

# **Chapter IV**

## **Compliance Audit of PSUs**



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#### CALCUTTA STATE TRANSPORT CORPORATION

##### 4.1 Lack of monitoring of funds

**Lack of monitoring over management of funds by CSTC had resulted in idling of ₹ 3.04 crore in non-interest bearing current account and foregoing interest income of ₹ 0.74 crore.**

Calcutta State Transport Corporation (CSTC), under the administrative control of the Transport Department, Government of West Bengal (GoWB) provides bus services to the people in and around Kolkata. For financial transactions, CSTC maintained 34 bank accounts including a current account with IDBI bank as of 31 March 2018. In January/ March 2013, GoWB prohibited PSUs from inviting competitive bids from banks for interest rates on fixed deposits and restricted placing of money in fixed deposits to those banks with whom these PSUs had regular business.

Scrutiny of the bank statement of IDBI bank for the period from April 2012 to March 2018 revealed that CSTC had invested (April 2012) surplus funds in three Fixed Deposits<sup>185</sup> with IDBI Bank, which had matured during the period from June 2014 to August 2014. The maturity value of ₹ 3.04 crore of these three deposits was, however, parked in the non-interest bearing current account with IDBI Bank from August 2014 to September 2018 *i.e.* over four years. CSTC had not invested this amount in interest earning term deposits, for reasons not on record. The minimum rate of interest offered by IDBI on term deposits during the period from August 2014 to September 2018 was six *per cent*. Thus, CSTC had foregone interest income of ₹ 0.74<sup>186</sup> crore on the matured value of investment of ₹ 3.04 crore (calculated by applying the minimum rate of interest on term deposits by IDBI Bank).

On being pointed out in audit (August 2018), CSTC re-invested (September 2018) ₹ 3.04 crore in interest bearing term deposit for twelve months with IDBI Bank. It was also stated (January 2019) that an enquiry committee was formed after audit enquiry in November 2018 to look into the lapse. The report of the enquiry committee is awaited (December 2020).

<sup>185</sup> (a) Face Value (FV) ₹ 0.90 crore Maturity Value (MV) ₹ 1.35 crore, (b) FV ₹ 0.43 crore, MV ₹ 0.65 crore, (c) FV ₹ 0.71 crore, MV ₹ 1.04 crore.

<sup>186</sup> ₹ 3.04 crore X 6 per cent X 1482 days/365 days = ₹ 74,05,940/-

The Government added (September 2019) that to avoid keeping idle fund in non-interest bearing current accounts, CSTC had taken steps to (i) convert all current accounts to auto-sweep facilities and (ii) keep a close eye on investment issues. But, CSTC had not shared details of the steps implemented, though called for (June 2020) in audit.

Thus, lack of monitoring by CSTC resulted in idling of ₹ 3.04 crore in non-interest bearing current account with IDBI for more than four years, leading to loss of interest income of at least ₹ 0.74 crore.

## WEST BENGAL TRANSPORT INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED

### 4.2 Avoidable loss on payment of service tax, interest and penalty of ₹ 1.11 crore

**Loss of ₹ 1.11 crore due to non-charging of service tax on administrative charges received by West Bengal Transport Infrastructure Development Corporation Limited (WBTIDCL) and interest and penalty paid on delayed payment of service tax.**

West Bengal Transport Infrastructure Development Corporation Limited (WBTIDCL), a Government of West Bengal (GoWB) undertakes works as an executing agency of the Transport Department, GoWB for the development of transportation system in the State.

WBTIDCL receives funds from the Transport Department, GoWB for execution of infrastructure projects as deposit works since inception in September 1996. It gets a percentage on the value of works executed as administrative charges. Section 65 (105) (zzzq) of the Finance Act, 1994 stipulates that, with effect from 2012-13, support services provided, including support of any kind comprising functions that entities carry out in ordinary course of operations themselves but may provide as service by outsourcing them to others, in lieu of the administrative charges, are chargeable to Service Taxes (ST) under 'Support Services of Business or Commerce'. Accordingly, WBTIDCL was liable to pay service tax on administrative charges realised against infrastructure projects executed in the State on behalf of GoWB since 2012-13.

On examination of records for the period from 2015-16 to 2017-18, it was seen that WBTIDCL registered itself with ST Authorities in December 2015 as required under Section 69<sup>187</sup> of the Finance Act, 1994 for payment of ST under Section 67 of the Finance Act, 1994.<sup>188</sup>

<sup>187</sup> Section 69 of the Finance Act, 1994 stipulates that every person liable to pay service tax would have to take service tax registration.

<sup>188</sup> Section 67(2) of the Act states that wherever the Service Tax is not charged separately, the gross amount of service so rendered was to be considered as inclusive of Service Tax and Service Tax is to be collected by the Service Provider (WBTIDCL) from the Service Recipient (GoWB) for onward remittance to Service Tax Authorities.

Scrutiny revealed that during 2012-13 to 2016-17, WBTIDCL raised bills on the State Government for administrative charges of ₹ 6.40 crore, but did not raise any claim towards ST. However, as the services provided by WBTIDCL were taxable, it had paid applicable service tax of ₹ 98.32 lakh along with interest and penalty of ₹ 12.85 lakh during March to November 2017 from its own funds.

