

CHAPTER IV : MINISTRY OF COMMERCE AND INDUSTRY

Agricultural and Processed Food Products Export Development Authority

4.1 Loss due to not securing its financial interests by APEDA

Non-inclusion of provisions for levy of interest and penalty in Memorandum of Undertakings entered with various agencies, not insisting on bank guarantees for the financial assistance extended to the agencies and inadequate monitoring by APEDA of the utilization of amount of Grants-in-aid resulted in loss of ₹ 3.31 crore to APEDA.

The Agricultural and Processed Food Products Export Development Authority (APEDA), constituted under the Agricultural and Processed Food Products Export Development Authority Act, 1985, is responsible for export promotion and development of industries relating to agricultural and food products. The details of financial assistance sanctioned and utilised for three projects given in **Table No. 1** below:

Table No. 1: Financial Assistance Released and Funds Utilised

Sl. No.	Name of Agency	Date of MoU /Targeted date of completion of project	Project and its total cost	Amount of Grants-in-aid sanctioned by APEDA	Amount released by APEDA / date of payment	Date of withdrawal / abandonment of the project	Amount refunded by the agency / date of refund Grants-in-aid
1.	Karnataka State Agricultural Produce Processing and Export Corporation Ltd. (KAPPEC)	15-03-2011/ 14-03-2012	For setting up an integrated cold chain for fruits and vegetables at Belgaum in Karnataka ₹ 11.72 crore	₹ 5.50 crore	₹ 2.20 crore/ 15-03-2011	31-03-2016	₹ 2.87 crore/ 22-08-2016
2.	Paschimbanga Agri Marketing Corporation Ltd. (PBAMC)	26-03-2012/ 25-09-2013	For setting up of processing unit for potato flakes at Hooghly, West Bengal ₹ 25.47 crore	₹ 8.00 crore	₹ 3.20 crore/ March 2012	14-07-2016	₹ 3.97 crore / 02-11-2016
3.	Tamil Nadu Horticulture Development Agency (TANHODA)	20-08-2014/ 19-02-2016	For setting up of individual quick frozen (IQF) plant in Krishnagiri district of Tamil Nadu – ₹ 9.62 crore	₹ 7.42 crore	₹ 3.71 crore/ 24-09-2014	24-02-2016	₹ 3.73 crore / 17-03-2016

Audit observed the following:

- (i) Terms and conditions of sanction order issued by the administrative ministry viz. Ministry of Commerce and Industry, while releasing grants-in aid to APEDA stated that in case APEDA failed to comply with the terms and conditions of sanction of the Grants-in-aid, the whole or part amount of the grants-in aid would be recovered with interest @ 10 per cent per annum as per General Financial Rules (GFR) 209. APEDA however included a similar clause only in the Memorandum of Understanding (MoU) entered with TANHODA and not in the MoUs entered into with KAPPEC and PBAMC.
- (ii) There was lack of uniformity in provisions relating to charging of penalties in the three MoUs signed by APEDA with the agencies mentioned above. While the MoU with PBAMC contained provision for levy of penalty for delay in completion of the project to the extent of one per cent for each month of delay subject to a maximum of five per cent of project cost, the maximum penalty was restricted to five per cent of the amount sanctioned by APEDA in the MoU with TANHODA. The MoU signed with KAPPEC did not contain any provision for penalty.

Failure to include condition regarding levy of interest at the rate of 10 per cent per annum charged by the Ministry to APEDA and for levy of penalty at maximum rate of five per cent of the project cost/sanctioned cost besides acceptance of refund of less amount of principal money (in case of KAPPEC and TANHODA) resulted in under recovery of ₹ 3.31 crore as detailed in **Table No. 2** below:

Table No. 2: Under recovery

(₹ in crore)

Agency	Amount refundable if clauses regarding interest and penalty been included in the MoUs				Amount actually refunded by the agencies				Amount short recovered
	Principal	Interest	Penalty	Total	Principal	Interest	Penalty	Total	(5-9) = 10
KAPPEC ¹	2.20	1.20	0.28	3.68	1.94	0.93	Nil	2.87	0.81
PBAMC ²	3.20	1.47	1.27	5.94	3.20	Nil	0.77	3.97	1.97
TANHODA ³	3.71	0.55	Nil	4.26	3.52	0.21	Nil	3.73	0.53
Total	9.11	3.22	1.55	13.88	8.66	1.14	0.77	10.57	3.31

