CHAPTER–III

Transaction Audit Observations

CHAPTER-III

3. Transaction Audit Observations relating to Government companies and Statutory corporations

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

Purvanchal Vidyut Vitran Nigam Limited

3.1 Undue benefit to consumer

The Company extended undue benefit of ₹ 24.96 crore to the consumer by allowing adjustment of banked energy in contravention to the provisions of CNCE Regulations

The sale of electricity from the Captive Power Generation Plants to Electricity Distribution Licensee (Licensee) in the State is governed by the Captive and Non-Conventional Energy Generating Plants Regulation[1] (CNCE Regulations) issued by Uttar Pradesh Electricity Regulatory Commission (UPERC). Captive generating plant means a power plant set up by any person or co-operative society or association of persons for generating electricity primarily for its own use. Banking of power is the process under which a generating plant supplies power to the grid not with the intention of selling it to either a third party or to the Licensee, but with the intention of exercising its eligibility to draw back this power from the grid.

The Uttar Pradesh Power Corporation Limited (UPPCL), on behalf of Purvanchal Vidyut Vitran Nigam Limited (Company), entered (July 2009) into a Power Purchase Agreement (PPA) with the consumer for supply[2] of electric energy to the consumer as well as for supply[3] of electric energy by the consumer from its captive power plant (75 *per cent* banking with the Company and 25 *per cent* sale to the Company basis) for a period of five years ending March 2014. The PPA was extended (March 2014) initially for two months which was further extended[4] (May 2014) till the notification of new regulations.

The terms and conditions of the PPA regarding withdrawal of the banked units by the consumer, its adjustment from the energy sold by the Company to the consumer and raising of bill after adjustment of banked units were as under:

- the rates, terms and conditions of the PPA would be governed by the new policy (CNCE Regulations as issued by UPERC);
- Clause 13 (a) of PPA provided that the Company would send bill each month to the consumer for net energy supplied by the Company after adjustment of banked energy; and

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1 Regulations came into force in July 2005 and subsequently revised in 2009 and 2014.

2 2,222.20 KVA as main supply and 42,222.20 KVA as standby and emergency assistance supply.

3 60,000 KW.

4 PPA for the period April 2014 to March 2019 could not be signed till date (October 2016).

- Clause 22 (A) of PPA provided that the consumer could consume upto 75 *per cent* of banked energy during current financial year and 25 *per cent* during subsequent financial years.

Further, CNCE Regulations, 2005 notified (March 2006) by UPERC, which came in force from July 2005, inter-alia provided the following:

- as per Regulation 39 (B) (vi), the consumer was allowed to withdraw banked power either in the same financial year or during the following financial year i.e. within a maximum period of two years; and
- as per Regulation 39 (B) (vii), the banked energy remaining unutilised on the expiry of the following year was to be treated as sale to the Company at the rate specified by UPERC for the year during which the power was banked.

Thus, the Regulations 2005 provided for adjustment of banked units, from the units sold by the Company to the consumer, within a maximum period of two financial years; whereas PPA (Clause 22 A) provided for adjustment of banked units even beyond two years.

Audit noticed (February 2016) that the PPA, entered into by UPPCL, were not in consonance with provisions of the CNCE Regulations (Regulation 39 (B) (vi) and (vii) of 2005) which restricted the adjustment of banked units within two years. Further, the Electricity Distribution Division-Pipri, Sonebhadra of the Company ignoring the provisions of the clauses of PPA which provided that the rates, terms and conditions of PPA were to be governed by the new policy (CNCE Regulations), allowed adjustment of 14.05 million units (MU), violating the provisions of applicable Regulations, banked during 2010-11 to 2011-12 against the units sold during 2014-15. This led to undue benefit of ₹ 5.78 crore[5] ***(Annexure-3.1)*** to the consumer.

Besides, the Company did not raise the bill of ₹ 19.18 crore[6] ***(Annexure-3.1)*** for 31.94 MU sold to the consumer during 2014-15 and allowed the adjustment in the name of banked units though no banked units were available.

Thus, by not applying the provisions of Regulations 2005, as was provided for in the PPA, the Company extended undue benefit aggregating ₹ 24.96 crore to the consumer.

The Management accepted audit observation (October 2016) and stated that energy bill, based on the CNCE Regulations, had been issued (October 2016) to the consumer for the period from April 2011 to March 2015. The fact remained that amount of ₹ 24.96 crore had not been recovered from the consumer so far (October 2016).

The matter was reported to Government in June 2016; reply was awaited (October 2016).

3.2 Delay in change of category of consumer

The Company suffered loss of revenue of ₹ 1.38 crore due to inordinate delay in migration of the consumer to HV-2 category

Uttar Pradesh Electricity Supply Code 2005 (Supply Code) in clause 4.40 (Change of category) provides that when a consumer applies for change of category from one tariff rate schedule to another, the Licensee shall inspect the

[5] ₹ 8.44 crore *minus* ₹ 2.66 crore.

