

Chapter III

Compliance Audit Observations

Chapter III – Compliance Audit Observations

Municipal Administration and Urban Development Department

Hyderabad Metro Rail Limited

3.1 Hyderabad Metro Rail Project

Summary

The Government of Telangana (GoTS) envisaged Hyderabad Metro Rail Project to cater to the needs of passengers commuting on the busy road traffic corridors of Hyderabad City. Audit observed that there were delays in finalisation of metro corridors, acquisition of lands and properties resulting in delayed operationalisation of the Project and also resulted in cost escalation. The stations, parking and circulation areas were not developed as envisaged in the Concession Agreement (CA) and the Project was not yet complete. As a result, the Concessionaire was unduly benefitted by ₹227.19 crore. Further, the project cost was bound to escalate and the Project was unlikely to achieve the expected ridership. The transition of the CA to the Central Metro Acts was not properly handled resulting in fixation of higher fares by the Concessionaire ignoring the specific provisions of the CA. There were also issues relating to adherence to the Concession Agreement conditions and contract management resulting in idling of assets, extra expenditure and losses. Thus, the Project could not achieve its intended objectives.

Introduction

The development of a rail-based Mass Rapid Transit System (MRTS) was recommended by different studies commissioned by the State Government to address the problem of traffic congestion in Hyderabad. Further, the draft National Urban Transport Policy, 2002 of the Government of India as well as the Action Plan for Traffic and Transportation Management in Hyderabad Metropolitan Area (2008) envisaged a metro rail based urban transport system for Hyderabad.

The State Government engaged Delhi Metro Rail Corporation (DMRC) to prepare the Detailed Project Report (DPR) for Phase-I of the Hyderabad Metro Rail Project. The DMRC provided various alternative proposals with different corridors and routes and submitted its first DPR for Corridor I and II in June 2003. The DMRC submitted two more DPRs – one for Corridor - III (February 2006) and another for extension of Corridor - III (October 2007).

The State Government created (April 2007) Hyderabad Metro Rail Limited (Company) as a Special Purpose Vehicle to act on its behalf as the Concessioning Authority and a single point agency for interacting with the Concessionaire to monitor timely implementation of the Project and oversee its operations & maintenance as per the Concession Agreement (CA). The Company functions under the administrative control of Municipal Administration and Urban Development (MA&UD) Department of the State Government and is governed by a Board of Directors (BoD) headed by a non-executive Chairman. Managing Director is the Chief Executive Officer of the Company and is assisted by five Technical Executives and four General Managers.

About the Project

Phase-I of the Hyderabad Metro Rail Project (Project) was envisaged with three fully elevated corridors built over the central median of existing high density road corridors of Hyderabad City. The Project was to serve 66 metro stations spanning 71.16 Kilo Meters (KM) as given below:

- Corridor - I - Miyapur to L.B. Nagar - 28.87 KMs - 27 stations,
- Corridor - II - Jubilee Bus Station to Falaknuma - 14.78 KMs - 16 stations, and
- Corridor - III - Nagole to Raidurg - 27.51 KMs - 23 stations.

Each of these three corridors was to have a depot located at Miyapur, Falaknuma and Nagole respectively.

The Concessionaire was required to execute the Project on Design, Build, Finance, Operate and Transfer (DBFOT) basis while the State Government retained the ownership of the Project. The Project was expected to achieve a Target Traffic of 2.14 crore Passenger Kilometres (PKM)¹ per day as on 1 October, 2024 (Target Date). It was also envisaged that Parking and Circulation (P&C) facilities would be provided at 25 stations in 57 acres. The Concessionaire was also required to undertake the development, operation and maintenance of the Real Estate Development (RED) of six million Square Feet (Sft.) over the P&C facilities besides 12.50 million Sft. at the depots and exploit the RED for commercial purposes. The Concession Period was for 35 years starting from the Appointed Date² and was extendable for another 25 years subject to fulfilment of conditions of the CA.

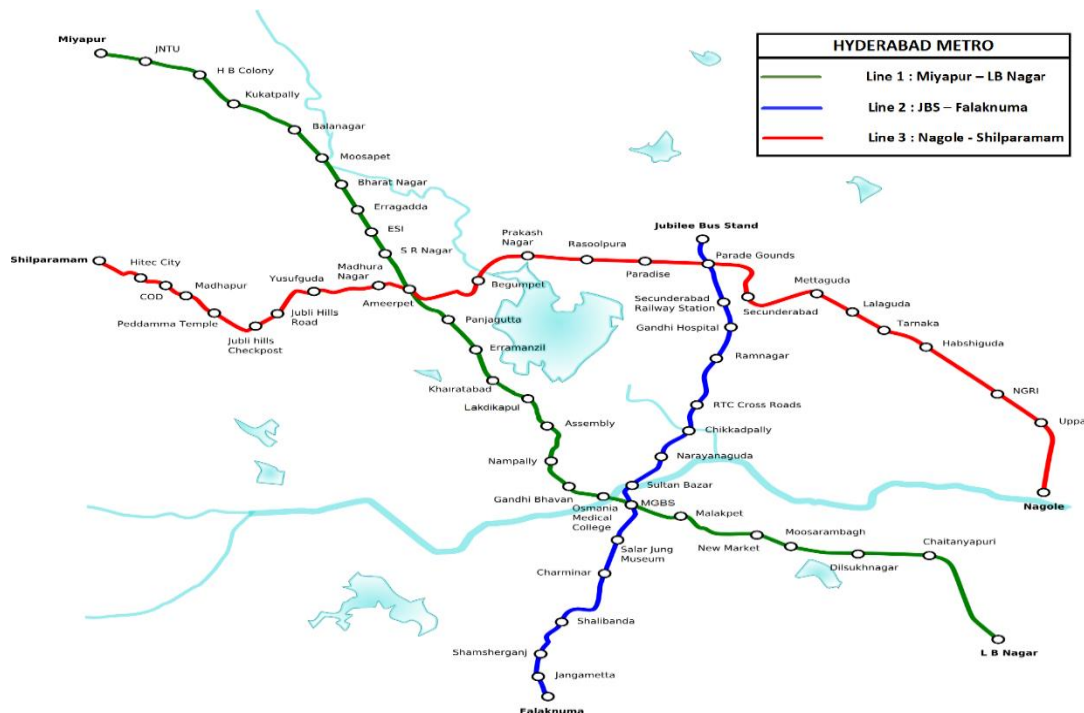


Figure 3.1: Hyderabad Metro Rail Route Map

¹ PKM means the cumulative distance travelled by users of the rail system in a day

² Appointed Date means the date on which financial close (the fulfilment of all the conditions precedent to the initial availability of funds under the financing agreements) is achieved or an earlier date that the parties may by mutual consent determine, and shall be deemed to be the date of commencement of the concession period

Progress and present status of the Project

The State Government originally entered (September 2008) into a CA with M/s. MAYTAS Metro Limited, Hyderabad (MAYTAS) for development of the Project. However, owing to the failure of MAYTAS to furnish the Performance Security and to achieve financial closure as per the terms of the CA, the State Government terminated (July 2009) the CA and decided (July 2009) to execute the Project through fresh tenders. After completion of the due process, the State Government entered (4 September 2010) into a fresh CA with M/s. L&T Hyderabad Metro Rail Private Limited (Concessionaire) to execute the Project on DBFOT basis. The Company fixed 5 July 2012 as the Appointed Date. The Project was scheduled to be completed on the 1,826th day (i.e., 4 July 2017) from the Appointed Date. The Project, however, got delayed and the Commercial Operations on part stretches were commissioned as detailed below in **Table 3.1.1**:

