

# **Compliance Audit Observations**



## Chapter III - Compliance Audit Observations

Important audit findings emerging from test check during the audit of the State Government companies/Statutory corporations are included in this Chapter.

### Government Companies

#### Assam Power Distribution Company Limited

##### 3.1 Undue favour

*Decision of the Company to award the contract based on different rates for similar items in violation of the bid document led to an undue favour of ₹ 3.18 crore to the contractor.*

Assam Power Distribution Company Limited (Company) was selected (September 2008) as the implementing agency in the State for implementing the Restructured Accelerated Power Development Reforms Programme (Scheme), launched by the Government of India (GoI).

Part-B of the Scheme aimed at strengthening of the existing sub-transmission and distribution system and up-gradation of existing projects. The Scheme was sanctioned for an amount of ₹ 644.05 crore, against which the GoI released (December 2011 to June 2012) ₹ 193.22 crore to the Company.

The Company awarded (January 2013) the work of supply of the materials relating to Scheme works under the Dibrugarh Project Area to M/s Win Power Infra at a cost of ₹ 22.09 crore. The supply work was to be completed (July 2014) within 18 months from the issue of work order. The work was divided into four project areas viz. Dibrugarh town (₹ 14.78 crore), Naharkatia (₹ 4.23 crore), Namrup (₹ 1.02 crore), and Duliajan (₹ 2.06 crore). The supply of materials was completed and the entire amount of ₹ 22.09 crore was released (September 2014) to the contractor.

As per Clause 1.14.3 of the Standard Bidding Document, the bidder was required to quote uniform rates for similar items, which were to be utilized by the bidder in more than one project area. In case the bidder quoted different rates for similar items for different project areas, the Company was entitled to issue

the work order considering the lowest rate quoted by the bidder in any project area.

It was, however, seen that, in the above work, the above contractor quoted different rates for similar items of materials required to be supplied in the four project areas. The Company, on its part, failed to invoke Clause 1.14.3 and awarded the contract at different rates as quoted by the bidder for different project areas against similar items.

Thus, the decision of the Company to award the contract based on different rates for similar items, in violation of the bid document, resulted in an undue favour of ₹ 3.18 crore to the contractor.

In reply, the Company stated (July 2016) that the rate of the same item may be different due to extra transportation cost involved.

The reply of the Company is not acceptable, as allowance of different rates to the contractor was in violation of the terms and conditions of the bid document and no provision was included in the bid document to quote different rates based on extra transportation cost.

The matter was reported (May 2016) to the Government; no reply had been received (November 2016).

### **3.2 Violation of AERC regulation**

***Supply of electricity at lower voltage level in violation of AERC Regulations led to irrecoverable loss of ₹91.58 lakh to the Company.***

As per clause 2.2 of the Electricity Supply Code and Related Matters Regulations, 2004 (First Amendment-2007), notified by the Assam Electricity Regulatory Commission (AERC), *'the voltage of supply to consumers shall be determined on the basis of the contract demand of the consumer. Any consumer having a minimum contract demand of 5 MVA was to be supplied electricity by the distribution licensee (Company) at a voltage level of 132/220 KV'*.

Examination of records (June 2013) of the Company, revealed that the Company, as a temporary arrangement allowed (27 October 2010) one consumer (*viz.* Brahmaputra TMT Bars with contract demand of 11 MVA), to draw power at 33/132 KV voltage level for six months (upto 26 April 2011) as against the prescribed level of 132/220 KV. To facilitate the supply at prescribed level of 132/220 KV voltage, the consumer was directed to construct the

required infrastructure at their own cost within the period of six months. Similarly, the Company also allowed (March 2007) another consumer (*viz.* Shree Shiv Sai Steel Industries with contract demand of 8 MVA) to draw power at 33/132 KV voltage against AERC's prescribed voltage level of 132/220 KV with a direction to create necessary infrastructure to draw power at 132/220 KV voltage.

It was, however, observed that the consumers did not create the necessary infrastructure to facilitate the Company to supply power at the voltage level of 132/220 KV. The Company, however, even after the expiry of the stipulated periods, continued to supply power to both the consumers at 33/132 KV voltage level in violation of Regulation 2.2 of AERC.

It may be stated that, during the process of transformation of electricity from a higher voltage level to a lower voltage level, there is an inherent transformation loss. This is corroborated by the fact that as per the Electricity Tariff of the Company as approved by AERC, '*for supply at voltages higher than as applicable to the consumers as per Regulation 2.2 of AERC, rebate at the rate of 3 per cent shall be applicable on energy consumption for each higher level of voltage*'. Apparently, the rebate of 3 per cent was extended to the consumers in consideration of the potential savings in the energy loss for supply of electricity at higher level than prescribed.

Thus, the Company by supplying electricity to both the consumers at a lower level than specified by AERC, had incurred energy loss in the form of transformation and line losses. In absence of any stipulation in this regard in the AERC Regulations, audit considered the rate of 3 per cent allowed as rebate under the Electricity Tariff to work out the energy loss (transformation and line loss) involved in the process of transformation of electricity from higher voltage to lower voltage.

Accordingly, the losses incurred by the Company on account of continued supply of electricity to the two consumers<sup>1</sup> at lower voltage level than specified, worked out to 42,28,242 kWh. The Company, however, recovered the cost of 16,84,344 kWh (line loss) only being the difference in consumption of electricity between consumer meter and check meter installed by the Company at the substation.

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<sup>1</sup> Brahmaputra TMT Bars (April 2011 to July 2013) and Shree Shiv Sai Steel Industries (April 2011 to January 2014)

Thus, violation of AERC regulation by supplying power to the consumers at lower voltage level than specified led to an irrecoverable energy loss of 25,43,898 kWh (detailed in *Annexure 5*) valued at ₹ 91.58 lakh<sup>2</sup>.

The matter was reported (July 2016) to the Company/Government; their replies had not been received (November 2016).