[6] ₹ 27.62 crore *minus* ₹ 2.66 crore *minus* ₹ 5.78 crore.

premises to verify and change the category within 10 working days from the date of acceptance of application. It further provided that the change of category shall be effective from next billing cycle. However, in case sanction of new category is not permitted under any law in force, the Licensee shall inform the consumer within 15 days from the date of acceptance of application.

General provisions of tariff order, approved by Uttar Pradesh Electricity Regulatory Commission, for financial year 2009-10 provided an option to migrate to a High Voltage (HV)-2 category; that is, consumer under LMV-1, LMV-2, LMV-4 and LMV-6 with contracted load above 50 KW and getting supply at 11 kV and above voltage shall continue to have an option to migrate to HV-2 category. The tariff further provided that the consumers shall have an option of migrating back to the original category, if he so desired.

Audit noticed (July 2015) that consumer[7] took over (October 2006) the assets of U.P. State Cement Corporation Limited (UPSCCL) consequent upon winding up of the plant. At that time an electricity connection under LMV-1 category in the name of Production Manager, UPSCCL, Churk, with the load of 850 KW and supply at 33 KV voltage, continued to remain in existence for giving power supply to the residents who were occupying the accommodation of the corporation. It was further noticed that the consumer requested (October 2009) to the Company to allow migration from LMV-1 to HV-2 category stating that power would be used for industrial as well as domestic purposes in plant and lighting of the colony. The Company, however, did not initiate any action to migrate the consumer to higher tariff within 10 working days as prescribed in clause 4.40 of the Supply Code.

The Consumer was allowed to migrate to higher tariff of HV-2 category belatedly in February 2013.

Thus, due to inordinate delay of three years and three months in migration of consumer to HV-2 category, the Company suffered a loss of revenue amounting to ₹ 1.38 crore during the period from November 2009 to January 2013.

Audit was informed (September 2016) in reply that the directives of CE (February 2010) to ensure to change in category of the consumer had been communicated to the consumer. However, record of any such communication was not made available to audit. Thus, the veracity of the communication could not be verified by audit.

The matter was reported to Government in June 2016; reply was awaited (October 2016).

3.3 Fixed charges not recovered due to delay in release of connection

The Company failed to release the connection within seven days of completion of work in compliance to the provisions of the Supply Code and was deprived of recovery of fixed charges of ₹ 1.05 crore from the consumer

Clause 4.1 of the Supply Code provides that the licensee shall give supply of electricity to such premises within one month after receipt of completed

[7] Jaiprakash Associates Limited.

application and payments, provided where such supply requires extension of distribution mains and commission of sub-station, the distribution licensee shall supply the electricity to such premises immediately after such extension or within such period as specified in Clause 4.8 of the Supply Code. Clause 4.8 of the Supply Code provides that the licensee shall execute the work expeditiously within 300 days for loads to be connected at 132 KV from the date of deposit of estimated charges. Further, Clause 4.8 (h) of the Supply Code provided that licensee shall intimate the date (later than seven days from the date of completion of works) on which connection shall be energised.

Audit noticed (August 2015) that the Chief Project Manager, Railway Electrification, Lucknow (consumer) applied (November 2007/January 2008) to the Electricity Urban Distribution Division (EUDD)-I, Gorakhpur of the Company to release the load of 5 MVA under HV-3 category to feed the proposed North East Railway Grid sub-station traction from 132 KV sub-station Mohaddipur, Gorakhpur for railway traction from June 2008. The Company sanctioned (December 2008) the load of the consumer. Since, 132 KV transmission line and 132 KV bay was to be constructed for releasing the load, Uttar Pradesh Power Transmission Corporation Limited (UPPTCL) prepared (December 2007) tentative estimate of the work amounting to ₹ 1.39 crore which was revised (December 2011) to ₹ 2.46 crore against which consumer deposited ₹ 1.39 crore (June 2008) and ₹ 1.07 crore (December 2012). The consumer requested (June 2013) UPPTCL to complete the work at the earliest. UPPTCL completed the works on 6 August 2014 but it did not intimate the Company so that the connection to consumer could be released immediately.

Audit further noticed that the Company did not coordinate with UPPTCL to follow the progress of construction work to ensure prompt release of connection. The Company enquired (July 2015) about the progress of work from UPPTCL which intimated (21 July 2015) that the work was already completed on 06 August 2014. The Company immediately released the connection to consumer on 24 July 2015. Thus, due to lack of coordination between the UPPTCL and the Company, it failed to release the connection within seven days of completion of works as per requirement of Supply Code. The connection was released with a delay of ten months resulting in loss of opportunity to recover fixed charges of ₹ 1.05 crore[8] for the period September 2014 to June 2015.

