

# **CHAPTER–III**

## **Compliance Audit observations relating to Departments and Entities (Other than PSUs)**



## CHAPTER-III

### 3. Compliance Audit observations relating to Departments and Entities (Other than PSUs)

Important audit findings emerging from test check of transactions made by the various departments/entities are included in this Chapter.

#### Public Works Department

##### 3.1 Avoidable expenditure due to laying excess road crust

**Public Works Department incurred avoidable expenditure of ₹ 2.02 crore due to considering incorrect value of Lane Distribution Factor which led to laying of thicker layers of Dense Bituminous Macadam and Bituminous Concrete in the crust of the road.**

Paragraph 205 of the Uttar Pradesh Budget Manual stipulates that every public officer is expected the same vigilance in respect of expenditure incurred from public money as a person of ordinary prudence would exercise in respect of expenditure of his own money.

Paragraph 4.5.1 (ii) of Indian Road Congress (IRC): 37-2012 stipulates that the design of two-lane single carriageway roads should be based on 50 *per cent* of the total number of commercial vehicles in both directions, *i.e.*, Lane Distribution Factor (LDF).

The Government accorded (August 2016) Administrative and Financial Sanction of ₹ 29.44 crore for widening and strengthening of 15.300 km. long *Aligarh-Ramghat road to Gaonkhera Godha* CTK road (Other District Road) under Central Road Fund Scheme. The Technical Sanction of the work was accorded (August 2016) by Chief Engineer, Agra Zone, Public Works Department (PWD), Agra. Superintending Engineer, Aligarh Circle, PWD executed a contract bond with a contractor<sup>1</sup> at 0.60 *per cent* below the sanctioned estimated cost of the work. The work was started in August 2016 and was completed in March 2018.

As per Site Traffic Data (November 2015), the traffic volume in the form of Passenger Car Unit<sup>2</sup> (PCU) was 11,875 and traffic load in the form of Commercial Vehicle per Day (CVPD) was 847. Further, in detailed estimates, California Bearing Ratio<sup>3</sup> (CBR) of sub-grade soil of the road was 6 *per cent*. The existing road was to be strengthened to bear the traffic load and, it was to be widened from 3.70 metre to 7.00 metre to accommodate the traffic volume.

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<sup>1</sup> No. 35/SE/2016-17 for negotiated bid for ₹ 26.89 crore with contractor M/s Narendra Builders, Aligarh.

<sup>2</sup> Passenger Car Unit (PCU) is a relative weightage factor given to the traffic volume of individual vehicle category to deal with the heterogeneity in a mixed traffic situation.

<sup>3</sup> California Bearing Ratio (CBR) test is defined as the ratio force per unit area which is required to penetrate a mass of soil with the standard circular piston at a rate of 1.25 millimeters per minute to that required for corresponding penetration of standard material.

Scrutiny of records (September 2018) of Executive Engineer (EE), Provincial Division, PWD, Aligarh revealed that for assessment of crust thickness required for strengthening/widening of the road, the LDF was taken as 1.0 in the technically sanctioned detailed estimate (estimate) instead of prescribed 0.50.

Audit observed that due to incorrect adoption of LDF, design traffic in terms of the Million Standard Axles<sup>4</sup> (msa) was worked out as 15 msa which should have been 7.50 msa (**Appendix-3.1**). As per the detailed estimate, the existing crust thickness of 250 mm of the road was to be strengthened by laying 250 mm thick layer of Wet Mix Macadam (WMM), followed by 75 mm Dense Graded Bituminous Macadam (DBM) and 40 mm Bituminous Concrete (BC), considering design traffic of 15 msa. However, for design traffic load of 7.5 msa and CBR of 6 *per cent*, the required crust could have been achieved in accordance with Plate-4<sup>5</sup> of IRC-37:2012 by laying of 60 mm DBM and 35 mm BC only.

Thus, due to adoption of wrong value of LDF in calculation of msa, excess thick layers of DBM and BC were laid which resulted in avoidable expenditure of ₹ 2.02 crore (**Appendix-3.2**).

In the reply, EE, Provincial Division, Aligarh stated (June 2021) that, design life of the road had been taken as 15 years, so the thickness of layers was correct.

The contention of the EE that the road was designed for 15 years is not correct as the road was designed for 10 years in the technical sanctioned estimate. Therefore, the LDF should have been taken as 0.50 instead of 1 taken.

The matter was reported to the Government (March 2022). The reply is still awaited (September 2022).

### **3.2 Wasteful expenditure in construction of Banda by-pass road**

**Public Works Department incurred wasteful expenditure of ₹ 41.89 crore on Banda by-pass road which could not be completed even after lapse of more than nine years from scheduled completion period due to not ensuring availability of land and securing the executed earth work.**

Para 378 of Financial Handbook-VI (FHB) of Government of Uttar Pradesh provides that no work should be commenced in land which has not been handed over for work by the responsible civil officers.

