CHAPTER VIII- IRREGULARITIES IN PAYMENT OF ENTITLEMENTS AND RECOVERIES BY CPSEs AT THE INSTANCE OF AUDIT

8. Following significant instances of irregularities in payment of various entitlements and allowances to the employees of CPSEs were noticed in audit:

Airports Authority of India, Coal India Limited and its Subsidiaries

8.1 Irregular payment of allowances and perks beyond admissible ceiling

Non-adherence to guidelines of Department of Public Enterprises (DPE) regarding grant of allowances and perks to executives to a maximum ceiling of 50 *per cent* resulted into irregular payment of ₹ 543.77 crore and ₹ 29.33 crore to the employees of AAI and CIL respectively.

The Department of Public Enterprises (DPE) issued (November 2008) guidelines on revision of scales of pay in Central Public Sector Enterprises (CPSE) effective from 01 January 2007. The guidelines further stated that in respect of other allowances/perks, 'The Board of Directors would decide on the allowances and perks admissible to the different categories of the executives subject to a maximum ceiling[1] of 50 *per cent* of the basic pay. Instead of having a fixed set of allowances, the CPSEs may follow 'Cafeteria Approach' allowing the executives to choose from a set of perks and allowances'.

A. Audit observed that beside the payment of perks and allowances under the cafeteria approach, Airports Authority of India (AAI) was also paying perks and allowances in the form of Rating Allowance, Proficiency Allowance and Medical Allowance[2] to its employees over and above the ceiling of 50 *per cent* and other exempted allowances in contravention of the directions[3] issued by DPE on the same. Further, though AAI discussed this matter in the meeting of Manpower Advisory Board held in May/July 2012 and decided to refer the matter to MoCA for seeking the Cabinet approval specifying the objectives and reasons, but till date (February 2014) the approval of Cabinet was not accorded.

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[1] *The following allowances would be outside the purview of ceiling of 50 per cent of the Basic Pay:*
- *(i) North-East Allowance limited to 12.5 per cent of Basic Pay.*
- *(ii) Allowance for Underground Mines limited to 15 per cent of Basic Pay.*
- *(iii) Special Allowance up to 10 per cent of Basic Pay for serving in the difficult and far flung areas as approved by concerned Ministries in consultation with Department of Public Enterprises from time to time.*
- *(iv) Non-Practicing Allowance limited to 25 per cent of Basic Pay for Medical Officers.*

[2] *Rating allowance to executives of Air Traffic Controllers, Proficiency Allowance to CNS executives and Medical Allowance to all employees*

[3] *DPE OM dated 26 November 2008, OM dated 2 April 2009, OM dated 1 June 2011, OM dated 29 June 2012 and OM dated 11 June 2013*

AAI stated (July 2013) that payment of allowances over and above the 50 *per cent* prescribed by DPE were a legacy issue in AAI. It was also stated that these allowances were being paid for specialized jobs which the ATC/CNS and other executives performed for which they had acquired special technical skills. Further, these allowances were being paid prior to the wage revision effected by DPE, i.e., 01 January 2007. The management also decided (January 2014) to submit the issue to Cabinet for approval.

The reply is not tenable as the DPE guidelines categorically states that no allowances/benefits/perks other than those mentioned in DPE OM dated 26 November 2008 was admissible outside the 50 *per cent* ceiling. Further, AAI has not obtained the approval of the Cabinet till date.

Resultantly, the payment of allowance and perks amounting to ₹ 543.77 crore made during the period from 2007-08 to 2013-14 in the form of Rating Allowance, Proficiency Allowance and Medical Allowance was in contravention of DPE guidelines.

B. Audit observed that the subsidiaries of Coal India Limited (CIL) unduly allowed either allowances for cooking gas or provided free LPG cylinder to its executives over and above the ceiling of 50 *per cent* of basic pay, deviating from the DPE guidelines and accordingly extra payment was made to the executives over the years except by MCL, CMPDIL and SECL where benefit of gas allowance was discontinued in 2012, 2014 and 2015 respectively.

Audit further observed that there was no uniformity in the practice of allowing the benefit of Gas Allowance /LPG cylinder to the executives across the coal subsidiaries under the same Holding Company (CIL). In some coal subsidiaries, viz BCCL, NCL, WCL, MCL, SECL and ECL, gas allowance/LPG facility was allowed to the executives working at Subsidiary Headquarters as well as in area offices, while in other coal subsidiaries (CCL and CMPDIL), the same was not allowed to the executives working at subsidiary headquarters. The Holding Company, CIL, however, did not allow gas allowance to the executives working at its Head Office. Even as regards the compliance of DPE guidelines, there was no common approach towards discontinuing the benefit of gas allowance/LPG facility in the coal subsidiaries under CIL as MCL, SECL and CMPDIL had already discontinued gas allowance/facility but other subsidiaries of CIL are still continuing the same.

