERC, was made, when the Company failed to fulfil the statutory obligation, which resulted in avoidable expenditure of ₹ 47.17 lakh on account of penal interest.

The matter was reported to the Government in July 2014; their reply had not been received (December 2014).

3.3 Unfruitful Expenditure

Unfruitful expenditure of ₹ 32.48 crore on establishment of Apparel Park

A Centrally sponsored scheme "Apparel Parks for Exports (APE)" was formulated by the Government of India (GoI) with a view to involve State Governments in promoting investments in the apparel sector. The scheme

intended to impart focused thrust to setting up of apparel manufacturing units of international standards at potential growth centres and to give fillip to exports in this sector, so as to achieve the target of US\$ 25 billion by 2010 as envisaged in National Textile Policy 2000.

Ministry of Textile, Government of India (February 2004) approved the Government of Madhya Pradesh (GoMP) project proposal at ₹ 17 crore for setting up an apparel park at Special Economic Zone (SEZ) Indore, under “Apparel Parks for Exports” scheme. As per approved scheme, grant from GoI was limited to the extent of 75 per cent of the infrastructure development cost (excluding the cost of land) up to a maximum of ₹ 10 crore, cost of setting up of an effluent treatment plant, creches, multipurpose centre/hall for marketing/display etc, up to a maximum of ₹ 5 crore and 50 per cent of the cost of any training facility created in the park up to a maximum of ₹ two crore. The central assistance under the scheme would also be subject to the conditions inter alia that at least 25 per cent plots should be booked within three months and 50 per cent of plots should be booked in six months from the date of approval.

The project cost was revised to ₹ 29.07 crore by GoI (January 2007) with admissible assistance of ₹ 17 crore and the balance was to be borne by GoMP. GoMP appointed (August 2008) Madhya Pradesh Audhyogik Kendra Vikas Nigam, Indore (AKVN) as the Special Purpose Vehicle (SPV) for implementing apparel park project consisting of road, drains, culverts, drainage system, sewer line, power, Effluent treatment plant and training center. AKVN acquired 133.38 acre (53.98 hectares) land at Pithampur for the same from GoMP. The entire work was to be completed within eight months from the date of appointment. The GoMP commenced payment to the project from January 2005 and ₹ 6.67 crore was paid up to September 2011, excluding the cost of land of ₹ 5.40 crore and GoI paid ₹ 8.52 crore (November 2006 to August 2008) to AKVN towards central assistance. AKVN incurred ₹ 32.48² crore against the approved project cost amounting to ₹ 29.07 crore, which was shown in the accounts of SEZ (Indore) Limited.

We observed that (August 2013) despite the project having time constraint factor for central assistance, AKVN had not made vigorous efforts to complete it in time and due to slow progress of infrastructure work, AKVN extended the schedule completion date from March 2009 to March 2010 and further extended to March 2012. Keeping in view of slow progress of work Ministry of Textile GoI decided (July 2011) to discontinue the APE scheme with effect from 30 September 2011. Thus inordinate delay and lack of effective monitoring to ensure timely completion of project resulted in incurring of unfruitful expenditure of ₹ 32.48 crore.

The Company stated (August 2014) that they are actively making efforts to attract the units in SEZ but because of discrimination in the incentive structure of GoI, establishing units in SEZ is no more financially attractive.

² GoI ₹ 8.52 crore, GoMP ₹ 12.07 crore and ₹ 11.89 crore from own source

The reply is not acceptable as due to slow progress of work only one agreement was signed (June 2007) after setting up of the park and thereafter no entrepreneur approached the Company. Further the Ministry of Textiles, GoI had discontinued the project stating that the AKVN had not shown interest in implementing the APE scheme. As regards the contention of the Company incentive structure of GoI, for discrimination in the project had already been withdrawn due to the slow progress of work, before any change of incentive structure of GoI.

The matter was reported to the Government in July 2014; their reply had not been received (December 2014).