Table 3.1.1: Corridors completed and their Date of Commercial Operation

Corridor	From	To	No. of Stations	Length (KM)	Commercial Operation Date
1	2	3	4	5	6
I	Miyapur	Ameerpet	11	12.187	29 November 2017
I	Ameerpet	L.B.Nagar	16	17.015	24 September 2018
	Sub-Total		27	29.202	
II	Jubilee Bus Station (JBS)	Parade Grounds	0	0.00	Work in halt
II	Parade Grounds	MG Bus Station	9	9.66	8 February 2020
II	MG Bus Station	Falaknuma	0	0.00	Work in halt
	Sub-Total		9	9.66	
III	Nagole	Ameerpet	14	17.560	29 November 2017
III	Ameerpet	Hitec City	8	8.645	20 March 2019
III	Hitec City	Raidurg	1	1.342	29 November 2019
	Sub-Total		23	27.547	
	Total		59	66.409	

Source: CA and Company records

While Corridors I and III were fully completed and operational, the work on Falaknuma depot and seven stations of Corridor - II (six stations between MG Bus Station and Falaknuma and the station of JBS) was halted due to problems in land acquisition and concerns to save the heritage sites enroute. The Project achieved a maximum PKM of 43.32 lakh in February 2020. The Company could acquire and hand over to the Concessionaire only 33 acres of the identified land parcels at 11 stations. The Company also acquired the balance 24 acres at alternate locations and handed over them to the Concessionaire for P&C/ RED. The Concessionaire, however, could develop RED of 1.20 million Sft. only. On the specific request of Concessionaire, the Company granted extension of time for completion of rest of the Project (other than halted works) up to 30 June 2020.

The Department of Economic Affairs, Ministry of Finance, Government of India (GoI) approved the Project Cost (PC) of ₹11,814.00 crore in July 2008 under Public Private Partnership mode (PPP). Out of this, the GoI agreed (May 2013) to provide ₹1,458.00 crore as Viability Gap Funding (VGF) to the Project under the Scheme for Financial Support to

Public Private Partnership in Infrastructure Projects of the GoI. The Concessionaire obtained financial closure (i.e., sourcing funds for the project) for ₹16,375.00 crore including the above VGF. In addition to the above approved PC, the State Government was expected to incur about ₹3,000.00 crore towards cost of land acquisition, shifting of obstructing utilities, obtaining Right of Way (RoW), payment for compensation packages, etc.

The Concession Period was for 35 years. The Concessionaire shall pay the Company by way of concession fee a sum of ₹1.00 (one rupee) per annum and from the twenty-first year commencing from the Commercial Operation Date (COD), pay an additional concession fee equal to 0.50 *per cent* of the total realisable fare during that year to be increased by 0.50 *per cent* annually subject to a ceiling of 10 *per cent*. Therefore, the Company, at present, does not have any direct source of income and functioned mainly with the assistance of funds given by the State Government as interest free loans. During the period from 2010-11 to 2019-20, the State Government provided ₹2,246.91 crore to the Company and the Company expended a total of ₹2,726.00 crore (including loans taken from other sources) towards State Government's obligations of obtaining RoW, Shifting of Obstructing Utilities etc., besides meeting its operating expenditure.

Audit Scope, Objectives and Methodology

Audit of the Project was carried out covering the period from March 2003 to November 2020 (inception to the present stage) to assess whether:

- (a) The Project was implemented as envisaged,
- (b) The Concession Agreement was adhered to by the Government and the Concessionaire, and
- (c) Contract management was carried out efficiently.

The records related to various activities and works undertaken by the Company for implementing the Project and available at the Head Office of the Company were selected for examination based on necessity. The Purchase/ Work Orders were selected randomly based on materiality. Replies furnished (August 2022) by the State Government are suitably incorporated in the Report.

Audit Findings

Project implementation

3.1.1 Delayed finalisation of corridors and routes resulted in cost escalation

In the first DPR (June 2003), the DMRC considered five alternatives with different corridors. The DMRC found that the intensity of utilisation was more in the alternative having Corridor - III from Secunderbad to Hitec City. But the DMRC opined that Corridor - III was not feasible from engineering point of view as a fully elevated corridor due to steep gradients, large number of ups and downs along the alignment and presence of four flyovers enroute. Therefore, the DMRC selected the next best alternative with only two corridors (Corridors I & II).

However, in the second DPR (February 2006), the DMRC noted that Hyderabad being one of the fastest growing urban agglomerations of the country, the corridors proposed in Phase - I

need to be extended. Accordingly, the DMRC finalised the route for Corridor - III from the Indian Institute of Chemical Technology (IICT) at Tarnaka to Shilparamam via Secunderabad – Hitec City though the same was an engineering impracticability as per the first DPR. The DMRC also stated that the alignment for Corridor - III negotiates the existing flyovers, Rail Overbridges and other obligatory points enroute with safe horizontal and vertical clearances.

The Nagole³ to Ameerpet section⁴ and Ameerpet to Hitec City section of Corridor - III were respectively commissioned as fully elevated corridors between November 2017 to March 2019. Thus, audit observed that due to delay in finalisation of Corridor - III because of its improper evaluation in the first DPR, the Project got delayed by nearly three years (June 2003 to February 2006) which resulted in escalation of the estimated PC by ₹1,232.00 crore [₹6,387.00 crore (cost of Corridor I, II and III as per DPR-II) - ₹3,205.00 crore (cost of Corridor I and II as per DPR-I) - ₹1,950.00 crore (cost of Corridor - III as per DPR-II)].

Government replied (August 2022) that though the DPR was prepared in June 2003, no decision was taken to go ahead with the Project due to many reasons including resource constraints. Government decided to include Corridor - III in the Project due to growing importance of Hitec City area as a major destination for Information Technology Companies. By that time DMRC executed its project and gained experience of construction in difficult areas similar to Corridor - III. As the actual execution of the Project got delayed, there was escalation in costs.

The reply is not tenable because of the fact that the first DPR studied the traffic demand of Corridor - III (Secunderabad – Hitec City) and opined that the intensity of utilisation was the highest in the alternative which included Corridor - III proving that the importance of Hitec City route was already known and considered. Also, the audit observation is about the delay in finalisation of the corridors and routes, and not about the delay in commencement of execution of the Project which actually occurred more than six years after the finalisation of Secunderabad – Hitec City route of Corridor - III. Further, the Government did not furnish any evidence to support the argument that DMRC gained experience and expertise in constructing corridors akin to Corridor - III only after the preparation of the first DPR.

3.1.2 Delay in acquisition of land for Miyapur Depot

As per the Land Acquisition Policy (February 2005) of the State Government, where the government land being procured for infrastructure projects is in dispute, the process of acquisition will proceed as per the provisions of the Land Acquisition Act, 1894 (L.A. Act) without prejudice to the case of the Government and money deposited in the court to be given to the rightful owners. Further, as per the Enemy Property Act, 1968, (EP Act) all enemy properties shall vest with the Custodian of Enemy Properties in India (CEPI). At the district level, the District Collector (DC) is appointed as the CEPI under the Defense of India Rules, 1971. Under the EP Act, the DC on being authorised by the Government is empowered to transfer by way of sale, mortgage or lease or otherwise dispose of any of the enemy properties

³ Corridor - III was extended (third DPR of October 2007) by about five kilometres from IICT at Tarnaka to Nagole due to problems in acquisition of lands belonging to Osmania University at Tarnaka

⁴ Interchange station on Corridor - III

and no person including (his legal heirs and successors) shall have or be deemed to have any rights in relation to such enemy property (Clauses 5, 5B and 8 (2) (vii) of the EP Act).

The Depot for Corridor - I was to be located in 40 hectares (98.842 acres) of vacant Government land in Miyapur area. Accordingly, based on the requisition made (August 2007) by the Company for acquisition of 104 acres (99 acres for Depot and 5 acres for terminal station) in Miyapur village, the District Collector, Ranga Reddy District (Collector, RR District) issued notification dated 06.08.2007 for acquisition of above Government lands which were classified as Enemy Properties. However, some private persons filed three Writ Petitions against these notifications before the Hon'ble High Court of Andhra Pradesh (Court) which issued (August 2007 – December 2008) stay orders and the matter remained sub-judice till November 2011.