With a view to divert the heavy traffic for relief from traffic congestion and prevent accidents in Banda city, the State Government accorded (June 2011) approval for work of 'Construction of remaining part (ring road) of Banda by-pass road (for 10.7 km)' by Public Works Department (Department) at a cost of ₹ 44.09 crore. Chief Engineer, Jhansi Zone gave (June 2011) Technical

<sup>4</sup> Standard Axle is load of a Single Axle with dual wheel carrying 80 Kilo Newton (an unit of force) load and the design of the pavement is based on the Standard Axle Load.

<sup>5</sup> Plate-4 is the design catalogue for pavement design thickness related to CBR-6 *per cent* and for msa ranging from 2 to 150 .

Sanction on detailed estimate of the work. Superintending Engineer, Banda Circle entered into agreements<sup>6</sup> (June 2011) with two contractors valuing ₹ 37.83 crore for execution of the work with scheduled completion period of one year, *i.e.*, upto June 2012. The Government also sanctioned (June 2011) ₹ 13.55 crore against acquisition of required land for the work which was subsequently revised (June 2019) to ₹ 21.66 crore. Upto March 2021, the Department could acquire only 40.02 hectare of land against revised requirement<sup>7</sup> of 47.57 hectare of required land for the work.

Audit noticed (August 2021) that the Department awarded (June 2011) the contracts for execution of work without ensuring availability of required land. It was also noticed that the land could not be acquired due to shortage of funds as enhanced compensation was payable to landowners under changed land acquisition policy. Despite change in alignment of the road, thereby reducing the requirement of land, the Department could not acquire the complete land required for the work. Thus, the work could not be completed and execution of work was stopped in March 2017.

Audit further noticed that the Department executed excess work amounting to ₹ 21.89 crore<sup>8</sup>, being 49.65 *per cent* of sanctioned estimated cost of ₹ 44.09 crore, towards earth work and culvert work. After incurring expenditure of ₹ 41.89 crore the Department could achieve only 1.6 km of secured level of the construction of road. It was noticed that the matter was referred (June 2019) to Technical Evaluation Committee, U. P. Public Works Department (TEC). TEC observed (October 2020) that during execution of work excessive deviations have been made in violation of directions. It further observed that due to huge changes in specification and rates of estimate, the execution of work was not possible now, hence Administrative and Financial Approval on new estimate prepared on the basis of latest specification and traffic load should be taken for the work.

Thus, execution of work without getting possession of required land led to wasteful expenditure of ₹ 41.89 crore as it could not be completed for want of required land even after lapse of more than nine years since scheduled completion period of the work. Further, the earth work carried out by the Department has every chance of deteriorating due to lapse of long period as it was secured for 1.60 km only against estimated execution of 10.700 km of road.

The Management stated (October 2021) that due to incomplete availability of land in alignment of road, only the earth work could be executed which was secured in length of 1.6 km. Further, Chief Engineer approved (April 2013) deviations of quantities from the estimated provision in view of geographical conditions of the site. It was also added that at present, 90 *per cent* of land has

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<sup>6</sup> Contract Bond no. 16/SE/2011-12 dated 28.06.2011 for ₹ 22.27 crore to M/s Progressive Constructions Co. Ltd. And Contract Bond no. 17/SE/2011-12 dated 29.06.2011 for ₹ 15.56 crore to M/s Prabhunath Prasad.

<sup>7</sup> The measurement of land was reduced from 87.97 hectare to 47.57 hectare.

<sup>8</sup> Excess expenditure on earth work: ₹ 11.69 crore *plus* excess expenditure on culvert work: ₹ 10.20 crore.

been acquired and after approval of revised estimate the work will be executed.

The reply is not acceptable as due to initiation of work without ensuring availability of required land, the work could not be completed and wasteful expenditure of ₹ 41.89 crore was incurred on the work.

The matter was reported to the Government (March 2022). The reply is still awaited (September 2022).

*The Government may investigate the matter for fixing the responsibility of the concerned officials for wasteful expenditure.*

### **3.3 Excess payment of supervision charges**

#### **Public Works Department made excess payment of ₹ 4.45 crore on account of supervision charges for shifting of electrical infrastructure.**

Uttar Pradesh Power Corporation Limited (UPPCL) decided (April 2002) to charge 15 *per cent* supervision charges while framing the estimates for deposit works.

Audit noticed (October 2021) that Public Works Department (PWD), Government of Uttar Pradesh (GoUP) implemented 'Uttar Pradesh Core Road Network Development Projects' (Project) at a project cost of ₹ 3,958.08 crore. The Project was funded by a loan of ₹ 2,777.60 crore from World Bank and ₹ 1,180.48 crore was to be financed by GoUP. Various expenditure, *viz.*, acquisitions of land, utility shifting, *etc.*, was to be met from the share of GoUP. To construct the roads under the Project, the shifting of electrical infrastructure was required. PWD assigned the shifting work to Paschimanchal Vidyut Vitran Nigam Limited (PVVNL)<sup>9</sup>. Executive Engineer, Electricity Works Division Moradabad, PVVNL framed (2016-17) 22 estimates valuing ₹ 35.34 crore for shifting of electrical infrastructure as deposit work. World Bank Division, PWD, Moradabad deposited (March 2016 and March 2018) the whole amount of ₹ 35.34 crore.