The Management stated (June 2016) that the work of construction of line was not completed till 14 July 2015 as the shifting of tower number four was in progress. After completion of the work by UPPTCL and on getting the permission of Railway Authorities the line was energised on 27 July 2015. Reply was not tenable as the work was completed in August 2014 as was certified by UPPTCL, Gorakhpur, hence, the connection should have been released immediately.

The matter was reported to Government in May 2016; reply was awaited (October 2016).

[8] Demand charges of ₹ 280/KVA/month X Load; 3750 KVA (75 *per cent* of 5000 KVA) X 10 months= ₹ 1.05 crore.

Purvanchal Vidyut Vitran Nigam Limited and Uttar Pradesh Power Transmission Corporation Limited

3.4 Undue favour to contractors

The Companies, violating the provisions of Welfare Cess Act/Rules, did not deduct and deposit Cess of ₹ 5.12 crore from the bills of contractors and extended undue benefit to them

The Government of India (GoI) enacted the Building and Other Construction Workers' Welfare Cess Act, 1996 (Cess Act) and framed the Building and Other Construction Workers' Welfare Cess Rules, 1998 (Cess Rules). The Government of Uttar Pradesh (GoUP) implemented the aforesaid Cess Act and Rules in the State vide notification dated 4 February 2009. The GoUP also constituted (November 2009) the 'Uttar Pradesh Building and Other Construction Worker's Welfare Board (Welfare Board).

Welfare Board may provide immediate assistance to a beneficiary in case of accident; make payment of pension and sanction loans and advances to a beneficiary for construction of a house; pay premia for Group Insurance Scheme of the beneficiaries; give financial assistance for the education of children of the beneficiaries; and meet medical expenses for treatment of major ailments of a beneficiary/dependant *etc*.

Section 3 of the Cess Act provides that Cess, at the rate of one *per cent* of the cost of construction incurred by an employer, shall be levied and collected from the employer and deposited with Welfare Board constituted for the purpose. Further, Rule 4 (3) of Cess Rules framed by GoI provides that, where the levy of Cess pertains to building and other construction work of a Government or of a Public Sector Undertaking (PSU), such Government or the PSU shall deduct the Cess payable at the notified rates *i.e.* one *per cent* from the bills paid for such works.

Audit noticed (August 2015/September 2015) that the Companies made payment of ₹ 654.90 crore[9] to 19 contractors who executed the work of construction of sub-stations and lines during 2013-14, 2014-15 and 2015-16. The Companies were required to deduct Cess of ₹ 6.55 crore[10] from their bills for onward deposit of the same with the Welfare Board. The Companies did not deduct Cess of ₹ 6.30 crore from the bills of the contractors without any reason on records except one Company[11] which deducted Cess only of ₹ 25 lakh.

Audit further noticed that the Company[11] also executed the work of construction of 220 KV and 132 KV sub-stations and lines departmentally incurring ₹ 41.09 crore during February 2010 to July 2015. On the work executed departmentally, the Company[11] was required to deposit Cess of ₹ 41 lakh with the Welfare Board but the Company did not deposit any amount of Cess.

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[9] ₹ 478.61 crore to nine contractors by Purvanchal Vidyut Vitran Nigam Limited (PuVVNL) and ₹ 176.29 crore to 10 contractors by Uttar Pradesh Power Transmission Corporation Limited (UPPTCL).

[10] ₹ 4.79 crore by PuVVNL and ₹ 1.76 crore by UPPTCL.

[11] UPPTCL.

Thus, the Companies failed to deduct Cess of ₹ 6.30 crore as per requirement of the Cess Act/Rules leading to undue favour to the contractors and did not deposit Cess of ₹ 6.71 crore♣ leading to loss to the Welfare Board to that extent.

The Management of the Companies accepted the audit observation and stated (June 2016) that the cess amounting to ₹ 1.59 crore[12] had been deducted and deposited with the Welfare Board. The necessary instructions had been issued to comply with the provision of Cess Act and deduction of cess had been started. The fact remained that recovery of Cess amounting to ₹ 5.12 crore[13] was pending (October 2016).

The matter was reported to Government in May 2016; reply was awaited (October 2016).

Uttar Pradesh Rajkiya Nirman Nigam Limited

3.5 Loss due to undue benefit to contractor

The Company extended undue benefit to the contractor by providing advances on ad-hoc basis without actual measurement of work which resulted in advances of ₹ 5.03 crore and interest of ₹ 6.72 crore remained unrecovered

The Uttar Pradesh Rajkiya Nirman Nigam (Company) entered (7 July 2010) into an agreement with a contractor[14] for construction of District Jail at *Ambedkar Nagar* at a contract value of ₹ 65.97 crore. Faizabad Unit (Unit) of the Company was assigned (September 2010) to execute the work.