In November 2011, the Advocate General appearing on behalf of the State Government and the Company filed a memo in the Court seeking leave to withdraw the above notifications as the same were observed to have been issued before the delegation of power to the Collector, RR District by the State Government. The Advocate General also sought permission to issue fresh notification under the L.A. Act. Accordingly, the Court dismissed the above three Writ Petitions. Thereafter, the Collector, RR District issued (12 January 2012) a fresh notification to acquire 104 acres and determined (24 March 2012) the compensation payable by the Company at ₹192.77 crore. Accordingly, the Company deposited (26 March 2012) the amount and took physical possession of land on the same day.

Thus, audit observed that after withdrawal of impugned notification and issue of fresh notification, the State Government took just three months' time to complete the process for acquisition of Miyapur lands. Therefore, citing pendency of court cases for more than four years' time (August 2007 to January 2012) was absolutely unjustified as the State Government had the authority under the LA Act and the Enemy Property Act, 1968 to proceed to occupy the said Government Lands/ Enemy Property, which in fact was the course of action ultimately adopted by the State Government to acquire the Miyapur lands.

Audit observed that due to delayed acquisition of Miyapur lands, the declaration of Appointed Date got delayed by 16 months⁵. After acquiring Miyapur lands, the Company finally fixed the Appointed Date as 5 July 2012 against 4 March, 2011 as contemplated in CA.

The Government replied (August 2022) that informal consultations and efforts made in vain to resolve the prolonged legal dispute and to get the stay orders vacated cannot be captured on record. As a strategy, the technical lacuna in the notification issued by the DC was used in resolving this legal hurdle.

The reply is not tenable because though pendency of the court cases was a fact, such pendency could not have impacted the State Governments right to acquire the said enemy property lands for the Project *ab-initio* in view of the clear provision of the Policy on Land Acquisition and the EP Act. Further, the Court dismissed the Writ Petitions not on the basis of their merits but on the basis of the technical lacuna in the issue of notifications, which

⁵ Appointed Date of 05.07.2012 plus 180 days allowed for financial close minus Agreement Date of 04.09.2010

the State Government could identify only after a delay of more than four years. Also, the subsequent action of the State Government/ Company proved that the Miyapur lands could have been swiftly acquired for the Project.

3.1.3 Non-completion of Corridor - II

As per Annexure-I of Schedule A of the CA, Corridor - II was proposed with 16 stations from Jubilee Bus Station (JBS) in Secunderabad to Falaknuma in Hyderabad. Also, Corridor - II was also to serve as an interconnection between the two main bus stations of JBS and MG Bus Station (MGBS) operated by the State Road Transport Corporation. As per the CA, the Concessionaire should undertake the Project on Design, Build, Finance, Operate and Transfer (DBFOT) basis.

Audit however, observed that the station of JBS and six stations⁶ beyond MGBS were not constructed so far due to problems in land acquisition and concerns to save the heritage sites enroute. Thus, Corridor - II involving a total distance of 5.12 KMs (14.78 KMs *minus* 9.66 KMs) was still incomplete. Audit further observed that though the Company handed over (October 2012) 21 acres of land⁷ to the Concessionaire for construction of the depot and terminal station at Falaknuma, the same could not be utilised due to cessation of Corridor - II at MGBS. Thus, due to the failure of the Company to acquire the required properties and the failure of the Concessionaire to come up with an engineering solution to save the heritage sites in the Old City area of Hyderabad, the intended benefits of Corridor - II were not yet fully realised. Further, the delay in completion of Corridor - II would escalate the project cost, and impact viability of the project and the expected ridership.

The Government replied (August 2022) that works in the 5.12 KM stretch of Corridor - II could not be taken up along with rest of the Project due to opposition to the proposed alignment from the public representatives of the area and presence of a large number of religious/ heritage and sensitive structures. Alternative alignments proposed by the public representatives were only found to be more complicated and unfeasible. However, through engineering re-design, the number of affected structures were reduced and at present road widening alternatives are being explored.

The reply confirmed the audit observation that due to non-completion of Corridor - II, its intended benefits could not be fully realised.

Recommendation 1: Government may prepare an action plan to complete Corridor - II of the Project at the earliest. Otherwise, ridership will remain low.

3.1.4 Unrealistic ridership estimates

As per Article 29 of the CA, the State Government and the Concessionaire have agreed that the Passenger Kilometres (PKM)⁸ per day as on 1 October, 2024 (Target Date) is estimated to be 2.14 crore (Target Traffic). They further agreed that in the event the Actual Average Traffic (AAT) determined as per Article 22 and Article 29 of the CA falls short of the Target Traffic by more than five *per cent* thereof, then for every one *per cent* shortfall as compared

⁶ Salarjung Museum, Charminar, Shalibanda, Shamshergunj, Jangammet and Falaknuma

⁷ Taken over from HMDA free of cost

⁸ PKM means the cumulative distance travelled by users of the rail system in a day

to the Target Traffic, the Concession Period shall, subject to payment of Concession Fee being increased by one point five *per cent* subject to a maximum of seven years. Similarly, if the AAT exceeds the Target Traffic, then for every one *per cent* excess as compared to the Target Traffic, the concession period shall, being reduced by one *per cent* provided that such reduction in concession period shall not in any case exceed a maximum period of three and half years.

As per the Concessionaire Agreement, the total track length of the Project consisting of three Corridors was 71.16 KM. The Project was operational since November 2017 and the present cumulative track length in all three Corridors is 66.409 KMs. The average PKM per day in respect of different periods and length of the tracks is shown in **Table 3.1.2** below:

Table 3.1.2: Actual PKM achieved by the Project

(PKM in lakhs)

Length of Track	Months of operation	Highest total PKM in any month during the period of operation	PKM per day
1	2	3	4
29.747 KM	Nov. 17 to Sep. 18	346.41 (Sep. 18)	11.55
46.762 KM	Oct. 18 to Mar. 19	705.34 (Mar. 19)	22.75
55.407 KM	Apr. 19 to Nov. 19	1,285.60 (Nov. 19)	42.85
56.749 KM	Dec.19 to Jan. 20	1,202.67 (Dec. 19)	38.80
66.409 KM	Feb. 20 to Mar. 20	1,213.11 (Feb. 20)	43.32

Source: Company Records

Audit observed that the maximum PKM of 43.32 lakh passengers on a particular day was recorded in the month of February 2020 which was only 21.68 *per cent* of the Target Traffic of 1.997 crore⁹ in October, 2024. This was despite the fact that Company initiated several proactive measures to improve the ridership like introduction of merry go round buses, shuttle services, app based connectivity through two/ four wheelers, providing pick up and drop points for cab services at metro stations, etc., for providing last mile connectivity. Further, the non-completion of the MGBS – Falaknuma section of Corridor - II would also have an adverse effect on achievement of the Target Traffic by the Target Date.

Audit also observed that the Targeted Traffic Date was fixed as 1 October 2024 i.e., nearly seven years and seven months from the scheduled time (4 July 2017). But, the CA did not consider the effect of likely delays in completion of the Project. Further, the Actual Average Traffic once assessed will not be reassessed again during the Concession Period. Had the CA stipulated multiple periods and targets for ridership estimates, the extension/ reduction of the concession period could have been more reasonable. Thus, audit observed that the possibility of achieving the Targeted Traffic of 2.14 crore PKM especially during the initial years of operation itself is very remote and hence, the ridership estimates of the Project are highly unrealistic. Moreover, the basis for prescribing varying periods for extension (up to seven years) and for reduction (three and half years) of concession period in case of shortfall/ excess of the Targeted Traffic by the same percentage is not forthcoming from the CA/ records produced to audit.

⁹ PKM of 2.14 crore / 71.16 KMs X 66.409 KMs

The Government replied (August 2022) that after a lot of deliberations and forethought, a small incentive was incorporated in the CA to provide for varying period for extension and reduction of the Concession Period as the private sector investors were not coming forward to take up projects in PPP mode.