Thus, WBTIDCL had to pay service tax of ₹ 1.11 crore (₹ 98.32 lakh + ₹ 12.85 lakh) from their own funds as they failed to claim the ST component while raising claims on their client, GoWB.

## WEST BENGAL FINANCIAL CORPORATION

### 4.3 Avoidable payment of interest of ₹ 1.81 crore

**WBFC issued bonds of ₹ 25.06 crore carrying interest at higher rate despite having commensurate fixed deposits in Banks earning interest at lower rates. This resulted in avoidable payment of interest on Bonds issued amounting to ₹ 1.81 crore.**

West Bengal Financial Corporation (WBFC) issues fixed interest rate bonds through private placement<sup>189</sup> as a part of its business plan. The objective of the issue of bonds is to raise finances for onward lending to small and medium scale industrial sector in the State of West Bengal. The State Government guarantees repayment of principal and interest on bonds. Between 2012-13 and 2015-16, WBFC disbursed loans of ₹ 756.63 crore *i.e.* 75 per cent of target (₹ 1,005 crore), partly funded (50 per cent) through bonds. WBFC's aggregate profit in this period was ₹ 27.92 crore.

Meanwhile, WBFC approved (February 2013) issue of bond of ₹ 150 crore for the financial year 2013-14 at interest rate not exceeding 10 per cent per annum. Based on such approval, WBFC raised ₹ 120.83 crore in two tranches during February 2014 to June 2014 carrying interest at 9.70 and 9.80 per cent for tenure of 10 years. In February 2016, WBFC decided to raise the balance amount of bond of ₹ 29.17 crore (₹ 150 crore - ₹ 120.83 crore) for a tenure of 10 years carrying interest at 9.80 per cent. This issue fetched ₹ 25.06<sup>190</sup> crore during March 2016 to April 2016.

Scrutiny of records for the issue (March 2016) of bonds of ₹ 25.06 crore revealed that:

- WBFC did not ascertain the availability of its funds before the issue of bonds in the third tranche. The minimum balances held in bank fixed deposits ranged from ₹ 47.49 crore to ₹ 174.99 crore (during March 2016 to

<sup>189</sup> A private placement is offering of securities to a limited number of institutional investors instead of a public offering.

<sup>190</sup> ₹ 23.63 crore between 01/03/2016 to 28/03/2016 and ₹ 1.43 crore between 29/03/2016 to 12/04/2016.

March 2019). The justification for issuing bonds for ₹ 29.17 crore instead of utilising the available funds was also not on record.

- During 2016-19, WBFC had paid interest on bonds at 9.80 per cent amounting to ₹ 7.38 crore<sup>191</sup> against which it had earned interest income of ₹ 5.57 crore<sup>192</sup> (during the corresponding period)<sup>193</sup> on equivalent amount of ₹ 25.06 crore in fixed deposits ranging from 6.96 per cent to 7.84 per cent. This resulted in additional payment of interest of ₹ 1.81 crore (₹ 7.38 crore - ₹ 5.57 crore).

WBFC in its reply stated (December 2020) that sourcing finance other than bond was restricted to share contributions from GoWB only. Moreover, the finances of WBFC were adversely affected due to pre-payments of loans by WBFC's borrowers, who had shifted to banks offering lower rates of interest. These reasons had compelled WBFC to take the bond issue.

The reply of WBFC is contradictory as with loan pre-payments in the scenario of migration of its loanees to banks, there would be surplus funds with WBFC. Moreover, WBFC also had amounts ranging from ₹ 47.49 crore to ₹ 174.99 crore lying in fixed deposits during this period. Hence, there appears to be no justification for issue of bonds of ₹ 25.06 crore primarily meant for lending activities of WBFC, which resulted in avoidable payment of interest of ₹ 1.81 crore.

## WEST BENGAL INDUSTRIAL DEVELOPMENT CORPORATION LIMITED

### 4.4 Improper approval of OTS resulting in non-recovery of loan of ₹ 6.87 crore

**Non-compliance of One Time Settlement (OTS) guidelines resulted in extending undue benefit to borrower by way of accepting a below par OTS proposal, thus foregoing recovery of loan of ₹ 6.87 crore.**

West Bengal Industrial Development Corporation Limited (WBIDCL) sanctioned (February 2009) a term loan of ₹ 11.51 crore to a unit for setting up a solar photovoltaics(PV) modules manufacturing facility at the Export Promotion Industrial Park (EPIP), Durgapur, West Bengal. The loan carried floating interest rate of 13.50 per cent per annum<sup>194</sup>, payable quarterly and two per cent additional interest for the default period in case of default in

<sup>191</sup> ₹ 25.06 crore at 9.80 per cent for three years 2016-2019.

<sup>192</sup> ₹ 25.06 crore at 7.84 per cent = ₹ 1.97 crore (2016-17); ₹ 25.06 crore at 6.96 per cent = ₹ 1.74 crore (2017-18); and ₹ 25.06 crore at 7.44 per cent = ₹ 1.86 crore (2018-19); Total: ₹ 5.57 crore.