Audit observed that in contravention of the decision of UPPCL, Executive Engineer, Electricity Works Division Moradabad, PVVNL included establishment audit and accounts charges<sup>10</sup> (A.A. charges) at the rate of 31.50 *per cent* amounting to ₹ 8.50 crore in the aforesaid 22 estimates instead of supervision charges at the rate of 15 *per cent*. PWD failed to ensure the reasonability of charges included in the estimate by Executive Engineer, Electricity Works Division Moradabad, PVVNL and paid excess amount of ₹ 4.45 crore over and above the due amount of supervision charges of ₹ 4.05 crore (calculated at the rate of 15 *per cent*), as detailed in **Appendix-3.3**. Thus, PWD made excess payment of ₹ 4.45 crore to PVVNL on account of shifting of electrical infrastructure.

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<sup>9</sup> Subsidiary of UPPCL.

<sup>10</sup> Establishment audit and accounts charges are included by DISCOMs for formulation of scheme/project, where the DISCOM proposes such construction work for itself.

In its reply, Chief Engineer, Externally Aided Projects, Public Works Department stated (March 2022) that PVVNL has been requested to refund the excess payment and action at their level is still awaited.

The reply corroborates the audit observation and recovery has not been effected till date (April 2022).

The matter was reported to the Government (June 2022). The reply is still awaited (September 2022).

### **3.4 Excess payment to the contractor**

#### **Public Works Department applied higher rate of water tanker, cost of water and excess overhead charges in a road work resulting in excess payment to the contractor of ₹ 3.20 crore.**

In Public Works Department (PWD), the estimate of a road work is prepared on the basis of item rates analysed as per rates of labour and machine given in the Standard Data Book of Ministry of Road Transport and Highways (MoRTH) and Schedule of Rates of Uttar Pradesh Public Works Department (UPPWD). Further, as per the circular (July 2012) of Engineer-in-Chief, PWD, Uttar Pradesh, Lucknow, overhead charges are to be imposed at the rate of eight *per cent* if the cost of work is more than ₹ 50 crore.

The Government accorded (August 2010) Financial Sanction of ₹ 90.62 crore for widening and strengthening of 40 kilometre of Ram Janki Road (State Highway-72) from km 152 to km 191. Chief Engineer (CE), Gorakhpur Zone, PWD, accorded (August 2010) the Technical Sanction to the detailed estimate at the sanctioned cost of the work. Superintending Engineer (SE), Deoria Circle, PWD executed (August 2010) a contract bond<sup>11</sup> for ₹ 73.26 crore for the said work. The work was started in August 2010 and was completed in January 2017 at a cost of ₹ 66.83 crore. The final payment to the contractor was made in April 2018.

Scrutiny of records (December 2018 and February 2020) of Executive Engineer (EE), Construction Division, PWD Deoria revealed that while analysing the rate for the work 'construction of subgrade and earthen shoulder', the Department fixed the rate of the above item at ₹ 216 per cubic metre by applying incorrect rate of ₹ 200 per kilolitre (KL) for the cost of water and the rate of ₹ 327.50 per hour for hire charge of water tanker instead of admissible rates of ₹ 20 per KL and ₹ 200 per hour respectively. On applying the admissible rates for cost of water and for hire charge of water tanker, Audit arrived at the rate of ₹ 164 per cubic metre (**Appendix-3.4**) for the above work. The above application of incorrect rate resulted in excess payment of ₹ 2.52 crore<sup>12</sup> to the contractor on construction of 4,84,425.47 cubic metre of sub-grade and earthen shoulder. Further, the Department also allowed overhead charges at the rate of 10 *per cent* against

<sup>11</sup> Contract Bond No. 10/S. E. Deoria Circle/10 with M/s CS Infra Construction Limited, Ballia.

<sup>12</sup> 4,84,425.47 cubic metre x (₹ 216 - ₹ 164) = ₹ 2,51,90,124.44.

the admissible rate of eight *per cent* resulting in excess payment to the contractor amounting to ₹ 0.68 crore (**Appendix-3.5**).

Thus, the Department extended (April 2018) undue benefit by making excess payment of ₹ 3.20 crore<sup>13</sup> to the contractor.

In its reply, EE (January 2020 and May 2022) stated that the rate for water allowance was taken at ₹ 200 per KL which includes carriage, loading, unloading, handling charges, *etc.* while the cost of water was taken at the rate of ₹ 20 per KL. Further, EE added that cost of water was lower than the rate ₹ 25.40 per KL in the Schedule of Rate.