The reply is not acceptable as the PKM of 2.14 crore as on 1 October 2024 is very high ridership and even the highly populated cities like Delhi and Bangalore which have a wide metro network could not achieve such high ridership. Further, keeping such unrealistic traffic target would lead to extension of concession period beyond 35 years as provided in the Concession Agreement. The reply is also silent about the CA not prescribing multiple periods and targets for estimating ridership.

Adherence to the Concession Agreement (CA)

3.1.5 Construction of station boxes with reduced area in contravention of the CA

Metro stations had to be built over the existing roads of the city, which cannot be widened beyond a point due to presence of buildings, based on the road widths and scope for road widening. As per the Annexure I of Schedule A of the CA following parameters have been provided for construction of the stations:

- (i) Category I: 12 stations of 20 Meters (Mtr.s) X 135 Mtr.s size (approximate),
- (ii) Category II: 40 stations of 30 Mtr.s X 135 Mtr.s size (approximate), and
- (iii) Category III: 14 stations of more than 30 Mtr.s X 135 Mtr.s size (approximate).

Category wise RoW provided by the Company and the actual size of the stations constructed by the Concessionaire was as given in **Table 3.1.3**.

Table 3.1.3: Size of RoW provided and Stations constructed

Category	No. of Stations as per the CA	RoW provided by the Company			Stations built by the Concessionaire		Remarks
		No. of Stations with 30 Mtr.s ROW	No. of Stations with 45 Mtr.s ROW	No. of Stations with 60 Mtr.s ROW	No. of Stations*	Size of the Stations	
1	2	3	4	5	6	7	8
I	12	6	0	0	6	20 Mtr.s X 135 Mtr.s	
II	40	19	10	4	33	20 Mtr.s X 138.50 Mtr.s	Includes Punjagutta with 32 Mtr.s X 138.50 Mtr.s and Jubilee Hills Check Post with 32 Mtr.s X 160.50 Mtr.s
III	14	0	6	9	15	20 Mtr.s X 138.50 Mtr.s	Includes Ameerpet with 42 Mtr.s X 160 Mtr.s
Total	66	25	16	13	54		

* Data Not Available for 5 Stations and 7 Stations were on hold

Source: CA and details provided by the Company

It can be seen that despite provision of sufficient ROW of 45 Mtr.s to 60 Mtr.s width for 14 Category II stations and 15 Category III stations, the Concessionaire constructed all (except three stations as stated above) the 29 stations with a uniform width of 20 Mtr.s and length of 138.50 Mtr.s. Hence, there is a reduction of station area to the extent of 1,280 Square Meters¹⁰

¹⁰ 30 Mtr.s X 135 Mtr.s minus 20 Mtr.s X 138.50 Mtr.s

(Sq.M.) per station and a total reduction of 37,120 Sq.M. area for 29 stations which was a deviation from the provisions of the CA.

Audit observed that the CA did not contain any provisions to deal with such reduction in the scope of the Project by the Concessionaire. Audit however, noticed that construction of stations with reduced area has a consequent effect of reduction of PC and extension of undue benefit to the Concessionaire to the extent of ₹227.19 crore¹¹. Hence, responsibility needs to be fixed on the concerned officials for allowing such unauthorised deviations from the CA.

The Government replied (August 2022) that Audit considered the width of the main station box as indicated by the CA as the width of the station and did not consider the Entry and Exit arms station area of 56,980 Sq.M. Further, the total constructed area of all the stations (both typical and special) was 2,37,986 Sq.M. (including Entry and Exit arms station area of 56,980 Sq.M.) as against 2,33,550 Sq.M. indicated by the CA. Also, the Concessionaire constructed the Project with higher technical specifications entailing higher costs than envisaged. Thus, undue benefit was not extended to the Concessionaire.

The reply is not tenable because (a) the total constructed area of the station boxes excluding the Entry and Exit arms area was 1,81,006 Sq.M. as against 2,33,550 Sq.M. indicated by the CA and confirmed in the Government's reply, (b) the Entry and Exit arms are essential to access the main station box area and so by considering the Entry and Exit arms area, the total area to be constructed works out to 2,90,530 Sq.M. as against 2,37,986 Sq.M. constructed by the Concessionaire resulting in a net shortfall of 52,544 Sq.M. valued ₹130.00 crore¹², (c) construction of lesser station box area is tantamount to non-adherence by the Concessionaire to the scope of the Project and (d) construction of Project with higher technical specifications cannot be said to have an overriding effect on the physical aspects of station box area which was specifically provided in the CA. Further, the Company and the State Government had a prerogative to raise an objection if the approved drawings did not meet the station box area criteria as per the CA. However, this was not done.

Recommendation 2: Government may fix the responsibility of the officials concerned for allowing unauthorised deviations in the construction of station boxes.

3.1.6 Non-availability of sufficient parking facilities

As per Article 3.1.3 and Annexure-II of Schedule A of the CA, the Concessionaire was required to undertake development, operation and maintenance of the RED at and above the first-floor level of all depots and above the P&C areas of selected stations. For this purpose, the CA identified 57 acres of land at 25 locations/ stations for being provided to the Concessionaire for development of RED and P&C areas. The CA also stipulated that in the event that any of the lands earmarked for P&C areas and consequent RED was not made available to the Concessionaire, the Government shall earmark alternative sites of comparable size and potential for RED.

Details of lands identified for Parking & Circulation areas and lands handed over to the Concessionaire were as detailed in **Table 3.1.4**.

¹¹ (Station Cost of ₹1,636 crore/ 66 stations X 29 stations)/ (30 Mtr.s X 135 Mtr.s) X (20 Mtr.s X 138.50 Mtr.s)

¹² (Station Cost of ₹1,636 crore/ 66 stations X 29 stations)/ (2,90,530 Sq.M X 52,544 Sq.M)

Table 3.1.4: Details of P&C areas*(in acres)*

Sl. No.	Corridor	Location/ Station	Extent of land to be given as per CA	Extent of land handed over	Reasons for not acquiring the lands
1	2	3	4	5	6
1	I	Irrum Manzil	1	0	Roads & Buildings Department had its own development programme
2	I & III	Ameerpet	1.25	1.69	
3	I	Punjagutta	3	4	
4	I	Nampally	1	0	Affected buildings were to be reconstructed
5	I	Osmania Medical College	1	0	Opposition from Osmania University and Students Associations
6	I	Malakpet	0.75	0	Encroachments could not be cleared
7	I	Dilsukhnagar	1	0	TSRTC had its own development programme
8	II	Jubilee Bus Station	1	0	Lessee, The Secunderabad Club approached Court
9	II & III	Parade grounds	1	1	
10	II	Narayanaguda	1	0	Police Department refused
11	II	Sultan Bazar	1	0	Opposition from Osmania University and Students Associations
12	III	Secunderabad	1	0	Existing Police Station could not be shifted
13	III	Shilparamam	2	0	Located in buffer zone of water body where developmental activity is not allowed
14	I	Miyapur	5	5	
15	I	Balanagar	2	2	
16	I	ESI Hospital	3	0	Medical Department constructed a medical college
17	I	Irrum Manzil	3	4	
18	I	Musarambagh	4	3.65	
19	I	L.B. Nagar	1.5	1.66	
20	II	Falaknuma	4	4	
21	III	Habsiguda	8	0	Opposition from Osmania University and Students Associations
22	III	Tarnaka	2.5	0	Opposition from Osmania University and Students Associations
23	III	Hitec City	2	2	
24	III	Nagole	4	4	
25	III	Paradise	2	0	Opposition from Osmania University and Students Associations
Total			57	33	
Alternate Locations					
1	III	Raidurg	0	15	Purchased from APIICL
2	III	Yusufguda	0	0.8	
3	II	Gandhi Hospital	0	5.05	
4	II	MG Bus Station	0	0.65	
5	I	Kukatpally	0	1	
6	III	Rasoolpura	0	1.5	
Total			0	24	
Grand Total			57	57	

Source: CA and details provided by the Company

Audit noticed that as against 57 acres of land earmarked at 25 different locations, the Company could provide 33 acres of land at 11 locations only. Hence, the Company provided balance 24 acres at six alternative locations to the Concessionaire despite the fact that the Company was in possession of 22.38 acres of land at 15 different locations that were made available to it free of cost by various State Government Departments and Agencies. These excess lands were neither generating any revenue to the Company nor were used to fulfill the intended objective.