¹ **KAPPEC - Interest** @10 per cent p.a. on ₹ 2.20 crore for the period 15 March 2011 to 22 August 2016 (i.e. total 1987 days) = (10 per cent of ₹ 2.20 crore) * 1987/365 days = ₹ 1.20 crore. **Penalty** – 5 per cent of sanctioned cost = 5 per cent of ₹ 5.50 crore = ₹ 0.28 crore

² **PBAMC - Interest** @10 per cent p. a. on ₹ 3.20 crore for the period 31 March 2012 to 02 November 2016 (i.e. total 1676 days) = (10 per cent of ₹ 3.20 crore)*1676/365 days = ₹ 1.47 crore. **Penalty** – 5 per cent of project cost = 5 per cent of ₹ 25.47 crore = ₹ 1.27 crore

³ **TANHODA - Interest** @10 per cent p.a. on ₹ 3.71 crore for the period 24 September 2014 to 17 March 2016 (i.e. total 541 days) = (10 per cent of ₹ 3.71 crore) * 541/365 days = ₹ 0.55 crore. **Penalty** – No penalty worked out as the project was withdrawn in February 2016, i.e. within the targeted date of completion.

- (iii) Even though the validity of the Bank Guarantees (BGs) given by KAPPEC and TANHODA as security towards the amount of grants received from APEDA expired on 31 March 2016 and 30 January 2016 respectively, the validity of the Bank Guarantees was not renewed till the date of refund. In the case of PBAMC, although the BGs were valid on the date of refund of grant-in-aid (02 November 2016) by PBAMC, releasing its charge over the bank guarantee left APEDA with no scope to assert its claim for less recovery of penalty.
- (iv) The project of PBAMC was to be completed within 18 months from the date of signing of MoU on 26 March 2012. Accordingly, the scheduled date of completion of the project was 25 September 2013. Even though the project did not achieve any progress for more than two and half years beyond the scheduled date of completion and significant changes were made by PBAMC like revision of project cost from ₹ 25.47 crore to ₹ 40.39 crore, raising of additional funds from National Bank For Agriculture & Rural Development (NABARD) under RIDF-XX⁴ scheme and changing mode of execution of the project through Public Private Partnership basis by utilizing APEDA and RIDF funds for viability gap funding, APEDA was not aware of the same due to defective monitoring system. APEDA did not take any action for withdrawal of its sanction and to recover the Grants-in-aid paid to PBAMC till November 2015 when it took up the matter of refund of the amount with PBAMC and later on in April 2016, with the Government of West Bengal.

Management stated (July/August 2017) that:

- (i) Interest at the rate of 10 *per cent* on the amount of unutilized grants was applicable only to grants being received by APEDA from the administrative ministry and not to the downstream disbursements made by APEDA for individual projects like that of PBAMC.
- (ii) Penalty and interest clauses would be inserted in all the MoUs signed in future. The Management admitted the error in computation of penalty at the rate of five *per cent* as per clause 7 in the MoU with PBAMC.
- (iii) Bank Guarantees in case of KAPPEC will be re-validated in advance in future. With regard to TANHODA, Management stated that there was no need for APEDA to seek extension of BG of a project which was not going ahead.

⁴ Rural Infrastructure Development Fund-XX.

- (iv) Monitoring Committee has been constituted in December 2012. APEDA admitted that they were informed of recast Detailed Project Report submitted to NABARD for funding of the project only through letter dated 23 June 2014 from PBAMC.
- (v) Refund of ₹ 3.52 crore as principal by TANHODA was justified since ₹ 3.52 crore was the net grant disbursed to TANHODA and payment of interest at a rate less than that of 10 *per cent* of the amount of the Grant was being followed up with TANHODA.