The reply is not acceptable because as per Standard Data Book of MORTH for Roads and Bridges, cost of water has been mentioned under the work head 'construction of subgrade and earthen shoulder' and for lead and lift of water, under the head 'Water Tanker with 6 km lead' has been separately allowed. Thus, the contention of the Department that the rate was for water allowance is not correct. Moreover, the Division applied the rate of ₹ 20 per KL for 'cost of water' in the analysis of rate for other items of work included in the same estimate.

The matter was reported to the Government (June 2022). The reply is still awaited (September 2022).

## **Infrastructure and Industrial Development Department**

### **3.5 Infructuous expenditure on architectural services**

#### **UPSIDC incurred infructuous expenditure of ₹ 20.13 crore on architectural services for integrated mini township and multistorey residential complex in absence of encumbrance free land and assessment of proper demand.**

Para 378 of Financial Handbook (FHB), Volume-VI of Government of Uttar Pradesh (GoUP) provides that no work should be commenced on a land unless it has been duly handed over by the responsible civil officers. Further, the provision of Para 169 of FHB Volume-V (Part-I) stipulates that every Government Officer is expected to exercise the same vigilance in respect of expenditure of public money as a person of ordinary prudence would exercise in respect of expenditure of his own money. Finance Department, GoUP also directed (July 2014) that sanction for the work may be given only after ensuring undisputed availability of suitable land as per standards.

Erstwhile Uttar Pradesh State Industrial Development Corporation (UPSIDC)<sup>14</sup> in its 284<sup>th</sup> Board meeting (February 2014) accorded principal approval to make available residential and infrastructure facilities on the pattern of NOIDA. Accordingly, UPSIDC decided to execute the following projects in Tronica City, Ghaziabad.

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<sup>13</sup> ₹ 2,51,90,124.44 + ₹ 68,07,249.17.

<sup>14</sup> UPSIDC was merged with Uttar Pradesh State Industrial Development Authority in June 2018.



### ***Integrated mini township***

Chief Engineer (CE), UPSIDC entered into an agreement (June 2015) with an architect<sup>15</sup> for the work of master planning and detailed architectural and engineering design for the development of infrastructure and buildings of integrated mini township at Trans Delhi Signature City, Ghaziabad. The architectural firm was to be paid ₹ 3.50 lakh per acre for preparing Master planning (Part-A -stagewise) and 3.5 *per cent* of the cost of project for detailed architectural and engineering design (Part-B). The scheduled dates of commencement and completion for the work were June 2015 and December 2015 respectively. The architect was paid ₹ 3.92 crore<sup>16</sup> upto August 2015 for Stage I<sup>17</sup> work of Master planning for area measuring 981.55 acre of two villages in Ghaziabad (295.11 acre in *Pachayara* and 686.44 acre in *Meerpur Hindu*). Since then, this project was stopped with no reason on record.

### ***Multistorey residential complex***

Similarly, UPSIDC awarded (May 2014) the work for architectural services to an Architect<sup>18</sup> for the comprehensive architectural consultancy services for the development of multistorey residential complex in Tronica City, Ghaziabad at the rate of three *per cent* of the cost<sup>19</sup> of work. The schedule date of start and schedule date of completion was 19 May 2014 and 18 January 2017 respectively.

UPSIDC sanctioned maps (April 2015) for multistorey residential complex in two Sectors, *i.e.*, B-4 and C-3 in Tronica City. Detailed estimates were prepared for construction at Sector B-4 and Sector C-3 by the architect for ₹ 1,799.27 crore and ₹ 494.53 crore respectively. Further, UPSIDC accorded (January 2016) Administrative, Financial and Technical Sanction for residential Sector C-3 only. The Authority paid ₹ 16.21 crore<sup>20</sup> for architectural services to the architect upto June 2015. However, no construction work was started for multistorey residential complexes at Sector B-4 and C-3 till date (December 2021).

With respect to above projects, Audit observed (October 2021) the following:

- UPSIDC initiated both the projects without assessing demand as no demand survey was conducted.

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<sup>15</sup> M/s C.P. Kukreja, New Delhi.

<sup>16</sup> Advance payment- ₹ 28.50 lakh (June 2015), 1<sup>st</sup> Running Account (RA) Bill for ₹ 1.67 crore (July 2015) and 2<sup>nd</sup> RA bill for ₹ 1.96 crore (August 2015).

<sup>17</sup> Stage-I: to ascertain owner's requirements, examine site constraints and potential, and to prepare a design brief for owner's approval.

<sup>18</sup> M/s C.P. Kukreja, New Delhi.

<sup>19</sup> UPSIDC prepared preliminary estimates for cost of construction of residential building complex amounting to ₹ 1,152.48 crore.

<sup>20</sup> Up to 13<sup>th</sup> R.A. bill (June 2015).