Audit observed that lands provided at alternate locations included one parcel of 15 acres at Raidurg which the Company acquired (September 2012) from the Andhra Pradesh Industrial Infrastructure Corporation Limited (APIICL) on payment of ₹9.00 crore. This parcel of land was also situated at a distance of more than 700 meters away from the Raidurg terminal station forcing the commuters to cross busy roads and signal junctions to reach the Raidurg station. Thus, the metro commuters were denied the benefit of P&C area, smooth and unhindered access to the Metro Rail System (MRS), which the Concessionaire was required to provide as per the CA.

Audit also observed that the CA itself contemplated provision of P&C areas at only 25 stations which got further reduced to 17 stations (including 15 acres at Raidurg) as against the 59 stations built up on the three Corridors of the Project to the end of March 2020. Thus, the remaining 42 stations had no provision for P&C area. Availability of P&C area is one of the contributing factors to the increase in ridership. However, due to lack of sufficient P&C facilities the commuters are denied the benefit of parking space.

The Government replied (August 2022) that it (Government) could not procure identified lands at some locations due to vociferous protests and prolonged agitations mainly against sparing Osmania University lands for metro stations. However, by providing a big chunk of 15 acres of land at a distance of about 450 meters from Raidurg station, Government/ Company fulfilled the State Government's obligation under the CA to give equivalent land for RED and P&C areas. It was also replied that provision of lands for P&C areas at all the metro stations is neither feasible nor envisaged in the CA. In any case, sufficient parking facilities were provided at almost all the metro stations.

The reply is not tenable as the Company itself undertook the development of P&C facilities in land parcels of less than one acre totaling to 2.03 acres that were made available by the State Government as per the CA. Also, 3.20 acres of land at three locations which were earmarked for development of Multilevel Parking Complex (MPC) could have been handed over to the Concessionaire for development of P&C areas for the stations concerned. Further, the Concessionaire was utilising the Raidurg land entirely for RED and the P&C facilities provided nearby are also temporary. Moreover, the reply does not specify the capacity of the parking lots provided at the metro stations to assess their sufficiency.

Recommendation 3: Government may take steps to provide sufficient Parking and Circulation areas to improve the ridership.

3.1.7 Fixation of higher fares

In order to provide uniformity of standards and safety certification by the Commissioner of Railway Safety, the GoI sought extension (September 2009) of the Metro Railways (Operation and Maintenance) Act, 2002 and the Metro Railways (Construction of Works)

Act, 2002 (Central Metro Acts) to all the Metro Railway Projects in the country. Under Section 33 of the Metro Railways (Operation and Maintenance) Act, 2002, the Metro Rail Administration (MRA) had the authority to fix the initial fares on commencement of the metro rail operations. Subsequent revision was to be done in consultation with the Fare Fixation Committee (FFC) to be appointed by the GoI.

As the CA was framed (2008) under the Andhra Pradesh Municipal Tramways (Construction, Operation and Maintenance) Act, 2008 (AP Tramways Act) and the Central Metro Acts had contrary provisions inter-alia with regard to fixation of fares, the State Government requested (December 2009) the GoI not to cover the Project under the Central Metro Acts. The GoI, however, clarified (December 2011) that no response was received from the State Government for its proposals (September 2009) to extend the Central Metro Acts before their extension (November 2009) to all Metros in the country. The GoI formally notified extension of Central Metro Acts to the Project in January 2012.

Meanwhile, the State Government entered (September 2010) into CA with the Concessionaire as per the provisions of the AP Tramways Act. As per Article 27 of the CA, the Concessionaire agreed to collect user fares as per the predetermined fare structure¹³ set forth in Schedule – R of the CA as detailed in **Table 3.1.5** below.

Table 3.1.5: Basic fare fixed as per CA

Sl. No.	Distance (in KMs)	Fare (in ₹)
1	2	3
1	Up to 2	8
2	More than 2 and up to 6	10
3	More than 6 and up to 10	12
4	More than 10 and up to 14	14
5	More than 14 and up to 18	16
6	More than 18	19
7	Unlimited use for the day	40

Source: CA

This predetermined tariff structure was a bidding parameter to seek Viability Gap Funding (VGF)/ Grant from GoI. The Empowered Committee, Department of Economic Affairs, GoI (Empowered Committee) which reviews proposals for financial support under the Scheme for Financial Support to Public Private Partnership in Infrastructure Projects of the GoI, recommended (May 2013) for approval of VGF of ₹1,458.00 crore to the Project as quoted by the Concessionaire, being the successful bidder.

The Company again requested (December 2014) the GoI for saving the provisions relating to fare fixation of the CA to avoid the uncertainties associated with the possible abandoning of the predetermined fare structure set forth in the CA due to operation of the Central Metro Acts. But, there was no response from the GoI which released VGF amounting to ₹1,204.20 crore to the end of December 2017.

¹³ The basic fare shall be increased annually (without compounding) by 5 per cent for 15 successive years commencing from April 2014. Further, the applicable basic fare shall be revised annually with effect from April each year to reflect the variation in the Wholesale Price Index

The State Government appointed (December 2015) the Concessionaire as the MRA as per the provisions of the Central Metro Act. On the commencement of 30 KM Miyapur – Ameerpet (Corridor - I) and Ameerpet – Nagole (Corridor - III) stretch of the Project in November 2017, the Concessionaire, as MRA, fixed fares that were higher than the fares notified as per the CA as detailed in **Table 3.1.6**.

Table 3.1.6: Fare fixed by the Concessionaire

Sl. No.	Distance (in KMs)	Fare (in ₹)
1	2	3
1	Up to 2	10
2	More than 2 and up to 4	15
3	More than 4 and up to 6	25
4	More than 6 and up to 8	30
5	More than 8 and up to 10	35
6	More than 10 and up to 14	40
7	More than 14 and up to 18	45
8	More than 18 and up to 22	50
9	More than 22 and up to 26	55
10	More than 26	60

Source: Press notification issued by the Concessionaire

The Concessionaire requested (July 2018) the GoI to constitute a FFC but later withdrew (August 2018) the same stating that there was no urgent need to constitute a FFC as it had no intention to revise the fares for some more time. Thus, fixation of fares in excess of the fares fixed in the CA led to violation of the provisions of the CA. Therefore, the GoI did not release the balance VGF amounting to ₹253.80 crore.

Audit observed that the CA did not contain any provisions to protect the predetermined fare structure notified under the CA in case of change in law. Though the Central Metro Acts were made applicable to the Project, the CA was not cancelled or amended to bring it in line with the provisions of the Central Metro Acts and the CA continued to be valid in all other aspects. Therefore, the State Government could have given a conditional acceptance for appointment of the Concessionaire as the MRA so as to protect the fare structure prescribed by the CA. But this was not done resulting in improper handling by the State Government of the transition to the Central Metro Acts and fixation of higher fares by the Concessionaire ignoring the specific provisions of the CA.

Audit observed that by fixing higher fares the Concessionaire had collected an amount of ₹213.77 crore as excess fare during the period from November 2017 to March 2020. Further, the implementation of the Empowered Committee’s decision (35th Meeting dated 23 July 2019) to re-determine the VGF as per the Change in Law provisions of the CA taking into account elements like reduction in the ridership estimates, change in scope of the Project, Real Estate Development along with the impact of higher fares was pending.