Madhya Pradesh Urja Vikas Nigam Limited

3.4 Loss of Interest

Delay in reinvestment of surplus fund resulted in loss of interest of ₹ 35.28 lakh

Madhya Pradesh Urja Vikas Nigam Limited receives funds from various Government Department as deposits for work. Scrutiny of the records of the Company indicated (May 2013) that though the Company has not formulated any policy regarding investment of funds, with the intention of earning interest on funds, the Company invests the same in fixed deposit (FD) into various scheduled banks. It was observed that on maturity, the surplus fund invested in FDs if required, by the Company was either reinvested or utilised for Company expenses. It was further observed that the Company reinvested ₹ 52.50 crore during 2012-13 on maturity of FDs and there were delays in reinvestment ranging from 12 to 66 days, which resulted in loss of interest of ₹ 35.28 lakh.

The Government stated (August 2014) that the fund flow statement of the Company for the year 2012-13 clearly states that there would have been negative balance of ₹ 15.02 crore in the month of August 2012, if the Company had immediately reinvested the amount in FDR. Similar position would have arisen on maturity of FDR in the month of December 2012.

The reply is not acceptable as the Company had arrived at negative balance without considering the maturity value of FD's in August and December 2012. Further the closing balance in these months were positive after considering all payments and investment in FD's. Thus lack of proper fund management system for assessing the short term and long term fund receipt and its requirement resulted in loss of interest of ₹ 35.28 lakh after considering saving bank interest earned by the Company.

Crystal IT Park Limited Indore

3.5 Loss of Revenue

Loss of revenue of ₹ 2.84 crore due to non-charging of operation and maintenance charges

The Crystal IT Park Limited (Company) was incorporated under the Companies Act, 1956 on 16 September 2004 as a subsidiary Company of the Madhya Pradesh Audyogik Kendra Vikas Nigam Limited, Indore. The main

object of the Company is to develop, promote and maintain infrastructure for industries/businesses related to Information Technology, Gems, Jewellery and other industries. The Company is also allotting developed space/building to the IT sector entrepreneurs for a minimum period of five years. The Company is entitled to recover monthly license fees/rent and operation & maintenance (O&M) charges from the respective allottee.

The letter of intents and agreements entered into with the allottees by the Company indicated that O&M charges were recoverable at the rates notified by the Company from time to time. The Board of Directors (BoD) in its meeting held in February 2012 approved O&M charges at the rate of ₹ 150/- per sqmt per month in respect of industries/businesses allotted space in the Crystal IT Park Ltd., Indore. The Company allotted super built up area of 7235 sqmt to four IT sector entrepreneurs on rental basis in IT Park, Indore between June 2012 and March 2013.

It was observed that the Company did not notify the rates of O&M charges so far (December 2014). As a result, the Company has not levied O&M charges of ₹ 2.84 crore on the four allottees.

The Company stated (July 2014) that they have fixed O&M charges at the rate of ₹ 150 per sqmt. per month which was to be recoverable from the units after completion of park. As the Company has not incurred any expenditure on the O&M of the park, thus it was not logical to recover O&M charges.

The Reply is not acceptable, as the BoDs had fixed the O&M charges after considering the capital expenditure incurred by the Company and the same was to be recovered from the allottees to whom the space allotted. Thus non-observance of Board's decision by duly notifying the O&M charges resulted in failure to collect ₹ 150 per sqmt. per month from the above four allottees amounting to ₹ 2.84 crore.

The matter was reported to the Government in June 2014; their reply had not been received (December 2014).

Madhya Pradesh Power Generating Company Limited

3.6 Unfruitful expenditure on procurement of material

Procurement of material on urgency basis and their non utilisation resulted in unfruitful expenditure of ₹ 5.02 crore

Madhya Pradesh Power Generating Company Limited (Company) was incorporated with the objective of generation of power. The Satpura Thermal Power Station (STPS) Sarni, one of the power generation station of the Company, placed three orders for procurement of diaphragms of turbines and packing rings and spill strips of diaphragms for requirement of Power House-I, for Units I to V³, at a total cost of ₹ 5.21 crore between the period October 2007 to August 2009 and the entire material was received between June 2008 to July 2010.

Audit observed that, the STPS had procured above material for urgent requirement for replacement/usage for the Capital Overhauling (COH) of 62.5

³ Each unit having capacity of 62.5 Megawatt (MW).