As per clause 24 of the agreement, contractor was to be provided mobilisation advance up to the maximum limit of 10 *per cent* of the contract value against a bank guarantee of equal amount which was to be valid up to six months after completion of the work. The mobilisation advance was to be adjusted against running bills of the contractor. Further, interest at the rate of 12 *per cent* per annum was payable by the contractor on the mobilisation advance.

Audit noticed (August 2015) that as per clause 24 of the agreement, the contractor was to be provided mobilisation advance only of ₹ 6.60 crore (10 *per cent* of contract value). The Project Manager of the Unit, however, provided advances aggregating ₹ 26.83 crore (Mobilisation Advance: ₹ 6.50 crore and advances against labour and material: ₹ 20.33 crore) to the contractor during August 2010 to February 2012, against the bank guarantee of ₹ eight crore only. The advances were given on the request of the contractor without actual measurement of the work executed. Thus, advances provided to the contractor were not only in excess of the admissible amount but was also unsecured (to the extent of ₹ 18.83 crore) due to deficient amount of bank guarantee.

Audit further noticed that the financial advisor of the Company failed to check the release of excessive advances and the contractor left the work incomplete in January 2014. Against the advances of ₹ 26.83 crore, the Unit could recover

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♣ ₹ 6.71 crore included ₹ 6.30 crore plus ₹ 41 lakh to be deposited by UPPTCL on departmental works.

12 ₹ 68 lakh by PuVVNL and ₹ 91 lakh by UPPTCL.

13 ₹ 4.11 crore by PuVVNL and ₹ 1.01 crore UPPTCL.

14 Sai Nath Estate Private Limited, Hyderabad.

₹ 21.80 crore[15] through adjustment from the pending bills, forfeiting bank guarantee and securities during March 2011 to August 2015. So advances of ₹ 5.03 crore remained unrecovered so far (March 2016) besides, interest of ₹ 6.72 crore recoverable as per terms of the agreement, also could not be recovered.

Thus, in contravention to the provisions of the agreement, the Unit extended undue benefit to the contractor by providing advances on ad-hoc basis without actual measurement of work, in excess of the admissible amount and that too against deficient bank guarantee which led to loss of ₹ 11.75 crore[16] to the Company.

The Management stated (September 2016) that the then Project Manager was responsible for providing excess advances and not levying interest thereon as per enquiry report of 18 May 2016 and action against Project Manager was under progress. Further, legal opinion had been sought for taking legal action against contractor. Reply was not acceptable as the responsible Project Manager had retired from service in June 2015 and enquiry, which was initiated in August 2013, was finalised (May 2016) only after his retirement. Further, no legal action was initiated against the contractor by the Company even after a lapse of more than two years since the abandonment of work.

The matter was reported to Government in June 2016; reply was awaited (October 2016).

3.6 Loss due to payment to contractor without ensuring actual value of work

The Company suffered loss of ₹ 6.63 crore due to payment of more than the actual value of work executed to the contractor

The Government of Uttar Pradesh (GoUP) accorded (February 2010) administrative and financial sanction for construction of District Jail at Kanshiram Nagar at a cost of ₹ 58.88 crore. The Company was nominated as executing agency for construction of the District Jail. The Company assigned execution of this work to its Kasganj unit. The work of construction of District Jail was awarded (July 2010) by the Company to Sainath Estates Private Limited, Hyderabad (Contractor) for ₹ 58.88 crore against the tender invited in March 2010. The work was started by the contractor in September 2010.

As per Clause 24 of the agreement, interest bearing (12 *per cent* per annum) mobilisation advance of 10 *per cent* of the project cost was to be given to the contractor. Further, as per Clause 17 of the agreement, the contractor had to submit monthly bill (detailed measurements and item-wise Bill of Quantity) for the work executed by him. Field Engineer (Unit) of the Company, prior to release of payment to contractor, had to take measurements of work to assess value of work actually executed by the contractor.

Audit noticed (October 2015) that the financial advisor of the Company failed to check the release of excessive advances and the Unit released payments to the contractor without assessing value of work actually executed by the

[15] Adjusted ₹ 13.11 crore from pending bills of the contractor during March 2011 to April 2014, forfeited bank guarantee of ₹ eight crore (July/August 2014) and security of ₹ 0.69 crore (August 2015).

[16] Unrecovered advances: ₹ 5.03 crore and interest: ₹ 6.72 crore.

contractor and without considering earlier payments released and amounts lying unadjusted with the contractor. As a result, payment of ₹ 41.28 crore was released to the contractor during August 2010 to July 2011 against total value of work of ₹ 32.22 crore assessed as per the fourth bill (July 2011) of the contractor. Thus, undue favour of ₹ 9.06 crore was extended to the contractor by releasing inadmissible payments in violation of clause 17 of the agreement.