The Government replied (August 2022) that the Attorney General of India upheld the legality of fixation of initial fares by the Concessionaire, as MRA. Further, the GoI initiated the process of constitution of FFC. It was also stated that the Concessionaire had incurred a cumulative loss of ₹4,108.00 crore upto March 2022 and the net present value of the net cash flows has

worsened as compared to the Financial Model. Hence, refund of ₹213.77 crore as contended by Audit does not arise.

Reply is not tenable as the fact remained that the State Government did not properly handle the transition of the CA to the Central Metro Acts resulting in fixation of higher fares by the Concessionaire ignoring the specific provisions of the CA.

Recommendation 4: Government may constitute a fare fixation committee at the earliest to review the fare structure.

3.1.8 Avoidable expenditure on Urban Rejuvenation Works

Article 5.8 and Schedules A to D of the CA read with Clauses 9, 10 and 14 of the Manual of Standard Specifications (MSS), provided for the development of the MRS with inter modal integration facilities such as skywalks, underpasses, bus bays and bus shelters so as to provide seamless travel facility to the commuters. Construction of pedestrian facilities, landscaping and plantation along the central median and station areas, improving street scape were also to be undertaken to ensure proper flow of urban traffic along the metro corridors and to maintain aesthetic quality of the MRS. The Independent Engineer¹⁴ also noted (August 2016) that these works fell under the scope of the Concessionaire's obligations since the MSS was referred to in the CA.

However, the Concessionaire refused (July 2016) to provide the above facilities taking the view that the CA restricted the scope of Concessionaire's obligations to the "Site of the Project" and that the MSS being only a technical document specifying the manner in which the work has to be executed cannot impose a scope of work independently or beyond that envisaged by the CA. Audit observed that since the Concessionaire was not attending to the above works, the Company itself undertook to develop these facilities as "Urban Rejuvenation Works".

However, due to shortage of funds flow from the State Government, the Company availed loans to the tune of ₹200.00 crore¹⁵ from Andhra bank and the Hyderabad Metropolitan Development Authority (HMDA) to take up the Urban Rejuvenation Works. To the end of March 2020, the Company had drawn loans amounting to ₹132.08 crore and incurred expenditure of ₹105.40 crore towards Urban Rejuvenation Works. The Company had incurred an avoidable interest burden of ₹7.55 crore¹⁶ (including ₹3.81 crore interest on HMDA loan which was yet to be paid).

The Government replied (August 2022) that the Concessionaire fulfilled its obligations and spent higher amounts to carry out station development works and passenger facilities beyond its scope envisaged in the CA. The Urban Rejuvenation Works were undertaken by the Company as part of Government's vision to develop Hyderabad as a global city and investment destination. On an average ₹10.00 crore income per annum is generated for the Company through monetization of the facilities created under the Urban Rejuvenation Works.

¹⁴ M/s. Louis Berger Consulting Private Limited

¹⁵ ₹150 crore (June 2019) from Andhra Bank and ₹50 crore (August, October 2019) from HMDA

¹⁶ ₹3.74 crore on loan of Andhra Bank and ₹3.81 crore on HMDA loan

The reply is not tenable because (a) it is contradictory to the recorded observations of the IE and the correspondence made by the Company with the Concessionaire and IE, (b) no evidence of the Urban Rejuvenation Works undertaken by the Company as being separate from those covered by the CA, MSS were furnished and (c) details of Urban Rejuvenation Works infrastructure created and monetized to generate income of ₹10.00 crore per annum was not furnished along with the reply.

3.1.9 Entering into Sub Lease Agreements (SLAs) before COD of the Rail system

As per Article 5.2.5 of the CA, the Concessionaire shall not sub-licence, assign or in any manner create an Encumbrance on any Project Asset forming part of RED at any time prior to the Commercial Operation Date (COD). The COD of the MRS shall be the date on which Provisional Certificate or the Completion Certificate is issued (Article 15.1). The Completion Certificate for Ameerpet to Hitec City (part of Corridor - III) was issued on 18 February 2019 and for Ameerpet to LB Nagar (part of Corridor - II) on 3 September 2018.

Audit however, noticed that the Concessionaire entered into 50 SLAs¹⁷ for lease of Hitec City (November 2017 to September 2019) and Panjagutta Malls (November 2017 to April 2019) before the COD of the respective Corridors of the MRS and collected RED revenues amounting to ₹19.46 crore (₹8.52 crore for Hitec City Mall and ₹10.94 crore for Punjagutta Mall) in contravention of the CA provisions. Audit observed that the Company did not take approval of the State Government or its BoD for allowing utilisation of these Malls by the Concessionaire before COD of the MRS.

The Government replied (August 2022) that the Attorney General had opined that partial COD of the Project shall be treated as COD for the entire Project. Though the Government was requested to permit operations at Panjagutta and Hitec City Malls, no effective sublicensing and operations took place before the COD which happened on 29 November 2017 when the 30 KM stretch of Miyapur – Ameerpet – Nagole was made operational. Also, commercial operations and realisation of revenue from the Panjagutta and Hitec City Malls were from mid-February 2018 and March 2018 respectively.

The reply is not tenable because the Attorney General had clearly opined that the CA contemplates collection of fares *qua* (in respect of) only those parts of the Project whose COD was achieved. Thus, the reply proved that the Concessionaire collected RED revenues amounting to ₹19.46 crore in respect of non-operational parts of the Project in contravention of the CA provisions and the same was not objected to by the Company/ State Government.

Contract management

3.1.10 Fixation of lower lease rent for Uppal casting yard

As per Article 3.1.2 (f) of the CA, the Concessionaire shall bear and pay all costs, expenses and charges in connection with or incidental to the performance of the obligations of the Concessionaire under the CA. The obligations of the State Government were limited to providing reasonable assistance to the Concessionaire in obtaining access to all necessary

¹⁷ 20 SLAs for 1.15 lakh Sft. (out of 1.90 lakh Sft.) of Hitec City Mall at Madhapur and 30 SLAs for 2.43 lakh Sft. (out of 4.85 lakh Sft.) of Panjagutta Mall at Panjagutta

infrastructure facilities and utilities, including water and electricity at the rates and terms as applicable to other commercial customers (Article 6.1.2 (b)).

The Company acquired (November 2010) 141.675 acres land costing ₹87.26 crore at Uppal Bhagat Village for setting up the depot for Corridor - III of the MRS. The Concessionaire requested (May 2011) the Company to make available 42 acres out of the allotted land on temporary lease of five years for establishing a pre-casting yard for the MRS and for fixation of the lease rent on par with the lease rent fixed for similar projects for which Government Lands were given on lease. Accordingly, the Company handed over (July 2011) 42 acres of land to the Concessionaire. Audit, however, observed that the Company neither entered into any formal written lease agreement¹⁸ with the Concessionaire nor fixed the lease rent to be collected for the land leased.

The Company belatedly informed (April 2012) the Concessionaire to pay a lease rent at the rate of ₹1.50 lakh per acre per *annum* pending finalisation of lease rent at Government level. The Concessionaire was also informed that the difference of lease amount and interest, if any, to be paid will be intimated in due course after finalisation of actual lease rent.

Based on the Company's request for fixation of the lease rent for the land leased to the Concessionaire, the Chief Commissioner of Land Administration¹⁹ advised (February 2013) the Company to charge the lease rent as per the Standard Rates fixed (February 2010) by the State Government i.e., at 10 *per cent* of the Current Market Value prevailing at the time of grant for an initial lease period of five years which can be extended upto a maximum of 25 years.

Accordingly, based on the prevailing market value of ₹4,500.00 per square yard²⁰ the Company revised (March 2013) the lease rent to ₹21.78 lakh²¹ per acre per *annum* with effect from July 2011 and also claimed the differential lease rent of ₹14.91 crore²² for the period from July 2011 to March 2013. The Concessionaire, however, paid the lease rent at the rate of ₹1.50 lakh per acre per *annum* only up to March 2017 and requested (January 2017) the State Government to have a relook at the lease rent fixed in the interest of the MRS. The Company however, asked (July 2017) the Concessionaire to clear the dues amounting to ₹58.12 crore (from July 2011 to March 2018). Thus, audit observed that, despite the Concessionaire's continued failure to clear the dues, the Company allowed the Concessionaire to remain in occupation of its land and did not take any steps to enter into a written lease agreement.