- UPSIDC acquired land<sup>21</sup> for integrated mini township, however, it could not get physical possession of the complete land due to encroachment/litigations<sup>22</sup> by the farmers. UPSIDC initiated the projects and awarded the work to the architect in violation of the provisions of FHB/GoUP order regarding encumbrance free availability of land.

For multistorey residential complex, the State Environment Impact Assessment Authority (SEIAA) did not grant environment clearance for Sector B-4 mainly due to failure of UPSIDC to submit land use certificate from the competent Authority as Sector B-4 was for commercial use.

- In compliance to the order of the Hon'ble Allahabad High Court (June 2018) in Writ Petition<sup>23</sup> filed by Tronica City Manufacturers Association (Association) regarding completion of the project, Chief Executive Officer (CEO), UPSIDA stated in its order (14 August 2019) that due to lack of adequate demand caused by depression in real estate sector, constraints of financial resources and lack of availability of land so far, the implementation of the projects was not found feasible in the interest of UPSIDA as no proposal of confirm demand was sent by the Association.

Thus, both the projects were shelved by UPSIDA after incurring expenditure of ₹ 20.13 crore on the project due to not exercising due diligence regarding encumbrance free availability of land and assessing sustainability of the demand.

UPSIDA in its reply (February 2020) stated that land was acquired under the urgency clause requiring prompt planning and its implementation. But, due to introduction of Land Acquisition Act, 2013, farmers were tempted to get more compensation and started hindrances. Therefore, to overcome site issues, it was essential to engage the consultant for Master planning, *etc.* for planned development of integrated township. It further added that the work in Sector B-4 could not be started due to observation by Environment agency for land use.

The reply of the UPSIDA is not acceptable as UPSIDA initiated the projects without assessing demand and ensuring availability of land and financial resources. Further, at the time of appointment of architect in June 2015, the UPSIDC was well aware of encumbrances on the sites.

The matter was reported to the Government (March 2022/June 2022). The reply is still awaited (September 2022).

*The Government may investigate the matter for fixing the responsibility of the concerned officials for failure to ensure availability of encumbrance free land and assessing the demand before initiating the projects which led to infructuous expenditure.*

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<sup>21</sup> 285.50 acre (February 2008) and 195.49 acre (November 2013) in the villages *Pachayara and Meerpur Hindu* respectively.

<sup>22</sup> Village *Meerpur Hindu*: Writ Petition No.72075/2011 and 49541/2014 filed by land owners of village on 12 December 2011 and 11 September 2014 respectively which are pending before Hon'ble Allahabad High Court.

<sup>23</sup> Writ Petition No. 21412/2018.

### 3.6 Unfruitful expenditure on unauthorised construction of Exhibition and Office building

**Without ensuring encumbrance free land, erstwhile UPSIDC started construction of Exhibition and Office building at Amausi, Lucknow on industrial land and incurred unfruitful expenditure of ₹ 27.15 crore.**

Uttar Pradesh State Industrial Development Corporation (UPSIDC)<sup>24</sup> in its 284<sup>th</sup> Board Meeting (February 2014) decided to construct a camp office building in industrial area, Amausi, Lucknow at plot B-9<sup>25</sup>. Thereafter, for architectural drawing/design of office building, Chief Engineer (CE) awarded (November 2014) the work for ₹ 4.50 crore (excluding Service Tax) to an architect firm<sup>26</sup>. Further, for construction work, CE made (October 2015) an agreement with a contractor<sup>27</sup> for ₹ 111.73 crore. The contractor started the work (October 2015) but after completing 18 *per cent* of the work, stopped the work<sup>28</sup> (November 2016) and invoked arbitration clause (January 2017) against UPSIDC citing pending payment of bills, failure to provide encumbrance free site hampering the progress of work, *etc.* UPSIDC had paid ₹ 22.42 crore<sup>29</sup> to the contractor during December 2015 to July 2016. Besides, UPSIDC had also made payment of ₹ 4.73 crore<sup>30</sup> to the architect for architectural drawings/designs for construction.

In view of arbitration proceeding, UPSIDC decided (January 2018) to auction the semi-constructed building on 'as it is where it is' basis after obtaining legal opinion from General Manager (Legal) who opined (November 2017) to auction the building after determination of reserve price<sup>31</sup>. Further, as per decision taken in 298<sup>th</sup> Board meeting (29 January 2018), a committee was constituted (April 2019) by Managing Director, for fixing the reserve price of existing semi-constructed building which worked out the reserve price as ₹ 49.31 crore<sup>32</sup>. It was opined in the committee meeting (04 July 2019) that for land use conversion and amendment in regional development plan, approval from GoUP was mandatory.

After deliberating the matter, the committee decided to refer the matter back to GM (Legal) for reconsideration in the light of pending court cases and change

<sup>24</sup> Merged with Uttar Pradesh State Industrial Development Authority (UPSIDA) in June 2018.