The replies of the management were not acceptable for following reasons:

- (i) The fact that APEDA was liable to pay interest at the rate of 10 *per cent per annum* to the administrative ministry for non-compliance with terms and conditions of sanction and the fact that the MoU with TANHODA provided for interest at 10 *per cent per annum* indicated the need for charging interest uniformly at the rate of at least 10 *per cent per annum*.
- (ii) Management's reply related to Bank Guarantee is contradictory. In case of KAPPEC, although Management assured revalidating the BGs in advance in future, in the case of TANHODA, the Management replied that re-validation of BG in advance was not required as the project was not going ahead. In the absence of security in the form of BG, enforcement of refunds for non-compliance with terms and conditions of sanctions could be at risk.
- (iii) Although the Management accepted refund of the full amount of grants-in aid of ₹ 3.20 crore (inclusive of processing charges equivalent to five *per cent* of Grants) from PBAMC, in the case of TANHODA it justified refund of net amount of ₹ 3.52 crore excluding the processing charges. Further, the MoU signed with TANHODA also stipulated refund of whole grant with 10 *per cent* interest *per annum* thereon.

Thus, APEDA failed to secure its financial interests due to not including appropriate provisions with regard to levy of interest and penalty in MoUs entered with various agencies, not insisting on bank guarantee against the financial assistance extended to the agencies and inadequate monitoring by APEDA of the utilization of amount of grants-in aid which resulted in loss of ₹ 3.31 crore.

The matter was reported to the Ministry (November 2017); its reply was awaited of December 2017.

Export Inspection Council of India

4.2 Imprudent fund management

Imprudent management of Central Fund of Export Inspection Council of India by keeping huge idle fund in savings bank account instead of investing in fixed deposit resulted in loss of interest of ₹ 13.76 crore during the period from October 2014 to March 2017.

The Export Inspection Council of India (EIC) was set up by the Government of India under Section 3 of the Export (Quality Control and Inspection) Act, 1963, to provide for sound development of export trade through quality control and pre-shipment inspection. EIC is assisted in its functions by five Export Inspection Agencies (EIAs) located at Chennai, Delhi, Kochi, Mumbai and Kolkata. EIC advises the Central Government regarding measures for enforcement of quality control and inspection of commodities intended for export. Inspection, testing and certification is carried out by EIAs at fees prescribed by the Government.

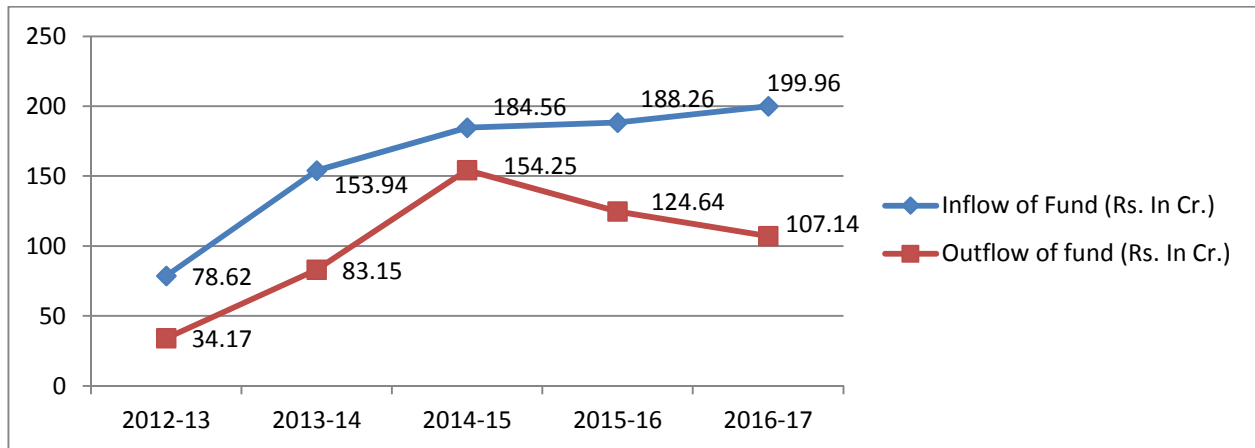
EIC created a Central Fund in the year 1973. All revenues earned by the five EIAs of EIC are deposited in this Central Fund. The EIAs raise demand for funds on monthly basis to meet their obligations which are met out of the Central Fund. Though EIC is the controlling authority of Central Fund, EIA, Kolkata maintains the accounts of this fund centrally on behalf of all EIAs.