### **Assam Plains Tribes Development Corporation Limited**

#### **3.3 Avoidable expenditure**

***Negligence of the Company in taking timely action for payment of EPF dues resulted in avoidable expenditure of ₹ 2.85 crore.***

Assam Plains Tribes Development Corporation Limited (Company) is an establishment covered under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (Act). As per the said Act, every employee of the Company shall contribute 12 *per cent* of their salary (basic pay *plus* dearness allowance) towards Employees' Provident Funds (EPF) subscription. The Employer has to make equal contribution along with the statutory administrative and other charges related with the maintenance of said fund and deposit it to the Employees' Provident Funds Organisation (EPFO) within 15 days of the close of every month. In case of default/delay in payment:-

- the employer shall be liable to pay the dues with simple interest of 12 *per cent*.
- in addition, the employer is liable to pay penal damage, ranging between 5 to 27 *per cent*, on the amount due, upto the day payment is made.
- further, the employer, who contravenes or makes default in complying with the provisions of the Act shall be punishable with imprisonment and fine.

It was observed that the Company was not regular in paying its PF dues since January 2003. Accordingly, the EPFO issued (December 2013) a notice requiring the Company to pay Damages (₹ 1.91 crore) and Interest (₹ 0.94 crore) for delay/default in payment of monthly subscription for the period from January 2003 to May 2013 along with unpaid EPF dues of ₹ 3.97 crore as of May 2013. While accepting the demand of EPFO, the Company paid the entire dues along with interest and damages in instalments.

<sup>2</sup> Audit has calculated the loss on the basis of the minimum tariff applicable at the rate of ₹ 3.60 per kWh

Audit observed that:

- The Company had fixed deposits, ranging between ₹ 15.55 crore to ₹ 20.71 crore, during 2002-03 to 2013-14, which were earning interest to a maximum of 8 *per cent*. The interest income earned on the fixed deposits was, however, less than the interest of 12 *per cent* payable on account of delayed payments to the EPF authority.
- The Company had also been implicated for the same default earlier by the EPFO, which had attached (March 2007) its bank accounts for non-payment of EPF dues. Further, two officials (Managing Director and Accounts Officer) of the Company were imprisoned and fined (May 2013) for default in payment.
- The Company failed to prioritise its payments of statutory dues or to take up the matter with the Government of Assam (GoA), for avoiding the payment of damages and interest.

Thus, the negligence of the Company in taking timely action for payment of EPF dues, resulted in an avoidable expenditure of ₹ 2.85 crore.

The Company, in its reply, stated that the dues could not be cleared because of the financial hardship faced by the Company.

The reply is not tenable, as the Company should have prioritised its payments of statutory dues, or take up the matter with the GoA, for avoiding the payment of damages and interest.

The matter was reported (May 2016) to the Government; their reply had not been received (November 2016).

#### **Assam State Textbook Production and Publication Corporation Limited**

#### **3.4 Undue favour**

*The Company extended undue favour of ₹ 61.71 lakh to supplier by not adjusting the price for change in specification of paper.*

The Assam State Textbook Production and Publication Corporation Limited (Company) was responsible for printing and distributing free textbooks (upto class VIII) on behalf of the Axom Sarba Siksha Abhiyan Mission every year.

For printing of free textbooks relating to academic year 2015, the Company issued (June 2014) Notice Inviting Tenders (NIT) for procurement of 7,100 MT of “70 GSM Water-marked Maplitho Paper”, with watermarks of “Axom Sarba Siksha Abhijan Mission, Assam” (SSA). As per clauses 3 and 5 of Section-V of the NIT, “*The Maplitho paper watermark shall bear watermark of Axom Sarba Siksha Abhijan Mission*” and “*the successful bidder will arrange the manufacturing of ‘Dandy Roll’<sup>3</sup> as per the design at its own cost.*”

Against the above NIT, the Company received five bids and selected Hindustan Paper Corporation Limited (HPCL), Guwahati, being the lowest bidder was selected at the quoted price of ₹ 54,287.70 per MT of Maplitho Paper, which also included the cost of watermarking on the papers. Accordingly, work orders were issued (September 2014 and January 2015) in favour of HPCL for procurement of 9,373 MT paper valuing ₹ 50.88 crore, for printing of free/sale edition textbooks. The entire quantity (9,372 MT) of paper was, however, supplied (October 2014-February 2015) by HPCL without watermarking of SSA logo on it.

Scrutiny of the records of the Company revealed that, before issue of the work orders, the Company decided (September 2014) to waive the requirement of providing watermarking of the SSA logo on the papers on the plea of corresponding delay in receipt of testing reports of the paper samples from Central Pulp and Paper Research Institute, Uttar Pradesh which cause delay in finalisation of tenders. The Company felt that the incorporation of watermark logo would cause further delay in meeting the target date of distribution of free textbooks.

However, though the Company changed the specifications by waiving the requirement of watermark logo on the papers, it did not evoke the provisions of Clause 15<sup>4</sup> of the bid document for corresponding adjustment in the contract price.

The rate quoted by HPCL was a composite price including the cost of watermarking. In absence of separate quoted rate for watermarking, the audit in its approach to determine the cost of watermarking, considered rate (₹ 658.45 per MT) of watermarking quoted (May 2014) by HPCL in its rate contract with Directorate General of Supplies & Disposals, New Delhi. Thus, due to not adjusting the price for change in the work specification, the Company extended

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<sup>3</sup> ‘Dandy Roll’ is a roller which is used to solidify partly formed paper during its manufacture and to impress the watermark.

<sup>4</sup> Clause 15 provides for an adjustment in the contract price based on change in work specification.



undue favour amounting to ₹ 61.71 lakh to HPCL, against procurement of 9,372 MT paper.

In reply, the Company stated (June 2016) that although the provision of watermark was mentioned in the tender document, the final decision regarding supply of paper, with or without watermark, was taken after finalisation of rates and the price bid of HPCL did not include any component showing inclusion of cost for “Dandy Roll” necessary for incorporating the Logo and, hence, price adjustment was not considered.

The reply is not acceptable, as the quotations of the bidders as well as the terms of the work order issued to HPCL clearly stipulated that the papers shall be watermarked and the cost of the “Dandy Roll” had to be borne by the successful bidder. HPCL’s rate being composite including the cost of watermarking and “Dandy Roll”, hence, this would have been excluded from the price or should have been negotiated by the Company. Further, the change in specification after issue of work order was not in order. Hence, the decision of the management to waive the provision of watermark without considering the financial implication was not justified.