Audit further noticed that the value of work done of ₹ 32.22 crore assessed as per fourth bill was incorrect as the actual value of work done was ₹ 19.72 crore only as per measurements subsequently taken by the Unit during September/October 2012. This led to excess payment of ₹ 12.50 crore to the contractor.

Thus, the contractor was unduly benefitted for total payments of ₹ 21.56 crore (₹ 9.06 crore and ₹ 12.50 crore) due to the failure to adhere to the provision of Clause 17 of the agreement and because of incorrect assessment of value of work done. The contractor abandoned the work mid-way in September 2013.

The Company initiated (March 2013) enquiry against nine employees of the rank of General Manager, Additional Project Manager, Unit Incharge, Sub-Engineers and Assistant Accountant; served charge sheet to three employees and lodged (September 2014) FIR against three out of nine employees. The enquiry has not been finalised so far (August 2016). The Company at the instance of Audit lodged (May 2016) FIR against the contractor for recovery of excess amount released.

The Company could recover (up to August 2016) ₹ 14.93 crore[17] only from the contractor against excess payment of ₹ 21.56 crore. Thus, due to release of inadmissible/excess payments to the contractor, the Company suffered loss of ₹ 6.63 crore (₹ 21.56 crore *less* ₹ 14.93 crore).

The Management accepted the audit observation and stated (September 2016) that action for recovery of balance amount was in progress.

The matter was reported to Government in July 2016; reply was awaited (October 2016).

3.7 Avoidable payment of Income Tax

The Company accounted for centage at the rate of 11.50 *per cent* instead of 6.875 *per cent* on the expenditure incurred on the works. As a result, it paid Income Tax of ₹ 5.39 crore on inadmissible centage income

The Company executes works of various departments of the Government of Uttar Pradesh (GoUP) on deposit basis *i.e.* actual cost *plus* centage. It engages piece rate workers (PRWs) for execution of the construction works.

The order (February 1997) of GoUP provides for calculation of centage at the rate of 12.50 *per cent* on the cost of work arrived at after deducting five *per cent* of the cost estimated on the basis of the Schedule of Rate (SOR) of U. P. Public Works Department (UPPWD). Accordingly, the total cost of

[17] ₹ 10.93 crore recovered up to September 2015 + ₹ 4 crore recovered on the order of the court.

work including centage works out to be 106.875[18] *per cent* of the cost estimated as per SOR of UPPWD. Thus, the admissible centage worked out to be 6.875 *per cent* of the cost estimated on SOR of UPPWD basis (without deducting five *per cent*).

The Company was assigned construction of residential houses in Meerut under two centrally sponsored schemes[19]. The cost estimates of the works of these schemes were prepared considering centage at the rate of 12.50 *per cent* instead of 6.875 *per cent* of the estimated cost as also communicated by the State Urban Development Authority (SUDA).

Audit noticed (October 2015) that SUDA Unit-1, Meerut of the Company accounted for centage at the rate of 11.50 *per cent* instead of 6.875 *per cent* on the expenditure incurred on the works. This resulted in accountal of inadmissible centage income amounting to ₹ 17.44 core during the period from 2008-09 to 2014-15, on which the Company paid Income Tax of ₹ 5.39 crore worked out at the rate 30.9 *per cent* (including cess of 3 *per cent*).

The Management stated (September 2016) that excess charged centage income pertaining to years 2008-09 to 2011-12 had been reversed in the account of 2012-13 and centage had correctly been charged at the rate of 6.875 *per cent* in the accounts for the year 2012-13 to 2015-16. Further, for Income Tax Assessment for 2011-12 and 2012-13, returns had been filed and refund/adjustment for excess deposit of Income Tax would be made by Income Tax department after finalisation of assessment by them.

Reply was not acceptable as the Company had already paid income tax for the years 2008-09 to 2014-15 on accrued centage income and revised income tax return, for refund/adjustment of excess paid income tax, could only be filed within a period of one year from the end of relevant assessment year or before completion of the assessment, whichever was earlier as per provision of section 139 of Income Tax Act, 1961, which was not done by the Company till date (October 2016).Therefore, no refund was likely to be received from the Income Tax Department. Further, reversal of centage income is only rectification of Company's account which did not affect the status of payment of income tax. Moreover, assessment order of the Company for the years 2011-12 and 2012-13 had been finalised by the Income Tax Department on 23 February 2015 and 30 January 2015 respectively.

The matter was reported to Government in June 2016; reply was awaited (October 2016).