Audit also observed that since the market value of the pertinent lands was revised (with effect from April 2013) from ₹4,500.00 per square yard to ₹7,000.00 per square yard, the

¹⁸ Section 107 of the Transfer of Property Act, 1882 stipulates that a lease of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent, can be made only by a registered instrument executed by both the lessor and the lessee. Further, Section 49 of the Registration Act, 1908 stipulates that a document required to be registered under the Transfer of Property Act shall not, unless it has been registered, confer any power or be received as evidence of any transaction

¹⁹ The Chief Commissioner of Land Administration is also the Special Chief Secretary (Revenue Department), State Government

²⁰ Fixed (August 2010) for the lands in Uppal Bhagat Village by the Registration & Stamps Department, Government of Andhra Pradesh

²¹ 1 Acre = 4,840 Square Yards X ₹4,500 X 10 %

²² (₹21.78 lakh X 42 acres/ 12 months X 21 months) – (₹1.50 lakh X 42 acres/ 12 months X 21 months)

Company should have claimed the lease rent at the revised rates from July 2016 onwards, i.e., on completion of lease period of five years as per the Standing Orders of the Board of Revenue (BSO)²³. The Company, however, continued to claim lease rent at the pre-revised rates only. As a result, the lease rent claimed by the Company upto March 2018 was less to an extent of ₹8.89 crore²⁴ as detailed in **Appendix 3.1.1**. Further, the Company stopped claiming the lease rent from the year 2018-19 onwards. The total lease rent dues payable by the Concessionaire upto March 2020 as per the Standard Rates fixed by the State Government considering the prevailing/ revised market value worked out to ₹95.47 crore as detailed in **Appendix 3.1.1**.

Audit also noticed that as against the Company's proposal to fix a rate of ₹2.50 lakh²⁵ per acre per *annum* for M/s. HMT Machine Tools Limited, Hyderabad's (HMT) land at Qutubullapur leased to the Concessionaire for use as casting yard, the Ministry of Heavy Industries & Public Enterprises, Department of Heavy Industries, GoI fixed (July 2012) the lease rent of ₹5.00 lakh per acre per *annum*. Thus, the rate of ₹1.50 lakh per acre per *annum* which the Company collected for leasing the land at Uppal was only 30 *per cent* of the rate of ₹5.00 lakh per acre per *annum* which the Company collected from the Concessionaire for leasing the HMT's land at Qutubullapur for the same purpose.

Thus, the Company failed to enter into a formal written lease agreement with the Concessionaire and to fix a reasonable lease rent as per the BSO. As there was no written lease agreement, the Company also could not make it binding on the Concessionaire to pay the lease rent subsequently fixed by the Company. Thus, fixation of lease rent less than the Standard Rates fixed under the BSO resulted in revenue loss of ₹95.47 crore.

The Government replied (August 2022) that the lease rent collected by the Company was on par with the rent charged by the adjacent land owners from whom the Concessionaire hired another 25 acres land for the same casting yard and three times the lease rent (₹50,000.00) charged (2017) by HMDA towards similar lease of lands given for casting yard for the P.V. Narasimha Rao Expressway flyover project.

The reply is not tenable since as per the Transfer of Property Act, 1882, a lease given for a period of 12 months or more is a long-term lease and so a written agreement was required to be entered. The land was not given for the Project itself but for use as a casting yard by the Concessionaire who undertook the Project on commercial principles and so the government rates should have been applied as provided in the CA. Thus, the fact remained that the State Government's directions (February 2010) to fix lease rent at 10 *per cent* of the Current Market Value was not adhered to.

Recommendation 5: Government may enforce the Concession Agreement conditions and contractual provisions to realise its dues from the Concessionaire.

²³ Article 317 of the Telangana Financial Code, 2016 required that in regard to the sale, transfer, etc., of Government land and buildings, the Standing Orders of the Board of Revenue (BSO) should be observed. BSO – 24 (A) (9) on Levy of Charge for occupation of government lands on lease was issued vide G.O.Ms.No.100 under the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973

²⁴ Enhanced lease rent considered from July 2016 onwards, i.e., after completion of the initial lease period of 5 years as per the BSO

²⁵ Worked out at the rate of 1.15 *per cent* of the market value of ₹2.18 crore per acre as certified by the Registration and Stamps Department of the State Government

3.1.11 Waiver of Administrative Charges

The Company entered (September 2012) into a Leave and License Agreement (LLA) with the Concessionaire for temporary lease of 64.626 acres at Qutubullapur village. The LLA provided for advance payment of annual lease rent of ₹3.23 crore including the applicable Service Tax and Cess on lease rent at the rates prescribed by the Government from time to time. The LLA also provided that the Concessionaire shall pay ‘Administrative Charges’ to the Company at the rate of 18.50 *per cent* on the License Fee and Service Tax thereon. Due to delay in completion of the Project the LLA was extended up to August 2018.

Audit observed that the Concessionaire paid only the License Fee including Service Tax thereon but did not pay the Administrative Charges (except for the first year 2012-13) and requested (August 2017) the Company to waive the levy of Administrative Charges. The total amount due from the Concessionaire towards the Administrative Charges amounted to ₹3.47 crore for the period 2013-14 to 2017-18. Audit noticed that the BoD after considering the Concessionaire’s request, directed (September 2017) the Company to take appropriate action in the matter. The action taken by the Company in this regard was not found on record and the amount of ₹3.47 crore remained unrealised resulting in undue benefit to the Concessionaire.

The Government replied (August 2022) that Administrative Charges were levied on the Concessionaire more as a strategy to counter the claims of the Concessionaire. The Project has experienced cost overruns and incurred heavy losses from the beginning of the operations. The Concessionaire wanted to quit the Project and made several requests for financial support. The BoD after deliberations, authorised the Company to take an appropriate decision regarding waiver of Administrative Charges and to judiciously use it during negotiations with the Concessionaire with a view to strengthening the position of the Government in dealing with the Concessionaire and in successfully executing the Project. Accordingly, the Company kept the issue alive to legally safeguard the Government’s position and facilitating the successful completion of the Project.

The reply is not tenable as the Government did not furnish any evidence to substantiate either the claim that the Administrative Charges were levied more as a strategy to counter the Concessionaire’s claims or that any of the claims/ issues raised by the Concessionaire were settled/ withdrawn because of waiver of Administrative Charges.

3.1.12 Non-utilisation of Putlibowli Commercial Complex

The route of Corridor - II between Kachiguda X Roads and Putlibowli is a highly commercial zone with ROW available for 10 to 20 Mtr.s, particularly the stretch of Sultan Bazar was very narrow with ROW of only 10 Mtr.s. The commercial establishments were getting affected to the extent of 5 Mtr.s on either side even after reducing the ROW to about 20 Mtr.s as against 30 Mtr.s required by the CA. Sultan Bazar, being a very old and prestigious market of Hyderabad City, the affected traders and hawkers agitated against the Project and requested for change of alignment of Corridor - II.

In view of this, the Company proposed (August 2012) to construct Putlibowli Commercial Complex (PCC) near the Sultan Bazar market area for providing relief and rehabilitation (R&R) to the affected traders and hawkers. Accordingly, the Company constructed (May 2015) the PCC with 77 shops (10,397 Sft.) and 124 hawker platforms (3,105 Sft.) at a total

cost of ₹11.68 crore. Audit however, observed that a list of affected traders and hawkers to whom the shops and/ or hawker platforms were to be allotted/ leased was not found maintained by the Company. Further, the Company leased (August 2019) the entire PCC to a party²⁶ (lessee) for a period of nine years (extendable by another two spells of nine years each) with a total lease rent of ₹4.21 lakh per month (₹36.00 per Sft. per month for shops and ₹15.00 per Sft. per month for hawker platforms) including Goods and Services Tax. Audit however, observed that the intending lessees had while proposing (May 2019) to take the PCC on lease stated that the shops would be sub-let to vendors of their choice.