The matter was reported (May 2016) to the Government; their reply had not been received (November 2016).

### **Assam Livestock and Poultry Corporation Limited**

#### **3.5 Loss of Revenue**

***Lackadaisical approach of the Company in submission of proposal for upgradation of the Plant and in formalising the agreement with the Collaborator led to loss of potential lease rent revenue of ₹35.23 lakh.***

Mention was made in paragraph 3.1 of the Report of the Comptroller and Auditor General of India (Commercial) - Government of Assam (GoA) for the year ended March 2011 about lack of initiative by the Company in creating legal and contractual rights for receipt of lease rent. The paragraph had pointed out the accumulation of irrecoverable lease rent dues of ₹ 56.62 lakh from M/s Maestro Enterprise on this account in Integrated Piggery Development Project at Nazira (Plant), which was completed (June 2006) at a cost of ₹ 3.02 crore.

During discussion (May 2013) before the Committee on Public Undertakings (COPU), the Company had assured that a Memorandum of Understanding (MoU) shall be entered with M/s En Punto (a new collaborator), within a period

of 6 months, to operate the Plant under the Public Private Partnership (PPP) mode. It was further assured that, after operationalisation of the plant, it would be a profit earning unit.

Scrutiny of records of the Company revealed that the Company had entered (May 2013) into a MoU with the collaborator to operate the Plant under PPP mode. The MoU was valid for a period of 6 months (*i.e.* upto November 2013), and was to be followed by a Final PPP agreement. The MoU *inter alia* stated that:

- The Collaborator was not required to pay rent for initial 6 months from the date of MoU.
- The Plant would be handed over on an ‘as is where is’ basis.
- The Collaborator would have to infuse its own funds for any minor upgradation of the plant and machinery to keep the plant operational.
- The Company would facilitate submission of the proposal for upgradation of the project from the Government of India/State agencies.

The draft PPP agreement prepared (November 2012) by the Company prior to signing (May 2013) of MoU further contained a clause relating to the collaborator having to pay a sum equivalent to at least 5 *per cent* of the value of assets handed over to it after valuation, as lease rent, every financial year.

The assets of the piggery project were handed over to M/s En Punto (June 2013), who repaired and overhauled the machinery *viz.* boiler unit, generator, electrical panels and motors, which enabled them to start the slaughter line operation of the plant. The plant required upgradation due to deterioration in the quality of the assets. The upgradation and modernisation of the Plant involved substantial cost which was beyond the financial capacity of the Company.

Accordingly, a preliminary request for upgradation of the Plant valuing ₹ 4.98 crore was submitted (March 2014) to GoA by the Company for approval. It was, however, observed that the Company did not submit the ‘concept papers for upgradation of the project’ as desired (June 2015) by the GoA without any reason on record (November 2016).

From the above, it could be concluded that:-

- Despite the past experience, with the previous collaborator (M/s Maestro Enterprise), the Company failed to enter into any legal agreement with the new Collaborator (M/s En Punto), although the MoU clearly stipulated to

formalise the agreement so as to could create legal rights and obligations enforceable in a Court of Law.

- The Company, while handing over (June 2013) the Plant to the collaborator, failed to revalue the assets for determining the lease rent as per the terms of MoU.
- The delay in submission of DPR by the Company and lack of efforts towards initiating the process of upgradation of the Plant had adversely affected the operational performance of the Plant and earning capacity thereby causing inability of the Company to recover lease rent from the collaborator.
- The Company did not put in place a mechanism to check and monitor the operation of the Plant so as to safeguard the assets and ensure receipt of lease rent in time.

As was the case earlier, the Company, this time also, could not recover any lease rent from the collaborator since beginning (December 2013) in the absence of a formal PPP agreement. The collaborator took the plea (February 2014) that the plant needs modernisation and upgradation, while remaining silent on signing of the agreement. During the entire period, the collaborator utilised the assets of the Company, without payment of rent, till date (November 2016).

Thus, the lackadaisical approach of the Company in submission of proposal for upgradation of the plant to GoA and in formalising the agreement with the Collaborator had led to loss of potential lease rent revenue of ₹ 35.23 lakh<sup>5</sup>.

In reply, the Company stated (June 2016) that the collaborator was not able to market the products without FSSAI certification. The Plant required major upgradation, which was beyond the Company's capacity and hence had sent an upgradation proposal to the GoA, which was yet to be approved. This had also affected the signing of the final PPP agreement with the collaborator, as well as collection of lease rent.

The reply is not tenable, as the Company has not made any viable efforts for upgradation of the Plant and was yet to submit the revised proposal as sought by the GoA. Consequently, in the absence of a legally binding agreement between the Company and the collaborator, it could not recover any lease rent from the collaborator.

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<sup>5</sup> ₹ 3.02 crore x 5 per cent x 28 months (December 2013 - March 2016) = ₹ 35.23 lakh. As the project was handed over on an 'as is where is' basis without revaluation and the Company, as well as the collaborator, have to invest for any upgradation of the plant, the lease rent has been calculated, based upon the original value of the asset.

The matter was brought to the notice to Government (April 2016); however, no reply had been received so far (November 2016).

### Assam State Development Corporation for Scheduled Castes Limited

#### 3.6 Undue Favour

*Procurement of power tillers having lower technical specification at higher cost led to additional expenditure of ₹ 39.76 lakh besides depriving potential coverage of additional beneficiaries.*

Assam State Development Corporation for Scheduled Castes Limited (Company) was set up in the year 1975, for the purpose of socio-economic development of people of Scheduled Castes of Assam living 'Below the Poverty Line' through implementation of Family Oriented Income Generating Scheme (Scheme). The Company had been implementing the scheme with the amount received from the Central/State Governments under Special Assistance to Scheduled Castes Component Plan. Under the scheme, the Company provided Power Tiller, Tractor, Sewing machine *etc.* to the beneficiaries.