<sup>25</sup> Measuring 7,900 sq. meter approx.

<sup>26</sup> M/s C.P. Kukreja, New Delhi.

<sup>27</sup> M/s Ahluwalia Construction Group, New Delhi.

<sup>28</sup> The contractor had constructed two basements and completed of I<sup>st</sup> floor and 50 *per cent* of II<sup>nd</sup> floor of the building.

<sup>29</sup> ₹ 22.42 crore (pending IV<sup>th</sup> & V<sup>th</sup> RA bill amounts *viz.* ₹ 1.25 crore & ₹ 4.50 crore respectively excluded in view of court proceedings): Mobilisation advance (₹ 5.59 crore) + I<sup>st</sup> RA bill (₹ 4.80 crore) + II<sup>nd</sup> RA Bill (₹ 4.53 crore) + III<sup>rd</sup> RA Bill (₹ 2.95 crore) + IV<sup>th</sup> RA Bill (₹ 3.22 crore) + Secured advance (₹ 1.33 crore).

<sup>30</sup> During January 2015 to March 2015.

<sup>31</sup> After adjustment of present value of plot, value of partial construction and interest thereon, pending bills of contractor and legal expenses to be incurred up to final decision.

<sup>32</sup> Considering industrial land premium, expenditure incurred on civil works, legal expenses and interest up to June 2019

of land use. Accordingly, GM (Legal) opined (November 2019) not to fix reserve price for auctioning of the building due to pending court cases and arbitration.

In the above matter, Audit observed the following:

- As per G.O. (July 2014), sanction for the work may be given only after ensuring undisputed availability of suitable land as per standards. However, UPSIDC, despite being aware of ongoing court cases<sup>33</sup> on the plot B-9, started the construction work in violation of GoUP's directions.
- Further, not adhering the provisions of land use change as stipulated in Para 3.3.8 of the Uttar Pradesh State Development Area (Preparation and Finalisation of Plans) Regulations, 2004, UPSIDC started construction of office building for public/semi-public (commercial use) on the plot B-9 which was for industrial use.

Thus, overlooking its regulations for change in land use and pending court cases on the plot, UPSIDC incurred an expenditure of ₹ 27.15 crore on an unauthorised construction which remained unfruitful despite lapse of five years since stoppage of the work (November 2016).

In its reply, the Authority (UPSIDA) stated (October 2021) that auction will be done after disposal of court cases and arbitration cases. It was also stated that action has been taken against Chief Engineer and matter is being investigated.

The reply of the Authority corroborates the audit observation.

The matter was reported to the Government (June 2022). The reply is still awaited (September 2022).

*The Government may fix the responsibility of the concerned officials for the lapses which resulted in unfruitful expenditure.*

## **Department of Additional Sources of Energy**

### **3.7 Avoidable payment of Income Tax of ₹ 1.95 crore**

**In contravention to GoUP order UPNEDA considered interest income earned on Government funds as its own income and resultantly paid avoidable Income Tax of ₹ 1.95 crore.**

The Uttar Pradesh New and Renewable Energy Development Agency (UPNEDA) acts as an agency for the GoUP in respect of renewal energy schemes of the State Government and to harness the non-conventional energy for the benefit of the people of the State. For execution of projects, UPNEDA receives fund form Government and other client departments/agencies. GoUP orders (March 2012 and May 2015) provide that if interest has been earned on funds released by the Government, the

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<sup>33</sup> (i) Writ Petition No. 2219/(M/B) 2014 filed by Precision Auto Parts and others was under consideration before Hon'ble High Court. (ii) Hearing was going on in Petition No. 137/1998 filed by M/s Uptron India Ltd.

interest so earned would be the income of the Government and it shall be credited/deposited in the Government treasury.

Audit noticed (January 2022) that the UPNEDA kept the funds received from Government in banks and earned interest of ₹ 5.99 crore during the year 2016-17 and 2017-18. It did not deposit the interest income to the Government treasury as required in the GoUP orders. Instead, it treated the interest income on Government funds as its own income and accounted for computation of its total income for filing annual Income Tax Return for Financial Year (FY) 2016-17 and 2017-18. Consequently, the incidence of Income Tax on the UPNEDA increased by ₹ 1.95 core (**Appendix-3.6**) during the above period.

Here it is worthwhile to mention that UPNEDA, while preparing its balance sheet during respective years, has treated the interest income on Government funds as its liability and disclosure in this regard has been given in the books of accounts. Further, from FY 2018-19 and onward, UPNEDA has filed its Income Tax Return by excluding the interest earned on Government fund from its total income on the ground that same may be demanded back by the Government.

Thus, the UPNEDA not only violated the Government orders and did not deposit the interest in the Government treasury but also had to bear extra burden of Income Tax of ₹ 1.95 core.

The matter was reported to the Government and Management (June 2022). The reply is still awaited (September 2022).