3.8 Loss due to inadmissible expenditure on quality control tests

The Company suffered loss of ₹ 1.37 crore due to incurring expenditure on quality control tests, not provided for in the DPR

The Company executes works of various Government departments on deposit work basis *i.e.* actual cost *plus* centage. The centage at the rate of 12.5 *per cent* available on the cost of work does not include expenses incurred on quality control tests. Therefore, expenses to be incurred on quality control

[18] Cost of work= 100 *minus* five *per cent*= 95. Centage on 95 at the rate of 12.5 *per cent*=11.875. Thus, total cost of work= 106.875 (95 +11.875).

[19] Basic Services for Urban Poor (BSUP) Scheme and Integrated Housing and Slum Development Programme (IHSDP).

tests carried out by third parties should have been included in the Detailed Project Report (DPR) of the concerned work so that cost of quality control test may be recovered from the client.

SUDA Units, Agra and Meerut of the Company were allotted deposit work by State Urban Development Agency (SUDA) for construction of residential houses in different areas under two centrally sponsored schemes[20]. DPRs for each area were prepared (February 2009) by these Units in which cost of laboratory and testing charges to be incurred for quality control purposes were not included. The DPRs were approved by SUDA and works were started from February 2009.

The Managing Director of the Company also reiterated (January 2011) that for maintaining quality in the works being executed by the Company, third party quality control tests by Indian Institute of Technologies (IITs) or renowned firms of the country was compulsory besides establishment of own quality control cell at each site.

The Project Managers of the above two Units engaged various private and semi Government agencies for carrying out quality control tests and incurred expenditure of ₹ 1.37 crore[21] during 2009-10 to 2014-2015 on account of laboratory and testing charges.

Audit noticed (October 2015) that SUDA denied (March 2015) the claim of laboratory and testing charges on the ground that there was no provision in the DPRs for incurring expenditure on laboratory and testing charges. Thus, due to deficient provision in the DPRs, the Company could not get the reimbursement of the expenditure incurred on laboratory and testing and so suffered a loss of ₹ 1.37 crore.

The Management while accepting the fact stated (September 2016) that provision regarding third party quality control mechanism was made in the DPR. Hence, a letter was sent in August 2016 to SUDA for payment of expenses incurred on third party quality control. Reply was factually incorrect as SUDA rejected the claim of third party quality control expenses as no such provision was included in the DPR.

The matter was reported to Government in June 2016; reply was awaited (October 2016).

Dakshinanchal Vidyut Vitran Nigam Limited

3.9 Loss due to not-levy of Regulatory Surcharge

The Company suffered loss of revenue of ₹ 52.53 lakh due to not-levying/short levy of regulatory surcharge on LMV-8 consumers

Uttar Pradesh Power Corporation Limited (UPPCL) issued notifications for recovery of regulatory surcharge and additional regulatory surcharge from consumers in compliance with the orders issued by Uttar Pradesh Electricity Regulatory Commission (UPERC) from time to time. As per the notifications

[20] Basic Services for Urban Poor (BSUP) Scheme and Integrated Housing and Slum Development Programme (IHSDP).

[21] UPRNN SUDA Unit, Agra: ₹ 37.87 lakh and UPRNN SUDA Unit, Meerut: ₹ 98.91 lakh.

(June 2013 and June 2014), regulatory surcharge was to be charged at the rate of 3.71 *per cent* and 2.84 *per cent* of the rate of charge during the period 10 June 2013 to 31 March 2014 and 6 June 2014 and onwards respectively. An additional regulatory surcharge at the rate of 2.38 *per cent* of the rate of charge to be levied from 12 October 2014 was further notified (October 2014) which was revised (June 2015) to 4.28 *per cent* from 28 June 2015.

Audit noticed (September 2015) that Electricity Distribution Division (EDD)-I, EDD-II and EDD-III, Aligarh of Dakshinanchal Vidyut Vitran Nigam Limited (Company) did not levy/short levied the regulatory surcharge/additional regulatory surcharge of ₹ 52.53 lakh on four State Tube well consumers (LMV-8) as detailed in table 3.1.

Table 3.1
Details of levy/short levied the regulatory surcharge

(₹ in lakh)

Divisions	Consumers (Category)	Period	Regulatory surcharge due	Regulatory surcharge charged	Short charged
EDD-I, Aligarh	Executive Engineer, Tube Well Division I, Aligarh	July 2013 to March 2015	28.37	-	28.37
EDD-II, Aligarh	Executive Engineer, Tube Well Division II, Aligarh	November 2014 to March 2015	20.05	10.91	9.14
EDD-III, Aligarh	Executive Engineer, Tube Well Division I and II, Aligarh	August 2013 to March 2015	21.05	6.03	15.02
Total			**69.47**	**16.94**	**52.53**

Source: Information furnished by the Divisions

Thus, despite the orders of UPERC/UPPCL, EDD-I Aligarh did not charge regulatory surcharge of ₹ 28.37 lakh from consumer during July 2013 to March 2015 and EDD-II and EDD-III, Aligarh short charged regulatory surcharge of ₹ 24.16 lakh from the consumers during August 2013 to March 2015 without any reason on records. Thereafter, bills were issued by the EDDs charging regulatory surcharge as notified by UPPCL.