For the year 2013-14, the Company submitted (November 2013) a proposal to the Government of Assam (GoA) for purchase and distribution of Power Tillers to Scheduled Castes farmers in the rural areas of Assam at an estimated cost of ₹ 2.64 crore. The project was intended to increase production of rice from existing 8 quintals to 12 quintals per bigha, through use of modern power tillers. The scheme was also intended to help farmers for multiple cropping, with better transportation for their products and generation of additional income. The GoA approved (November 2013) the proposal of the Company as summarised in the *Table 3.1*.

Table 3.1

No. of units to be distributed (Power Tiller)	Unit Cost	Total Subsidy (75 Per cent)	Promoters' Contribution (25 Per cent)	Total Cost
				<i>Amount in ₹</i>
161	1,63,800	1,97,78,850	65,92,950	2,63,71,800

As per Rule 150 of General Financial Rules, 2005 read with the office memorandum issued (August 2010) by the Finance Department, GoA, it was

necessary for any Government organization to invite open tenders for supply/works involving cost of more than ₹ 25 lakh. The GoA, while sanctioning the proposal (February, 2014) had also instructed the Company to ensure compliance of all Financial Rules.

Examination of records of the Company revealed that contrary to the provisions of GFR and GoA instructions, the Company, without calling for the open tenders, selected three suppliers<sup>6</sup> for supply of power tillers to be distributed under the scheme at their quoted prices. The Company further did not constitute a purchase committee, citing shortage of time. The Chairman of the Company instead, directed it to select the highest bidder viz. M/s Nikita Marketing Pvt. Limited, although another model<sup>7</sup>, having better technical specifications was available at lower price as detailed in the **Table 3.2**.

**Table 3.2**

Particulars	Nikita Marketing	INDTEC
Model	VST Shakti 130DI	Kranti DI 1515
Engine Horse Power (HP)	13	15
Fuel tank capacity (Ltrs)	11	15.7
Oil capacity of engine (Ltrs)	2.4	3.5
Tilling capacity per hectare per hour	0.12	0.81
Rate per unit (₹)	1,63,800	1,39,255

It can be seen from the above Table that the specifications of M/s INDTEC were superior in respect of all the parameters under consideration. The Company, however, ignored these aspects and placed an order (February 2014) with M/s Nikita Marketing Services for supply of 162 power tillers at a total cost of ₹ 2.65 crore, which were delivered (April 2015) to the Company. The decision of selection of the highest bidder was also not put up to the Board of Directors (BoD) of the Company for regularisation till date (November 2016).

Hence, the decision of procurement of power tillers of inferior quality at higher cost, without calling for tender and also without the consent of the BoD was not in order. This resulted in undue favour to M/s Nikita Marketing Services besides

<sup>6</sup> M/s Nikita Marketing Pvt. Limited (VST Shakti 130DI brand at ₹ 1,63,800 per unit), M/s Indtec Elektro Control (Kranti DI 1515 brand at ₹ 1,39,255 per unit) and Assam Saii Motors Pvt. Limited (Rhino 15DI brand at ₹ 1,49,100 per unit)

<sup>7</sup> Kranti DI 1515

additional cost of ₹ 39.76 lakh<sup>8</sup> to the Company, which could have been otherwise utilised for the welfare of 28<sup>9</sup> additional beneficiaries.

The Company stated (June 2016) that NIT was not invited and BoD approval was not taken due to shortage of time. It further stated that M/s Nikita Marketing Services was selected on the basis of its reputation, as also the fact that the Power Tiller of VST Shakti offered by it was suitable to the soil of Assam, locally manufactured and superior in quality to others. It also stated that the rates of the Power Tiller were approved by the Directorate of Agriculture.

The reply is not tenable as the specifications of Kranti DI 1515 supplied by M/s INDTEC were also approved by the Directorate of Agriculture itself and the same were superior in respect of all the parameters under consideration.

The matter was reported (April 2016) to the Government; their reply had not been received (November 2016).

### **Assam Small Industries Development Corporation Limited**

#### **3.7 Undue favour**

*Improper fixation of price of medicines for supply to the Director of Health Services resulted in extension of undue favour of ₹ 19.48 lakh to the manufacturer-cum-supplier.*

The Assam Small Industries Development Corporation Limited (Company) deals with the procurement and supply of different items, based on specific requests received from the various Departments of Government of Assam (GoA). Such items are procured through the Micro, Small and Medium Enterprises (MSME) of the State. Based on the nature of the items required, the Company collects quotations from agencies/suppliers, fixes the rates for the items and procures the same from the interested MSME units.

The Director of Health Services (DHS) requested (December, 2014 to June, 2015) the Company, to supply certain drugs and pharmaceutical items, as per the approved rates of the Company. The drugs to be supplied included 365.61 lakh numbers of Ciprofloxacin 500 mg tablets.

<sup>8</sup> (₹ 1,63,800 - ₹ 1,39,255) x 162

<sup>9</sup> ₹ (2,63,71,800/139255) - (2,63,71,800/163800) = 28

Audit observed that the rate of Ciprofloxacin 500 mg was fixed (February, 2015), at ₹ 2,237<sup>10</sup> per 1000 tablets, by the Technical Committee of the Company. The rate had been fixed by the Technical committee after detailed verification of the cost-analysis submitted by the manufacturer and certified by the cost consultant of the Company. Based on the rate fixed by the Company, the manufacturer supplied (February 2015 to March 2016) 267.74 lakh tablets at a cost of ₹ 6.98 crore<sup>11</sup>.

Audit scrutiny of the records of the Company revealed that while fixing the rate of Ciprofloxacin, the Company considered the rate of packing materials as ₹ 110.69 per 1000 tablets, as against the rate of ₹ 58.72 per 1000 tablets quoted by the manufacturer, leading to the fixation of the price at a rate higher by ₹ 51.97 per 1000 tablets. This also led to a corresponding increase in the overhead and profit margin by ₹ 20.79<sup>12</sup> per 1000 tablets. As a result, the price of product was fixed at a rate higher by ₹ 72.76 per 1000 tablets.

Thus, improper fixation of price resulted in an undue favour of ₹ 19.48 lakh<sup>13</sup> to the manufacturer at the cost of State exchequer.

In reply, the Company stated (June 2016) that the packing cost was based on the previous rate considered by the Company, while fixing rates of other medicines. It further stated that the packing material cost quoted by the manufacturer was not practical, and hence it was ignored.