MW units. COH of Unit-III and Unit-V was already done before the material was procured and COH of Unit-IV was not planned. Though COH of Unit-II was done during September 2009 and Unit-I was carried out during April/May 2012, however, the STPS did not utilise these materials and the entire spares procured remained unutilised. Further, as all the Units I-V, were decommissioned between October 2012 to January 2014, and the Company is not having any 62.5 MW capacity units. Thus there is no prospect of usage of these materials in future thereby, rendering the entire material worth ₹ 5.02 crore redundant.

The Government replied (September 2014) that procured diaphragms were decided to be kept in stock for replacement in next COH of Unit III and V but due to decommissioning of Unit III and V, COH of these units were deferred and procured diaphragms could not be utilised.

The facts remains that the Company was aware of the fact that the decommissioning of these units were planned in near future; procurement of materials without requirement resulted in unfruitful expenditure of ₹ 5.02 crore.

Madhya Pradesh Madhya Kshetra Vidyut Vitaran Company Limited

3.7 Incorrect Application of tariff category

Incorrect application of tariff category resulted in loss of revenue of ₹ 20.94 lakh

As per Madhya Pradesh Electricity Regulatory Commission retail tariff HV-3.2 (Non-Industrial) tariff shall apply to establishment like railway station, offices, hotels, institutions etc. (excluding group of consumers) having mixed load for power, light and fan etc. This shall also cover all other category of consumers, which are defined in Low Tension (LT) non-domestic category covered under LV 2.2 tariff. LT non-domestic tariff LV-2.2, was applicable for light, fan and power to railways (for purpose other than traction and supply to railway colonies and water supply) shop/showrooms, parlour, Government offices, Government hospitals and Government medical care facilities including primary health centres, offices belonging to public/private organisation, private clinics, nursing homes and private hospitals.

Madhya Pradesh Madhya Kshetra Vidyut Vitaran Company Limited (Company) entered into (10 January 2006) High Tension (HT) agreement with the Consumer, who, runs medical care facilities (Hospital) at Ganjbasoda, Madhya Pradesh, for the contract demand of 60 KVA. The initial contract demand was increased to 90 KVA (October 2008) and 120 KVA (September 2012) by two supplementary agreement.

We observed that the consumer falls under HV-3.2 tariff which is applicable to all medical care facilities including Government and Private Hospitals, instead the Company applied HV-6.1 tariff which was applicable to bulk residential users.

Wrong application of the HV-6.1 tariff resulted in loss of revenue of ₹ 20.94 lakh for the period April 2006 to February 2014.

The matter was reported to the Company/Government in June 2014; their reply had not been received (December 2014).

3.8 Short Billing due to not enforcing prescribed minimum contract demand

Short billing of ₹ 6.61 crore due to non-enforcing of the prescribed minimum contract demand as per Tariff Schedule 2011-12 in respect of consumers whose contract demand was at variance with the one specified in Tariff Schedule

According to Tariff Schedule 2011-12, clause 1.18 (General terms and conditions of Permanent Connection) for High Tension (HT) Tariff consumers of Madhya Pradesh Electricity Regulatory Commission (MPERC), the Minimum Contract Demand for consumers drawing power at 11 kV, 33 kV and 132 kV are 50 KVA, 100 KVA and 5,000 KVA respectively and the deviation, in respect of above minimum contract demand on account of technical reasons may be permitted after obtaining specific approval of the MPERC by consumer. Electricity consumption bill includes fixed charges, energy charges and fuel adjustment charges. Fixed charges are billed on per KVA basis at 90 *per cent* of the contract demand or actual demand whichever is higher.

We noticed (August 2013) in scrutiny of the database of high tension electricity consumers for the period from April 2010 to April 2013 that in respect of 1514 cases (45 consumers) that the amount billed from the consumers based on actual demand was ₹ 6.61 crore less, than the amount to be billed from the consumers based on 90 *per cent* of the minimum contract demand as per tariff schedule as the actual contract demand was at variance at 33 kV and 132 kV line.

We further observed that the database of HT consumers did not indicate approval of the commission for the contract demand lesser than the specified minimum contract demand on account of any technical reason. We noticed that all the consumers were very old i.e. before MPERC formed. However after enactment of regulation and supply code by MPERC, old agreements were not reviewed by the Company and no approval of MPERC was obtained.