### **Department of Information Technology and Electronics**

#### **3.8 Loss due to not availing exemption under Income Tax Act, 1961**

**Due to not availing exemption under Section 10(46) of the Income Tax Act, 1961, by Centre for e-Governance, the State exchequer had to suffer loss of ₹ 21.59 crore.**

Section 10 (46) of the Income Tax Act, 1961 provides that any specified income<sup>34</sup> arising to a body or authority or Board or Trust or Commission, established or constituted by or under a Central or State Act or by a Central or State Government with the object of regulating or administering any activity for the benefit of general public, do not form part of total income, hence would be exempted from Income Tax. For this, the entity should not engage in any commercial activity and is required to be notified by the Central Government in the official Gazette. Further, the Ministry of Finance notified (June 2013) standardising of process of filing application for grant of exemption under Section 10(46) of the Income Tax Act, 1961.

Audit noticed (February 2022) that Centre of e-Governance (CeG) was constituted (March 2006) by the Department of Information Technology and Electronics, Government of Uttar Pradesh to act as an autonomous and independent body to help and support Government and act as Secretariat and

<sup>34</sup> This also includes interest earned on such income.

full time internal advisory body in undertaking e-Governance projects. CeG has not engaged in any commercial activity. Despite fulfilling the criteria CeG did not apply for exemption under the aforesaid section of Income Tax Act even after lapse of more than 15 years of its constitution. Due to not availing the above exemption, Income Tax of ₹ 21.59 crore was deducted by banks on the interest earned on funds parked in bank accounts of CeG during the period from 2006-07 to 2020-21.

Thus, inaction on part of the CeG, led to loss of ₹ 21.59 crore towards avoidable Income Tax during the period from 2006-07 to 2020-21. It is also worthwhile to mention that as CeG has not applied for exemption under the aforesaid section of the Income Tax Act till date (July 2022). Such Income Tax would be continued to be levied till the issue of notification in favour of CeG in prescribed manner.

The matter was reported to the Government and Management (June 2022). The reply is still awaited (September 2022).

## **Department of Tourism**

### **3.9 Government receipts kept out of Government Account**

#### **Directorate of Tourism failed to ensure deposit of ₹ 1.10 crore in State Treasury received on account of rent.**

Article 266 (1) of the Constitution of India *inter alia* stipulates that all revenue receipts and all loans raised by the State Government shall form part of the Consolidated Fund of the State.

Rule 7 (1) of Treasury Rules issued (January 1950) by Governor of Uttar Pradesh (GoUP) stipulated that all money defined in Articles 266, 267 or 284 of the Constitution received by or tendered to Government servant in their official capacity shall without undue delay, be paid in full into the Treasury or into the Bank<sup>35</sup>. Money received as aforesaid shall not be appropriated to meet departmental expenditure nor otherwise kept apart from Government Account.

*Paryatan Bhavan (Bhavan)*, Lucknow is the administrative building of Director General, Directorate of Tourism (Directorate), GoUP. Uttar Pradesh State Tourism Development Corporation Limited (UPSTDC) is operating the commercial activities related to renting of the *Bhavan* on behalf of the Directorate.

The Directorate of Tourism (Directorate), GoUP approved (March 1998) commercial use of first and second floors of the *Bhavan*. The Directorate, on opinion of Finance Department, GoUP, directed (September 2014) UPSTDC to deposit the amount of rent of the *Bhavan* along with interest in the Treasury

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<sup>35</sup> Rule 3 of Treasury Rules issued (January 1950) by Governor of Uttar Pradesh stipulated that the deposit of such money in the Bank shall be governed by the terms of agreement made between the Governor and the Bank under Section 21 of the Reserve Bank of India Act, 1934.

under the specific head<sup>36</sup>. Thus, all the proceedings from renting of the *Bhavan* were required to be deposited in the Treasury.

Audit noticed (March 2022) that UPSTDC was depositing the amount received on account of rent of the *Bhavan* but it did not deposit the rental proceeds of letting out the Auditorium (hall) which was also part of the *Bhavan*. UPSTDC realised revenue of ₹ 1.10 crore from letting the Auditorium during the period from April 2017 to December 2021 but failed to deposit the same in the State Treasury under specific head as UPSTDC treated it as its own income in contravention of the Directorate direction (September 2014).

Thus, due to non-adhering the provision of Treasury Rules, and directions of the Directorate, UPSTDC failed to deposit the rent received in State Treasury. Moreover, the Directorate also failed to monitor compliance of its directions by UPSTDC. As such, for the period April 2017 to December 2021, an amount of ₹ 1.10 crore was kept outside the Consolidated Fund of the State in violation of Article 266 (1) of the Constitution.

The matter was reported to the Government and Management (June 2022). The reply is still awaited (September 2022).