The reply of the Company is not acceptable, as the packing cost was quoted by the manufacturer, based on its ability to do so. The Company also did not seek any clarification from the manufacturer, if it felt the price was not practical. Hence, it was improper on part of the Company to consider the higher cost, rather than the cost quoted by the manufacturer.

The matter was reported (September 2016) to the Government; their reply had not been received (November 2016).

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<sup>10</sup> Rates were fixed with retrospective effect from September 2014 based on the request of the manufacturer-cum-supplier (M/s Ghanashyam Pharmaceuticals).

<sup>11</sup> This includes excise duty, VAT and commission of the Company.

<sup>12</sup> The Company allowed overhead (25 per cent) and profit (15 per cent on the cost of the drug). Hence, the amount worked out to ₹ 20.79 (₹ 51.97 x 40 per cent).

<sup>13</sup> 267.74 lakh x ₹ 72.76/1000 = ₹ 19.48 lakh

### **3.8 Management of Industrial Estates**

*Inadequacy of funds due to not revising the lease rent at regular intervals had hampered maintenance of Industrial Estates. Further, lack of effective monitoring of the Industrial Estates resulted in illegal encroachments, excess holding of land as well as sub-letting of sheds by lessees.*

The Assam Small Industries Development Corporation Limited (Company) was established (January 1962) with the primary objective of promoting and developing small scale industries in the State. A compliance audit on management of Industrial Estates (IEs) for the period from 2013-14 to 2015-16 was conducted to assess (i) the operations of the IEs and realisation of lease rent were effective; and (ii) the monitoring system in place to control and manage the IEs was effective. The audit findings are discussed in the succeeding paragraphs.

#### **3.8.1 Fixation of lease rent**

As on 31 March 2016, the Company had leased out a total of 12.08 lakh square metre (sqm) of open land and 157 sheds across 16 IEs. Lease rent was the main source of revenue for the Company and the same was being fixed/revised by the Company from time to time, based on the recommendations made by the BoD of the Company. The rates of lease rent in different IEs were fixed after taking into account the location of the IEs. Although in the lease agreements, the Company inserted a clause for periodical revision of lease rent, the clause was not specific about the periodicity and quantum of revision. The ambiguity in the lease agreement terms regarding the rate and periodicity of lease rent revision was also pointed out by the lessees. This aspect was also examined in respect of Assam Industrial Development Corporation Limited (AIDC), another State PSU engaged in similar activities. It was noticed that AIDC had framed Land Management Rules, 2010, clearly stipulating for revision of lease rent after every three years.

During a review meeting of the State Level Committee, the committee observed (August 2014) that the revenue being realised from the lessees was nominal and instructed the Company to take appropriate steps to revise the existing structure of lease rates. In this regard, it was observed that in 6 IEs<sup>14</sup> out of total 16 IEs, the Company had last revised the lease rent between 2001 and 2008. In the case of the remaining 10 IEs, the year of the last revision of lease rent was not found on record.

<sup>14</sup> Badarpurghat in 2001, Bamunimaidan and Bonda in 2006 and Tinsukia, Numaligarh and Biswanath Chariali in February 2008



Based on the directions (August 2014) of SLC, the BoD of the Company approved (September 2014) the revised rents with effect from 01 January 2016. The increase in rent, which ranged from 74 to 233 *per cent* was, however, objected (January 2016) by the lessees, on the plea that the new rates were exorbitant and arbitrary. Due to the objections raised by the lessees of various IEs, the matter was placed before the BoD, which decided (May 2016) to lower the rates. The Entrepreneurs Associations of two IEs<sup>15</sup> had again raised (July 2016) the issue of enhancement of lease rent, which they felt was very high. The Company assured (July 2016) the Association to look into the matter for periodic enhancement of the rent. However, no further action in this regard was seen on record (October 2016).

The fact remained that the absence of a specific clause for revision of the lease rents in the lease agreements resulted in lease rent not being increased.

### 3.8.2 Recovery of lease rent

The position of outstanding lease rent and the number of industrial units who had defaulted in payment of lease rent against each IEs, as on 31 March 2016, has been summarised in *Table 3.3*.

**Table 3.3**

Sl. No.	Industrial Estate	No. of defaulting units	Accumulated lease rental dues as on 31 March 2016 (₹ in lakh)
1.	IE, Bamunimaidan	52	46.06
2.	Food Processing Park, Chaygaon	9	5.29
3.	IE, Bonda	48	16.77
4.	Mini IE Sibsagar	1	0.12
5.	Mini IE, Tinsukia	3	3.45
6.	IE, Badarpur	33	46.05
7.	Commercial Shed, Badarpur	6	3.00
8.	Commercial Estate, Moranhat	3	0.03
9.	IE, Morigaon	9	0.68
10.	Commercial Estate, Hojai	5	0.17
11.	Commercial Estate, Dhing	2	0.10
12.	IE, Biswanath Chariali	3	1.15
	<b>Total</b>	<b>174</b>	<b>122.87</b>

<sup>15</sup> Bamunimaidan and Bonda

As can be seen from **Table 3.3**, the amount of outstanding lease rent from the industrial units, as on 31 March 2016, stood at ₹ 1.23 crore. Scrutiny of records of the Company revealed the following:

- Despite repeated defaults in payment of dues by 174 units across 12 IEs, the Company did not take any legal action for seizure of the assets of the defaulter units.
- Enabling clause/provision was not included in the lease agreement for obtaining security deposit from the lessee, nor was there any clause for levy of interest on delayed payment of lease rent so as to discourage defaults in payment of rent by the lessees.
- The Company had not maintained any database with respect to the properties leased out, nor did it maintain any registers for recording the cases of allotment, so as to ensure raising of monthly rental bills in time after allotment.