Thus, due to not enforcing the prescribed minimum contract demand in respect of these consumers, whose actual demands were also less than the actual contract demand, fixed element of energy charges was short billed by ₹ 6.61 crore for the period April 2010 to April 2013.

The Government replied (April 2014) that the clause 1.18 (General terms and conditions of Permanent Connection) for HT Tariff consumers of MPERC so framed were applicable to new consumers only and as per Supply Code, 2004, clause 3.4, in case of existing consumers whose contract demand at various voltage levels is not within the range of maximum and minimum contract demand specified in the MPERC regulations, such consumers shall not be insisted upon by the licensee to change their supply voltage, unless such a consumer makes a request and is ready to bear the cost of such charges.

The reply is not acceptable as in clause 1.18 it is not mentioned that the rules so framed are applicable to new consumers only. As regards their contention

for Clause 3.4, of Supply Code, 2004, the reply is factually incorrect as it is not mentioned in clause that the contract demand shall be changed on consumer request only. Department of Finance, Government of Madhya Pradesh had also suggested (October 2014) Department of Energy, Government of Madhya Pradesh to recover the amount along with interest from the concerned consumers.

Thus the Company failed to watch its financial interest by not reviewing the contract demand of existing consumers which led to short billing of ₹ 6.61 crore.

GENERAL

3.9 Follow-up action on Audit Reports

Explanatory notes outstanding

3.9.1 Report of the Comptroller and Auditor General of India represent the culmination of the process of scrutiny starting with initial inspection of accounts and records maintained in the various offices of Public Sector Undertakings and Departments of Government. It is, therefore, necessary that they elicit appropriate and timely response from the Executive. Chief Secretary, Government of Madhya Pradesh had issued instructions (November 1994) to all Administrative Departments to submit explanatory notes indicating corrective/remedial action taken or proposed to be taken on the paragraphs and Performance Audits included in the Audit Reports within three months of their presentation to the Legislature, without waiting for any notice or call from the Committee on Public Undertakings (COPU).

Though, the Audit Report for the year 2011-12 was presented to the State Legislature on 11 January 2014. Two departments which were commented upon did not submit explanatory notes on two Paragraphs/Performance Audits as on 30 September 2014. The Audit Report for the year 2012-13 was presented to the State Legislature on 22 July 2014. Department-wise details is given in the *Annexure 3.1*.

Compliance with the Reports of Committee on Public Undertakings

3.9.2 The replies to recommendations of the COPU, as contained in its Reports, are required to be furnished in the form of Action Taken Notes (ATNs) within six months from the date of presentation of the Report by the COPU to the State Legislature. On the basis of recommendations of the COPU, 35 Action Taken Notes (ATNs) were received during 2013-14.

Response to Inspection Reports, Draft Paragraphs and Performance Audits

3.9.3 Audit observations noticed during audit and not settled on the spot are communicated to the heads of the PSUs through Inspection Reports (IRs). The heads of PSUs are required to furnish replies to the inspection reports within a period of four weeks.

Inspection reports issued up to March 2014 pertaining to 52 PSUs showed that 1906 paragraphs relating to 642 IRs remained outstanding at the end of September 2014 which had not been replied for one to nine years.

Department-wise breakup of IRs and audit observations outstanding as on 30 September 2014 is given in **Annexure-3.2**.

Similarly, Draft Paragraphs and Performance Audits 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. Three Performance Audits and eight Draft Paragraphs were forwarded to various departments between June 2014 to July 2014, but reply to five Draft paragraphs have not been received so far (December 2014) as detailed in **Annexure-3.3**.

We recommend 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 Audits as per the prescribed time schedule; (b) action is taken to recover loss/outstanding advances/overpayments in a time bound schedule; and (c) the system of responding to audit observations is revamped.

Bhopal
The

(DEEPAK KAPOOR)
Accountant General
(Economic and Revenue Sector Audit)
Madhya Pradesh

Countersigned

New Delhi
The

(SHASHI KANT SHARMA)
Comptroller and Auditor General of India