### **3.10 Wasteful expenditure on unauthorised work of Laxman Shaheed Smarak**

**Uttar Pradesh Braj Teerth Vikas Parishad failed to obtain necessary clearance from Archaeological Survey of India before commencement of construction work in regulated monument area falling under Braj region which led to wasteful expenditure to the tune of ₹ 1.36 crore.**

Section 4 (new Section 20 A) of the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010 (Act) stipulates that every area, beginning at the limit of the protected area or the protected monument and extending to a distance of one hundred meters in all directions shall be the prohibited area in respect of such protected area or protected monument. Further, Section 6 (new Section 20B) of the Act stipulates that every area, beginning at the limit of prohibited area in respect of every ancient monument and archaeological site and remains, declared as of national importance and extending to two hundred meters in all directions shall be the regulated area. Section 30 (b) of the said Act provides for punishment of imprisonment up to two years or fine up to ₹ one lakh or both for any construction in the regulated area without previous permission of the competent authority.

Uttar Pradesh Braj Teerth Vikas Parishad (UP-BTVP)<sup>37</sup> submitted a proposal

<sup>36</sup> 1452-Paryatan-800-Other receipts-02-Miscellaneous receipts.

<sup>37</sup> Uttar Pradesh Braj Teerth Vikas Parishad (UP-BTVP) was established to formulate a plan to preserve, develop and maintain all the areas of Braj heritage such as cultural, environmental, and architectural aesthetic qualities, to coordinate and monitor the implementation of such a plan and for integrated tourism development and heritage of the region.

for reconstruction work of *Laxman Shaheed Smarak* in district Mathura for which Department of Tourism (GoUP), nominated Mathura Vrindavan Development Authority (MVDA) as executing agency, and accorded (January 2020) Administrative Sanction of ₹ 7.81 crore *plus* GST (on actual basis). Financial Sanction was accorded for ₹ 3.91 crore as first installment. As per terms and conditions of the Administrative Approval, UP-BTVP/Directorate of Tourism/executing agency was to ensure drawing/design of work, necessary statutory clearances and environmental clearances from the local development authority/concerned agencies/departments before commencing the work.

UP-BTVP transferred (March 2020) the funds of ₹ 3.91 crore to MVDA. MVDA awarded (June 2020) the work to a contractor<sup>38</sup> for ₹ 6.79 crore and the work was started (June 2020). Subsequently, Archaeological Survey of India (ASI) served notice (September 2020) to MVDA for illegal construction work in violation of the provisions of the Act stating that as the construction site fell within the regulated monument area, the permission from competent authority, *i.e.*, Commissioner, Agra Division was mandatory. Further, an FIR with the police was also filed (October 2020) by ASI against MVDA for initiating unauthorised construction work which was stopped since October 2020.

The said construction site fell within the regulated area (within 224 metre) of Shri Govind Dev Ji Temple, Vrindavan, an ancient monument preserved by ASI, but UP-BTVP did not apply for permission of ASI before start of work and released the fund for construction work to MVDA. UP-BTVP, after receipt of notice, applied (October 2020) for the permission but ASI did not take cognizance of the request and issued (October/November 2020) a show-cause notice to UP-BTVP/MVDA to demolish the illegal construction.

MVDA had incurred an expenditure of ₹ 1.36 crore on the construction till stoppage of the work (October 2020). After several correspondences made by UP-BTVP, the matter was referred (June 2021) by Additional Commissioner, Agra Circle to Director, National Monuments Authority, New Delhi who also refused (July 2021) permission for construction. Further, UP-BTVP requested (November 2021) ASI to withdraw the FIR and issue NOC stating the fact that construction of foundation of basement was removed and restored to original position.

Thus, UP-BTVP incurred wasteful expenditure of ₹ 1.36 crore on the construction work in a regulated area adjoining the monument without obtaining prior permission from the ASI.

In reply, the Management stated (June 2022) that ASI has directed to resubmit application for granting permission to start the work. The work shall be restarted after obtaining NOC from the ASI. Further, expenditure already incurred is not infructuous as the same shall not be required to be incurred again.

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<sup>38</sup> M/s Garg Resurfacing and Construction.



The reply is not acceptable as all the earlier requests made by UP-BTVP had been turned down by ASI. Further, in its request to ASI to withdraw the FIR, UP-BTVP itself confirmed that constructed structure had been removed and restored to original position which proves that expenditure has been wasteful.

The matter was reported to the Government (June 2022). The reply is still awaited (September 2022).



(TANYA SINGH)

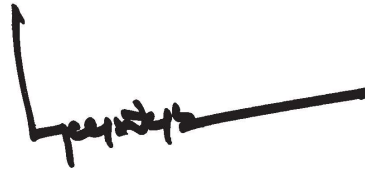
Lucknow

The

Accountant General (Audit-II),  
Uttar Pradesh

7 December 2022

Countersigned



(GIRISH CHANDRA MURMU)

New Delhi

The 12 DEC 2022

Comptroller and Auditor General of India