As a result, the Company suffered revenue loss of ₹ 52.53 lakh due to not levying/short levy of regulatory surcharge on the consumers billing during July 2013 to March 2015.

The Management accepted the fact and stated (September 2016) that bills had been raised but no payment from the consumer had been received.

The matter was reported to Government in May 2016; reply was awaited (October 2016).

Uttar Pradesh Jal Nigam

3.10 Infructuous expenditure

The Nigam spent ₹ 66.90 lakh on illegal construction work adjoining the prohibited monument area, which had to be abandoned later

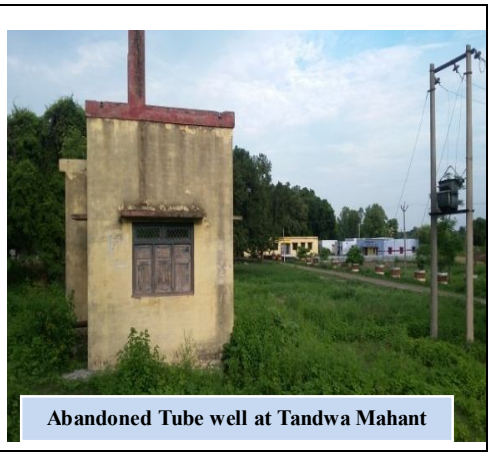
The Construction Divisions of the Nigam are engaged in construction of water supply systems in rural and urban areas of the State under various schemes of the Central and State Governments.

During the audit (June 2015) of the Construction Division, Shravasti (Division) of the Nigam, it was noticed that a tube well and over head tank in village Tandwa, Mahant meant for providing safe and adequate drinking water to the villagers, was lying abandoned, on which an expenditure of ₹ 66.90 lakh[22] was incurred**.** On further scrutiny of the case, it was noticed that there was a two-fold lapse on the part of the Management of the Division as discussed below:

- As per Gazette notification of July 1992 of the Government of India (GoI) issued under section 19 (1) of the Ancient Monuments and Archaeological Sites and Remains Act, 1958, excavation and construction work could be done within 300 meters of any monument only with the permission of the Archaeological Survey of India (ASI). Audit noticed that the construction site fell within 300 meters of an ancient monument located in the village Tandwa Mahant; but the Division did not apply for permission of ASI and started (September 2006) the construction work. Therefore, ASI issued (March 2007) a show-cause notice to demolish the illegal construction in the monument area. The Division had incurred an expenditure of ₹ 22.34 lakh up to March 2007. After show-cause notice, the Division applied (June/August 2007) for permission but ASI refused (January 2009) to grant permission for construction in the area of the monument.

- Despite issuance of notice and denial of permission by ASI, the Division continued the construction work and incurred an expenditure aggregating ₹ 66.90 lakh up to December 2011, which was 86 *per cent* of the cost of work. Thereafter, the construction work was abandoned and remained so till date (October 2016). The photograph of monument and abandoned tube well is given below:

Monument located in the village Tandwa Mahant



Abandoned Tube well at Tandwa Mahant

Thus, due to taking up construction work by the Division in a prohibited area adjoining the monument without obtaining required permission from ASI and continuance of work despite issuance of notice and denial of permission by ASI, an expenditure of ₹ 66.90 lakh incurred thereon proved to be Infructuous. Further, the intended objective of providing safe and adequate drinking water facilities to villagers of Tandwa Mahant, was also not realised.

The Management stated (September 2016) that, at present, effort is being made to obtain permission from ASI and, after permission, expenditure made

[22] Including expenditure of ₹ 15.99 lakh on establishment and electrical and mechanical works.

on the work would not be infructuous. However, no documentary evidence was furnished by the Management in support of reply that efforts were being made to obtain the required permission. The fact remained that the Division continued to incur expenditure on the work till December 2011 even after ASI had refused (January 2009) the grant of No Objection Certificate which resulted in expenditure of ₹ 66.90 lakh being rendered Infructuous.

The matter was reported to Government in May 2016; reply was awaited (October 2016).

3.11 Avoidable expenditure on disposal of surplus earth

The Nigam failed to provide for the sale of earth on the spot and incurred an avoidable expenditure of ₹ 2.93 crore on disposal of earth. It also lost opportunity to earn revenue from sale of earth to the extent of ₹ 75.23 lakh

The Uttar Pradesh Jal Nigam (Nigam) prepares schemes for disposal of sewages in the State. In execution of scheme *viz.* development of sewerage/drainage system, earth is excavated for making drains. After the process of constructing drains and backfilling is completed, voluminous surplus earth remains for disposal.