**Case Study:**

It was seen in two instances that the Company was deficient in taking timely action against some of the lessees for recovery of outstanding lease rent, which led to accumulation of dues as discussed subsequently:

**A.** In the IE, Bamunimaidan, the aggregate unpaid rental dues of two units viz. M/s Chandika Food Products (*lease rent: ₹5,400 per month*) and M/s Luhit Commercial (*lease rent: ₹4,104 per month*), as on 31 March 2016 was ₹ 22.32 lakh. It was seen that both the units started defaulting since the handover (October 2003) of the allotted land/shed to them. Both the defaulting units had been making part payment of their dues on an intermittent basis. The Company filed (February 2016) a Bakijai<sup>16</sup> case against one defaulting unit (M/s Luhit Commercial) for recovery of the outstanding dues. The outcome of the case was awaited (October 2016). Further, the other unit (M/s Chandika Food Products), after receiving (November 2013) a notice from the Company for payment of arrear dues (₹ 10.18 lakh), filed (December 2013) a case against the Company for not adjusting repairing expenses (₹ 3.40 lakh) in the assets incurred by them, against the lease rent. The Company was yet to initiate steps for eviction of these lessees (October 2016).

**B.** The Company allotted (August 2009) land measuring 1,338 sqm to M/s Padmawati Agro Foods (lessee) at Food Processing Park (FPP), Chaygaon. At the request of the lessee, the Company issued (June 2010) a No Objection Certificate to the lessee for obtaining a loan from IDBI Bank, for the purpose of

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<sup>16</sup> A debt recovery case filed under the Assam Recovery Act, 1976.

setting up a factory in the allotted land. It was observed that the lessee was a defaulter in payment of lease rent since September 2009, and also defaulted (September 2009) in repayment of bank loans in time. As a result, the bank locked (March 2016) the factory premises of the lessee.

The Company, requested (March 2016) the IDBI Bank to facilitate payment of the outstanding rent of the lessee, amounting to ₹ 4.46 lakh (up to March 2016). Response of the bank on the request of the Company was, however, awaited (October 2016).

Thus, failure on the part of the Company to take timely legal action for seizure of assets of defaulters, not incorporating clause in the agreements for deposit of security money, and also not maintaining database of properties leased out by the Company, led to accumulation of lease rent dues.

In reply, the Company stated (October 2016) that they were taking legal action against the defaulting units and had also closed a few units.

The Company, however, needs to incorporate an appropriate clause in the agreements for deposit of security money as also take timely legal action for seizure of assets of defaulting units to improve the collection of lease rents in a timely manner.

### ***3.8.3 Upkeep and maintenance of IEs***

The responsibility for maintenance of the IEs rested with the Company. During the period of 3 years (2013-16) covered by audit, no financial assistance was received by the Company from the GoA/GoI for the purpose. During the period of three years from 2013-14 to 2015-16, the Company incurred only a meagre amount of ₹ 0.09 crore towards maintenance of the IEs against its total revenue expenditure of ₹ 19.51 crore. The Company attributed the meagre allocation for IE maintenance to lack of adequate funds with the Company.

In this regard, Audit observed that AIDC, another State Public Sector Undertaking engaged in the activity of leasing out land/sheds to industrial units, was collecting monthly maintenance charges at the rate of ₹ 1.75 per sqm from lessees, which was being utilised on maintenance of IEs. The Company, however, did not allocate any portion of its lease rent so as to facilitate adequate and proper upkeep of IEs operated by it in a planned manner, nor take any initiative to collect similar maintenance charges separately from the lessees.

Further, the Entrepreneurs Associations of IE, Bamunimaidan and Bonda also highlighted (July 2016) the issue of poor condition of sheds, roads and drainage, which needed repairs. The Associations also requested the Company to allow them to undertake the work of repair of sheds by the lessees themselves, and the

cost to be adjusted against their rent. In response, however, the Company, informed (July 2016) the Associations that the sheds were allotted to the lessees on 'as and where' basis and since it was not financially sound and the collection of rent was also very minimal, it was difficult for the Company to carry out such repairs. The Company further stated that, while proposals were sent to the Government for upgradation of the IEs, no financial aid was received.

The Company, in its reply to Audit, stated (October 2016) that the rents were in the process of being enhanced.

The Company, however, may consider collecting maintenance charges from the lessees to garner more revenue for better upkeep of its assets.

#### **3.8.4 Lapses in availing GoI funds for upgradation schemes**

The Company spent an amount of ₹ 0.43 crore during 2015-16 on upgradation of assets in the IEs. Audit noticed that, although the Company submitted 7 proposals, for the years 2015-16 and 2016-17 to the GoA for upgradation of the existing IEs (₹ 21.74 crore), it did not receive any response or funds from the GoA.

It was further observed that the Ministry of Commerce & Industry (Ministry), GoI, had written (August 2013 to May 2014), to GoA on five occasions for submitting the project proposals under the Modified Industrial Infrastructure Upgradation Scheme (MIIUS), for upgradation of infrastructure in the existing IEs. On 18 August 2015, the Ministry again asked GoA to submit project proposals under the MIIUS by 31 August 2015. GoA, however, requested the Company to submit proposals in this regard only on 01 September 2015, *i.e.* after lapse of GoI deadline. Notwithstanding this delay, the Company submitted (29 September 2015) a proposal of upgradation of an IE (Bonda) at a cost of ₹ 6.25 crore to GoA for consideration. No further feedback from the GoA/GoI, however, was found on record in this regard.

Thus, due to lack of timely action, the Company lost the opportunity for obtaining GoI funding for upgradation of existing IEs.

The reply of the Company was silent on the observations raised by audit.

### 3.8.5 Assets not put to use

The Company completed<sup>17</sup> (May 2013) the work of Food Processing Park, under the Food Park Scheme of the Ministry of Food Processing Industries (MFPI), GoI at a total expenditure of ₹ 6.18 crore. The FPP included development of 1.34 lakh sqm of land to be allotted to potential entrepreneurs, along with a cold storage facility for storage of the food products by the entrepreneurs, which was constructed at a cost of ₹ 2.52 crore.

In this regard, it was seen that the Company started allotment of land in the FPP from 2004-05 onwards. As on March 2016, the Company allotted the entire allocable land measuring 0.63 lakh sqm<sup>18</sup> to 9 entrepreneurs. It was, however, seen that the entrepreneurs to whom it was allotted were dealing in food products which did not have the requirement of cold storage.