Rule 208⁵ of General Financial Rules, 2005 (recast as Rule 229 of General Financial Rules, 2017), states that all autonomous organisations “should be encouraged to maximize generation of internal resources and eventually attain self-sufficiency”. Thus, balance of Central Fund should be judiciously invested for the best possible realisation of returns.

Audit examination of Central Fund of EIC at EIA, Kolkata revealed the following:

- Huge funds were lying idle for years together in the savings bank account without any effort to ensure their prudent utilization. Funds have accumulated over the years due to consistent surplus of inflows of funds over outflows. The year wise position of inflow and outflow of funds held in the Central Fund during the last five years ended 2016-17 is depicted in Graph No. 1 below:

⁵ General Principles for setting up of Autonomous Organisations.

Graph No. 1: Flow of funds held in Central Fund during 2012-13 to 2016-17

The year-wise accumulated surplus fund lying in the Central Fund of EIC for the last four years ending September 2017 is detailed in **Table No. 3** given below:

Table No. 3: Accumulated surplus fund

Year	Accumulated Surplus (₹ in crore)
September 2014	259.33
September 2015	307.43
September 2016	240.82
September 2017	249.47

There has been consistent surplus in the Central Fund, with the accumulated amount being ₹ 249.47 crore as on September 2017.

- Bank statements for the last three years (from 1 October 2014 to 31 March 2017), revealed that the minimum and maximum balance in the above savings bank account ranged between ₹ 238.87 crore and ₹ 323.44 crore, respectively on which State Bank of India allowed interest rate of 3.5 to 4.0 *per cent per annum*. If such funds had been invested in term deposits, they would have earned an interest rate of 8.25 *per cent per annum* for the period from October 2014 to March 2016 and 5.50/4.25 *per cent* during April 2016 to March 2017.

Maintaining such huge balances in savings account was imprudent fund management which deprived EIC of higher returns. Thus, failure of EIC to judiciously invest its surplus funds resulted in loss of interest of ₹ 13.76 crore⁶ for the period from October 2014 to March 2017 worked

⁶ Interest of ₹ 13.76 crore would have been earned on ₹ 238.87 crore (minimum balance maintained during October 2014 to March 2017) @ 8.25 *per cent* (applicable rate for term

out on the minimum balance in the Central Fund during the above period.

The Management stated (October 2017) that:

- Since Central Fund was established with the approval of the Council and not by way of any statute or notification, it lacks the competence of being a legal entity. Hence, the question of creating an investment against such non entity does not arise.
- EIC has shown enough prudence and have maintained the account under savings bank which generates a rate of return of four *per cent*. Audit calculations are based on the rate that TDRs would have generated 8.25 *per cent* rate but after taxation the actual yield post tax would have been in the vicinity of 4.125 *per cent*, which is only marginally higher than the interest that EIC has earned already.
- The matter has been reviewed by the Council and it has been decided that all accounts of EIC and EIAs henceforth would be operated upon MOD⁷ basis.

Audit notes that EIC has decided to take corrective steps. However, the contentions of the Management are not acceptable in view of the following:

- Central Fund is operated by the Council to carry out its operational activities. As per General Financial Rules, 2005/2017, the Council should have invested surplus funds in term deposits for generating maximum internal income. Moreover, EIA, Kolkata has been investing balances of Provident Fund and Pension Fund in term deposits of State Bank of India, Kolkata and a similar practice should have been followed for Central Fund also.
- Term deposits always earn higher interest rate as compared to savings account. Even if income tax has to be paid on interest income, the actual yield post tax of term deposits would always be greater than that of savings bank account since interest earned from both savings account and term deposit would be subject to income tax at the same rate.

deposit of one year to less than two years for the period from October 2014 to March 2016) and @ 5.50/4.25 *per cent* (for the period 2016-17) less interest of ₹ 27.69 crore actually earned on the savings account (@ 3.5/4 *per cent*) during October 2014 to March 2017.

⁷ Multi Option Deposit Schemes are term deposits linked to the savings or current account, which may be liquidated anytime as per the need and at the same time it earn interest rate of term deposits on the balance amount.

Thus, EIC suffered a loss of interest of ₹ 13.76 crore during the period from October 2014 to March 2017 on account of keeping huge balances in savings bank account instead of judiciously investing the same in term deposits.