Based on the records examined in Audit in respect of Coal India Limited and its subsidiaries, an irregular payment of ₹29.33 crore to their executives was observed during 2009-10 to 2013-14 as given below:

Sl. No.	Name of CPSEs	Irregular Payment on account of LPG allowance/facility (₹ in crore)
1.	North Eastern Coalfields Limited (NECL) under control of Coal India Limited	0.18
2.	Mahanadi Coalfields Limited	0.81
3.	Northern Coalfields Limited	4.76
4.	South Eastern Coalfields Limited	10.56

5.	Western Coalfields Limited	4.63
6.	Central Coalfields Limited	2.64
7.	Bharat Coking Coal Limited	2.90
8.	Eastern Coalfields Limited	2.73
9.	Central Mine Planning and Design Institute Limited	0.12
	Total	**29.33**

CIL stated (November 2014) that:

- The supply of free coal to all employees including executives for domestic use had been in vogue in collieries of CIL subsidiary companies since pre-nationalization era and the practice was continued after nationalization of coal companies.

- Since the practice of free supply of coal had been contributing to health hazards, environmental pollution etc. in the coalfield areas and also due to escalation of the price of coal, substitution of LPG cylinder with coal supply had become a necessity and was cost effective to the company. Hence, the supply of free coal was discontinued and one LPG cylinder per month per employee was provided in its place.

- The supply of free coal or LPG cylinder in its place to executives had never been a component of pay and perks of any of the executive pay revisions since 1973/1975 and thus it could not be considered as perks or allowance. Therefore, the supply of LPG cylinder in lieu of the domestic supply of coal did not violate the DPE guidelines on perks and allowance.

The subsidiaries of CIL viz., WCL, CCL, ECL and BCCL offered (September/October/November 2014/February 2015) the same views in line with the Holding Company (CIL). NCL stated (November 2014) that supply of one LPG cylinder free of cost was not included in the list of perks as provided in cafeteria approach. CMPDIL, MCL and SECL, however, stated (September 2014/ January 2015/ February 2015) that the present practice of reimbursement to executives for LPG had been discontinued.

The above contentions are not acceptable in view of the following:

- DPE guidelines dated 26 November 2008 categorically stated that no allowances and perks would be admissible to the executives over and above the maximum ceiling of 50 *per cent* of the Basic Pay. Further, Gas Allowance did not come within the purview of four allowances which were specifically kept by DPE outside the purview of the above 50 *per cent* ceiling.

- CIL had itself admitted that the supply of free coal or LPG cylinder in its place to executives had never been a component of pay and perks of any of the executive pay revisions. As such, extending benefit of LPG allowance or facility is not regular and is in violation of DPE guidelines. Further, free supply of LPG cylinder to the executives for domestic cooking should have been considered as one of the components of Perks as per definition of 'Perquisites' in terms of Section 17(2) of the Income Tax Act, 1961.

- The DPE Office Memorandum dated 1 June 2011, 29 June 2012 and 11 June 2013 directed all the ministries/departments for strict compliance of the relevant provision and decided that no other allowance or perks would be kept outside the 50 *per cent* ceiling except the four that have been provided in the DPE OM dated 26 November 2008.

- MCL, one of the subsidiaries of CIL, had already issued instructions (July 2012) to ensure that no other payment was made to any executive on account of any allowance/benefit/perks outside the prescribed 50 *per cent* ceiling in pursuance of the DPE directives and accordingly stopped payment of LPG allowance. CMPDIL and SECL have also accepted to discontinue the practice of reimbursement to executives for LPG. However, the other subsidiaries of CIL are still continuing the practice of allowing gas allowance/facility to their executives though they are under the same Holding Company (CIL).

The matter was reported to the Ministry of Civil Aviation (August 2014) and Ministry of Coal (November 2014); their response in respect of AAI and CIL and its subsidiaries was awaited (March 2015).

The New India Assurance Company Limited, General Insurance Corporation of India Limited, United India Insurance Company Limited, Export Credit Guarantee Corporation of India Limited, The State Trading Corporation of India Limited, Coal India Limited and Food Corporation of India

8.2 Recoveries at the instance of audit

In 22 cases pertaining to seven CPSEs, audit pointed out an amount of ₹ 58.59 crore that was due for recovery. The management of CPSEs had recovered an amount of ₹ 56.60 crore (97 *per cent*) during the period 2013-14 as detailed in **Appendix-I.**