Examination of records revealed that while submitting (December 2000) the DPR for the FPP to GoI, the Company emphasised the need for a cold storage, as it provides a vital link between the production and consumption of perishable items and ensures availability of products over an extended period. In this regard, it was also observed that the Company after 16 months of its completion (May 2013) had issued (October 2014) Notice Inviting Bids to lease out the Cold Storage. As no bids were received, the Company invited fresh bids (July 2015), to lease out the cold storage. No response was, however, received by the Company on this occasion as well.

Meanwhile, a party showed (August 2015) interest for running the cold storage. The Company agreed (September 2015) to lease out the cold storage for a period of 10 years at an annual rent of ₹ 4.00 lakh. No further developments were, however, seen on record for signing an agreement with the party (October 2016). Thus, the asset created by investing ₹ 2.52 crore has remained idle till date and the objective of construction of cold storage for preservation of food items remained unfulfilled.

Audit observed that no feasibility study/survey was conducted to see whether a cold storage was required at the location.

In reply, the Company stated (October 2016) that the response from entrepreneurs was poor and that it is expecting better response from them in the future. The fact, however, remained that the selection of the location by the

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<sup>17</sup> Some minor works, such as the installation of a DG set, Water Treatment Plant, Effluent Treatment Plant *etc.*, remained incomplete and hence the project is yet to be officially commissioned.

<sup>18</sup> The balance land of 0.71 lakh sqm was utilised by the Company in construction of cold storage, roads and other facilities.

Company, without proper survey led to the assets remaining unutilised and the desired benefits from the project remaining unachieved.

### **3.8.6 Loss of revenue**

The Company allotted (January 2005) an area of 0.43 lakh square feet of land to M/s Dharampal Satyapal (lessee) at IE, Bamunimaidam. The lessee was, however, directed (May 2005) to stop further construction at the allotted land in view of the objections raised by GoA on the eligibility of the allottee. The Inquiry Officer appointed by the GoA, however, did not find (June 2005) any malafide intent in allotment of land on part of the officers of the Company involved in the process. The BoD of the Company also dropped (June 2010) all charges against the officials who allotted the land, and the same was communicated to the GoA. Despite requests<sup>19</sup> by the Company to regularise the allotment of land to M/s Dharampal Satyapal, the GoA neither issued any instruction to regularise the allotment nor advised the Company to lease out the land to any other parties. This indecision on the part of GoA resulted in loss of potential lease rent revenue of ₹ 89.31 lakh for the period from January 2005 to March 2016 to the Company.

In reply, the Company stated (October 2016) that they were waiting for instruction from GoA regarding regularising the allotment to the lessee.

The Company should have taken action to ensure that the land is used to avoid further loss of lease rental income.

### **3.8.7 Lack of effective monitoring of the IEs**

The Company had four branch offices<sup>20</sup> for overseeing the operations of 12 Estates<sup>21</sup> and collecting lease rents therein. In respect of another four estates, these functions were performed directly by the Head Office. It was however seen, that the Company had not maintained the basic details of units taken over, updated status of recoveries made from defaulting units concerned after take-overs *etc.* Absence of such vital records had adversely impacted the ability of the Company to effectively control and manage its assets. Thus, due to lack of effective monitoring of the IEs by the Company, cases of encroachment and

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<sup>19</sup> November 2011, July 2012, April 2013, March 2016, April 2016

<sup>20</sup> located at Nagaon' Jorhat' Tinsukia and Badarpurghat

<sup>21</sup> Bokakhat' Numaligarh' Sibsagar' Moranhat' Borhapan' Doomdooma' Hojai' Morigaon' Dhing' Biswanath Chariali' Badarpurghat' Doomdooma

holding of excess land by the lessees were noticed by audit, which are discussed below.

(i) **Encroachment in Industrial Estates:** In IE, Bamunimaidan, out of the total area of 1.47 lakh sqm of land, a land area of 0.81 lakh sqm (55 per cent) was encroached during 1984. Of this, 0.44 lakh sqm (30 per cent) was sold to encroachers as per GoA decision (September 1996), while the remaining encroached land of 0.37 lakh sq mtr (25.17 per cent) was pending to be regularised by way of its sale to the encroachers. In IE, Bonda, out of 32,120 sqm of project area, a land area of 1,393 sqm (4.33 per cent) had been occupied by encroachers.

The issue of hindrances faced in expansion of existing industries due to illegal encroachment of project area was also pointed out (July 2016) by the Entrepreneurs Association of two IEs, viz. Bamunimaidan and Bonda. The Company replied (July 2016) to the association that the encroachment of land in the IE, Bamunimaidan had taken place since 1984, after which the GoA had directed the Company to allot the land to the encroachers.

In reply to audit, the Company stated (October 2016) that it was pursuing with the District Administration to remove the encroachment from its estates.

The Company should, however, pursue with the concerned authorities regularly to remove encroachment from the IEs and take necessary measures so as to prevent future encroachments.

(ii) **Holding of excess land by lessees:** The Company engaged (April 2010) a technical expert for assessment and valuation of shed and land area under unauthorised occupation of allottees. As per the Report of the technical expert, a total of 0.61 lakh sq. ft area of land had been occupied by the industrial units in excess of allotment.

It was, however, observed that out of total area of unauthorised occupation (0.61 lakh sq. ft.) the Company had regularised 0.19 lakh sq. ft. of land occupied by 9 industrial units<sup>22</sup>. The remaining area of 0.42 lakh sq. ft. occupied by 25 units was, however, pending for regularisation by the Company, pending billing to these units for the excess land occupied by them. Further, the Company had started billing the units only from 2014 onwards. Till July 2016, the Company had realised ₹ 11.26 lakh as arrear rent against 9 units. As a result of not regularising and billing the remaining 25 units, the Company was yet to realise an amount of ₹ 89.18 lakh.

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<sup>22</sup> 3 units in 2014, 3 units in 2015 and 3 units in 2016.

Further, the members of the Bamunimaidam Entrepreneurs Association informed (July 2016) the Company regarding irregular sub-letting of sheds by the lessees in the IEs. As sub-letting was not permissible as per the lease agreement, the Company was required to take immediate action on the matter. However, on the plea of difficulties in identifying the cases of sub-letting, (*e.g.* due to payment of rents and attending of meetings by the original lessees), the Company did not take any action in the matter.