As per Minor and Mineral (Development and Regulation) Act, 1957, ordinary earth (used for filling or leveling purpose) is a minor mineral. Thus, the earth, remained after backfilling, is a minor mineral and can be sold on the spot after deposit of due royalty. The sale of the earth on spot serves a two-fold purpose as it eliminates the need for incurring disposal costs and also could earn revenue. Even if given free of cost after deposit of due royalty, it will eliminate the cost of disposal from the total work estimate.

The Nigam was assigned by the Government of India (GOI) the work of execution of sewerage system under Jawahar Lal Nehru National Urban Renewal Mission (JNNURM). The Nigam executed (September 2009) an agreement with Contractor for construction of new/remodeled drains (Part-I), repair of existing drains (Part-II), laying of rising main (Part-III) and Civil and Electrical and Mechanical construction of pumping stations (Part-IV) at the aggregated cost of ₹ 93.87 crore under the project of storm water drainage for Mathura town.

General specification of the agreement provided that the contractor would dispose off the extra/surplus earth from the site of work to the places specified by the Engineer. The measurement shall be recorded on the basis of volume of earth disposed off by the contractor by preparing contour plan or by mechanical means.

The details of estimated work and actual work done for excavation and disposal of surplus earth/silt/sand etc. under all Parts (excluding Part-IV involving no excavation) of the agreement is given in table 3.2.

Table 3.2
Details of estimated work and actual work done for excavation and disposal of surplus earth/silt/sand

(Quantity in cum)

Particulars	Part-I Excavation and disposal of surplus earth	Part-II De-silting of drains and disposal of silt	Part-III Excavation and disposal of loam, clay & sand	Total quantity
Estimated quantity of earth/silt excavated	202056	17314	2384	221754
Actual quantity of earth/silt excavated	205867	17314	2384	225565
Estimated quantity for disposal of surplus earth/silt	103048	10424	2384	115856
Actual quantity of earth/silt disposed	183491	10424	2384	196299

Source: Bill of quantity of agreement and final payment bill

Since Part-II and Part-III of the agreement involved disposal of silt, loam, clay and sand, hence, these were not saleable. The Part-I of the agreement involved disposal of surplus earth. The surplus earth was saleable item and, therefore, it could be sold.

The Drainage and Sewerage Unit, Mathura (Division) of the Nigam was the executing agency for the work. As per final bill submitted by the contractor to the Division, 2,05,867 cum earth was excavated and 1,83,491 cum earth was disposed in the work of Part-I of the agreement during September 2009 to March 2014 and disposal charges amounting to ₹ 2.93 crore at the rate of ₹ 159.48 per cum was paid (up to June 2014) for disposal of the earth. The details of differential quantity of surplus earth of 22,376 cum[23] were not found on records.

Audit noticed (December 2015) that though the Division was aware of the fact since the beginning that disposal of the surplus earth shall be required in due course of execution of the work and Collector's circle rate specify the rate at which the earth will be bought and sold as a saleable commodity; it failed to make arrangements for sale of the surplus earth accordingly.

Audit further noticed that Division did not maintain records of instructions of the Engineer, if any, issued to the contractor. The Engineer-in-charge did not record in the Measurement Books (MB) the mode of disposal, distance and places where the earth was actually disposed off or thrown away by the contractor. So, the Division was unaware of the mode of disposal and place-wise quantity of the earth disposed.

Thus, the Division failed to provide for the sale of earth on the spot and also did not make effort even to dispose the earth free of cost which could have eliminated the need for incurring disposal cost. The Management incurred an avoidable expenditure of ₹ 2.93 crore on disposal of earth and it also lost the opportunity to earn revenue from sale of surplus earth to the extent of ₹ 75.23 lakh (calculated at the rate of ₹ 41 *per cum* provided in the Collector's circle

[23] 2,05,867 cum excavated earth *minus* 1,83,491 cum disposed earth.

rate of Mathura town after deducting the royalty required to be paid on the sale of earth at the rate of ₹ 9 *per cum*).

The Management stated (September 2016) that earth excavated during construction of drains was mixed with silt and sludge in which component of earth was very less. Reply was not acceptable as Audit had considered only Part-I of the work which involved excavation and disposal of surplus earth which did not involve any silt and sludge.

The matter was reported to Government in June 2016; reply was awaited (October 2016).

Lucknow
The 06 फरवरी FEB 2017

(VINITA MISHRA)
Accountant General
(Economic and Revenue Sector Audit),
Uttar Pradesh

(VINITA MISHRA)

Countersigned

New Delhi
The 08 FEB 2017

(SHASHI KANT SHARMA)
Comptroller and Auditor General of India