<sup>193</sup> Interest rate of bank deposit is available from the date of issue of bonds till March 2019, i.e. from 2016-19.

<sup>194</sup> Which was subsequently revised to 12.75 per cent with effect from 01 March 2009.

payment. Against the sanctioned term loan, the unit was disbursed a total sum of ₹ 10.40 crore during April 2009 to March 2010. The loan was to be repaid in 24 (twenty-four) quarterly instalments (October 2010 to July 2016) with a moratorium period of 18 months from the date of first disbursement of the loan.

The unit repaid four instalments of principal of ₹ 1.92 crore and interest of ₹ 2.35 crore up to September 2011. Thereafter the unit did not meet its loan repayment obligations on time and instead requested (January 2014) WBIDCL for restructuring of loan citing liquidity crunch owing to delay in commencement of commercial production of solar polycrystalline PV modules. As on 31 December 2013, total outstanding against loan was ₹ 11.95 crore.

WBIDCL restructured the loan account in January/ February 2014, subject to the unit paying at least ₹ one crore as down payment against the present overdue within 30 days, the tenure of repayment was revised to seven years carrying interest at the rate of 11 *per cent* with a moratorium on all repayment upto March 2015. In addition, the unit was required to submit post-dated cheques (PDCs) for payment/ repayment of the loan between April 2015 and March 2022 as well as create a fixed deposit (FD) of ₹ 50 lakh in favour of WBIDCL to meet any shortfall in repayment.

The unit, however, failed to submit the requisite PDCs and FD as required under the restructuring package till August 2015. As a result, WBIDCL notified the unit in September and November 2015, that non-compliance with the terms and conditions of the restructuring package had led to the package being withdrawn and dues reverting to their original position. In January 2016, WBIDCL gave the unit another opportunity to comply with the requirements of the restructuring package within seven days. The unit then deposited the PDCs and FD. Thereafter, in October 2016, the unit requested for one time settlement (OTS) of its outstanding dues (₹ 16.59 crore) as on September 2016 and offered an amount of ₹ 3.63 crore towards full and final settlement of all dues to WBIDCL.

The guidelines for OTS, as maintained in Standard Operating Procedures (SOP) followed by WBIDCL, provide that:

- Before initiating any OTS, WBIDCL would undertake valuation of Realistic Realisable Value (RRV) of the primary and collateral security against the loan *viz.* (a) assets mortgaged/ hypothecated to WBIDCL by the Unit, (b) realisable value of assets held by WBIDCL as collateral and (c) realisable value of assets of Promoters/ Guarantors.

- Total dues (TD) would be calculated based on total outstanding principal and interest, outstanding additional interest/ liquidated damages if any, future interest upto probable date/ month of settlement, expenditure, if any, on valuation, *etc.*
- If RRV is greater than TD, then WBIDCL would take appropriate steps to realise RRV.
- If RRV is not sufficient to cover TD then WBIDCL would evaluate OTS proposal based on score sheet (Table-3 of the OTS guidelines) and the extent of maximum waiver would be determined in line with the score bands (as shown in Table-4 of the OTS guidelines).
- The extent of waiver would be determined according to the score bands after evaluating TD as per the (loan) rate of interest.

On scrutiny of the evaluation done (March 2017) by WBIDCL on the OTS proposal of the unit, it was observed that the RRV of the primary and collateral security against the loan was ₹ 18.16 crore whereas the TD as of February 2017 was ₹ 17.86 crore (Principal: ₹ 8.48 crore, Interest: ₹ 9.30 crore and Penal interest: ₹ 8.47 lakh). As per the OTS guidelines of WBIDCL, in case RRV is greater than TD, WBIDCL instead of initiating OTS should take steps to realise the RRV. Yet, WBIDCL had, without any justification finalised (April 2017) the OTS at ₹ 10.99 crore.

Audit also observed that as per the audited financial statements of the unit as on 31 March 2016, the Reserve and Surplus, Tangible Assets and Inventory of the unit were ₹ 7.58 crore, ₹ 19.63 crore and ₹ 19.55 crore, respectively, indicating it was solvent and able to pay its TD. Hence, WBIDCL had no justification in offering OTS to the unit.

The unit paid the OTS amount in May 2017. Thus, by violating its OTS guidelines, WBIDCL extended undue benefit to the unit by foregoing income of ₹ 6.87 crore (₹ 17.86 crore - ₹ 10.99 crore) from realisation of RRV of the security hypothecated/ mortgaged by the unit with WBIDCL.

WBIDCL in its reply stated (December 2018) that the OTS was approved based on its own SOP. Government endorsed (August 2019) the reply. However, the reply is not acceptable since the fact remains that as per clause 3 of guidelines for OTS, in case the RRV of the security is greater than TD, WBIDCL will take appropriate steps to realise the RRV and not initiate OTS. As the RRV of the security was higher than TD, WBIDCL should not have accepted the OTS proposal. Thus, by approving OTS, WBIDCL extended undue favour to the unit amounting to ₹ 6.87 crore, which is a loss to WBIDCL.

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