It was further observed that the Company did not explore the option of physical inspection of the premises of the lessees to identify such instances of sub-letting. As such, the Company was deficient in taking proactive action towards detecting the possible cases of sub-letting, which was indicative of slackness on Company's part in safeguarding its assets.

In reply, the Company stated (October 2016) that it was pursuing the issue with the units occupying excess land and also has taken steps to prevent subletting of its units.

The Company, however, needs to improve its monitoring mechanism so as to detect cases of irregularities on part of the lessees and take action in a timely manner.

Thus, it could be seen from the above cases that there was no laid down policy of the Company for periodic revision of lease rent leading to generation of minimal revenue from IEs, which also hampered the maintenance of IEs due to paucity of funds. Absence of timely legal action against defaulting units also led to accumulation of unrecovered lease rental dues. Further, lack of effective monitoring of the IEs resulted in illegal encroachments, excess holding of land as well as sub-letting of sheds by lessees.

It is recommended that the Company should revise the lease rents periodically and take effective steps for timely realization of lease rents from the defaulting lessees. The Company also needs to put an effective monitoring system in place so that prompt action could be initiated against illegal encroachments and also regularize the excess holding of land by the lessees.

The above matters were reported (August 2016) to the Government; there replies had not been received (November 2016).



## Assam Government Marketing Corporation Limited

### 3.9 Irregular procurement

*The Company allotted supply orders based on recommendations of the indenting departments/functionaries of Government of Assam without observing financial propriety.*

The Assam Government Marketing Corporation Limited (Company) functions under the administrative control of the Handloom, Textile & Sericulture Department of the Government of Assam (GoA). A compliance audit was conducted on procurement activities undertaken by Company on behalf of the GoA covering the period of three years from 2013-14 to 2015-16. The findings of audit are discussed in the succeeding paragraphs.

#### 3.9.1 Procurement on behalf of Government departments

The Company executed 148 supply orders (valuing ₹ 72.99 crore) during the period 2013-16 on behalf of the Government departments against a commission of 2 per cent. After obtaining the supply indents, the Company sub-contracted the work by placing corresponding supply orders with the suppliers registered with it.

Analysis of supply orders issued by the Company during 2013-16, against the indents received from the Government departments, revealed that 41 orders, valuing ₹ 43.26 crore (59.27 per cent), were allotted to parties, on the strength of their being registered suppliers of the Company. Another 53 orders, valuing ₹ 19.85 crore (27.19 per cent), were allotted merely on the basis of the claims made by the suppliers that the indents from the department had been secured for the Company by them. Besides, it was also observed that 54 orders valuing ₹ 9.88 crore (13.54 per cent), were allotted based on the recommendations of the functionaries, or the department concerned of GoA, irrespective of the fact whether the suppliers were registered or not.

#### 3.9.2 Award of work based on recommendation of department/minister

As per Rules 254 to 258 of the Assam Financial Rules, 1983, “the State action must not be arbitrary but must be based on relevant and rationale principle, which is non-discriminatory. It must not be guided by extraneous and irrelevant consideration because that would be denial of equality”.

In two instances, however, it was seen that the work were awarded to suppliers merely on the basis of recommendation of the department/minister concerned in contravention of the standard procedure<sup>23</sup> as discussed below.

**A.** The Directorate of Welfare of Plain Tribes & Backward Classes (DWPTBC) invited (December 2012), quotations for the procurement of cotton yarn and hand spray machines. Two firms *viz.* M/s Duggar and Company and M/s Das Agency & Supplies participated in the tendering process, on behalf of the Company. The purchase committee formed by the DWPTBC approved (January 2012) the price of the hand spray machines at ₹ 1,200 per hand spray machine, and issued (November 2012) the work order to the Company, for supply of 10,400 hand spray machines, to be distributed in the various sub-divisional Welfare Offices, in different districts of the State.

After receiving the indent from the DWPTBC, the Company allotted (December 2012), the work of distributing total 3,200 hand spray machines to M/s Duggar and Company (1,700 machines) and to M/s Das Agency & Supplies (1,500 machines). The supply order for the remaining 7,200 spray machines (69 *per cent*) was issued (December 2012) to 11 parties based on the recommendations of the Minister of DWPTBC.

Out of the 11 firms so recommended, only 4 firms<sup>24</sup> had participated in the original tender process invited by the DWPTBC. Even these 4 firms were initially rejected for not being able to offer the specific brand at that time. The other 7 firms had not participated in the tender process itself.

**B.** The Company received (August 2013) an indent from the Directorate of Scheduled Castes (DSCW) for supply of 16,995 bundles of cotton yarn for distribution among the beneficiaries at the predetermined rate of ₹ 1,500 per bundle. The Company, instead of inviting its registered suppliers for supply of the required items issued (December 2013) the entire supply order for procurement of 16,995 bundles of cotton yarn to 24 firms, which were recommended by the DSCW. The supply of the entire quantity of 16,995 bundles of cotton yarn valuing ₹ 2.55 crore was completed during March 2014. In this regard, it was seen that, out of the 24 firms recommended by the DSCW, only 8 firms<sup>25</sup> had participated in the tender process of the DSCW. The other 16 firms had not even participated in the tendering process.

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<sup>23</sup> The standard procedure relates to calling of indents and issue of work order to the registered suppliers.

<sup>24</sup> Jai Mata Enterprise, Riddhi Shiddhi Enterprise, River Valley Association, Atragami Associates

<sup>25</sup> Orient Enterprise, M.B. Enterprise, MG Associates, Jai Mata Enterprise, BK Enterprise, Das Agency and Suppliers, Shree Vinayak Associates

In the above two cases, the Company had violated norms of transparency and fair practices by issuing work orders to ineligible firms, merely based on the recommendation of the departments concerned.

Thus, it could be seen from the above cases that the Company did not observe propriety in executing the procurement activities as a significant size of procurements were allotted based on recommendations of the functionaries, or the department concerned of GoA, irrespective of whether the suppliers were registered or not.

Hence, the Company needs to adopt a transparent process in selection of suppliers so as to ensure economy in procurement and encourage fair competition for its procurement activities.

The above matters were reported (August 2016) to the Company/Government; there replies had not been received (November 2016).



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