As per Clause 2.3 of the lease agreement, the tenure of first nine years of lease shall commence from the date of handing over or possession of licensed property, whichever is earlier. Audit however, observed that the Company constructed the PCC in May 2015, leased the PCC in August 2019, entered into lease agreement in June 2020 but did not hand over the building to the lessee till date (November 2021). The reasons for non-leasing of the PCC for more than five years since its construction and entering into lease agreement after a delay of 10 months were not on record. The lessee sought (June 2020) time for taking possession of the building citing low commercial activity due to COVID-19 Pandemic. Thus, audit observed that non-leasing of the PCC resulted in loss of revenue of ₹2.50 crore to the Company besides an estimated annual expenditure of ₹22.31 lakh towards maintenance of the PCC. Also, the intended objective of providing R&R to the affected traders and hawkers of Sultan Bazar was not achieved.

The Government replied (August 2022) that after prolonged and tactical persuasion, the affected traders and hawkers of Sultan Bazar accepted the R&R package involving construction of the PCC. After its construction, the affected traders and hawkers utilised the PCC from 2015 till the completion of viaduct in the Sultan Bazar stretch and the Sultan Bazar station in mid-2020. After that, the affected traders moved back to their shops that were rebuilt and modernized, with the help of the Company, in the remaining portion of the affected properties instead of continuing in the PCC. Also, the Company developed special hawker platforms on the street and all the hawkers were rehabilitated under the viaduct in the Sultan Bazar stretch. Hence, it was decided to utilise the PCC to generate some income for the Company and the same was leased to a private agency. However, due to COVID-19 Pandemic, the lessee was unable to attract any customers into the PCC, but is attending to the day-to-day maintenance of the PCC at its own cost.

The reply is not tenable because (a) the PCC was not proposed to be a temporary shelter for the affected traders and hawkers, (b) details of the affected traders and hawkers identified for providing R&R and (c) details of rents collected, if any, from the affected traders and hawkers for the period of occupation of the PCC were not furnished along with the reply. The reply also proved that the PCC did not serve its intended objective because the Company rehabilitated the affected traders and hawkers by making alternative arrangements.

3.1.13 Interest on deposits made with GHMC

Out of ₹2,246.91 crore provided by the State Government, the Company deposited an amount of ₹956.18 crore in the separate account maintained for the purpose of HMRL's transactions with the Greater Hyderabad Municipal Corporation (GHMC) towards land

²⁶ M/s. Sri Ven Ads, Sky Media J.V. (renamed (January 2020) as Sri Ventures)

acquisition, road widening, utility shifting etc. Out of ₹956.18 crore provided by the Company, GHMC deposited an amount of ₹313.00 crore in short term fixed deposits during 2012-13 and 2013-14 and earned ₹26.09 crore towards interest.

Audit observed that the Company did not enter into any agreement with GHMC regarding the modalities for utilisation of these funds and the interest, if any, earned due to temporary parking of funds provided. But, during the meeting held (September 2016) for reconciliation of the amounts between the Company and the GHMC, the Special Chief Secretary to Government, MA&UD Department directed the GHMC to account for the interest earned and add it to the Company's funds. However, from the records of final reconciliation of amounts deposited with GHMC it was observed that the interest amount of ₹26.09 crore was not considered and not included in the final settlement amount arrived at by GHMC and the Company. Thus, before depositing the amounts with GHMC, the Company neither entered into an agreement with GHMC requiring it to account for the interest earned to its credit nor pursued the matter for recovery of its claim despite the State Government's direction.

The Government replied (July 2022) that after detailed reconciliation (September 2016) an amount of ₹9.06 crore was arrived as payable by GHMC to the Company and this amount was duly paid to Company. It was also stated that there was no loss to the Company as the Company would have to normally pay over ₹175.00 crore for the services of GHMC either in the form of administrative charges or actual expenditure incurred for the land acquisition works undertaken by the GHMC for the Project.

The reply is not acceptable as it does not specify that the interest amount of ₹26.09 crore was included in the reconciled statement. Also, neither GHMC had claimed any administrative charges nor there was any agreement for payment of the same to GHMC for the land acquisition works undertaken by it. Further, the reply is silent about the Company not entering into an agreement with the GHMC regarding treatment of interest earned.

3.1.14 Delay in mutation of the lands

As part of its obligations under the CA, the State Government transferred 276.38 acres of land to the Company during the period between December 2007 and January 2018 for construction of depots (212 acres) and P&C areas (64.38 acres) for the three corridors on the MRS. The transfer of these lands to the Company was evidenced by the Panchanamas. However, the Administrative Sanctions/ Government Orders for transferring the properties to the Company were still pending and the mutation of the Company's name as the land owner in the revenue records has not been completed. The Company also handed over (October 2012 to January 2013) 269 acres to the Concessionaire as required by the CA.

Further, the State Government in an attempt to enhance the 'Ease of Doing Business' in the State, had introduced (June 2016) the reforms to integrate the mutation process with the registration process through automatic update of land and municipal records during property registration. Audit however, observed that the Company did not initiate any action for mutation of its lands till date to avoid any disputes in the ownership and encroachment of lands.

The Government replied (August 2022) that action had been initiated for mutation of lands and the matter is being regularly pursued with the Revenue Department.

Energy Department

Northern Power Distribution Company of Telangana Limited

3.2 Loss of ₹50.37 crore due to continuance of power supply despite non-payment of dues

As per the Electricity Act, 2003 and the Electricity Supply Code, the Company was empowered to disconnect the electricity supply service if consumer neglects to pay monthly consumption charges or any other sums due. The Company, however, continued to supply electricity to M/s. Sirpur Paper Mills Limited during June 2014 to July 2018 despite continued non-payment of dues, which resulted in loss of ₹50.37 crore.

As per Section 56 of the Electricity Act, 2003 and Clause 4.8.1 of the Andhra Pradesh Electricity Regulatory Commission Regulation No.5 of 2004 (Electricity Supply Code), the distribution licensee is empowered to disconnect the supply of electricity by giving 15 days' notice, if the consumer neglects to pay Consumption Charges (CC) or any other sums due to the licensee. In case of continued default, the licensee is entitled to terminate the agreement executed by the consumer and keep the supply disconnected till such amounts were paid.

M/s. Sirpur Paper Mills Limited, Sirpur Kaghaznagar, Adilabad District, Telangana (Consumer)²⁷ availed of a High Tension (HT) service connection (Service No. ADB-009) from the Northern Power Distribution Company of Telangana Limited (Company) from October 2008 onwards. The Consumer defaulted in payment of the monthly CC bill of June 2014 amounting to ₹4.48 crore. The Company however, allowed (July 2014) the Consumer to pay the same in four equal monthly installments along with the applicable interest. This opportunity was given on the condition that the power supply was liable for disconnection for default of payment of either installments or regular monthly CC bills on the due dates or both at any time without any further notice.

The Mill closed down in September 2014 and the Consumer had paid only three installments and the monthly CC bill of July 2014 till that time. However, the Company did not disconnect power supply to the Consumer despite continuous default in payment of dues. The arrears accumulated to ₹35.40 crore at the end of December 2016 as the power supply was used by the employees of the Consumer staying in the Mill colony quarters for water and lighting purpose, although the Mill was not running.

In January 2017, the Company directed its Circle Office, Adilabad (CO) to disconnect the service and report compliance. The CO however, did not disconnect the power supply to the Consumer and after lapse of 10 months, justified the inaction stating (October 2017) that, the National Company Law Tribunal, Hyderabad Bench (NCLT) imposed (September 2017) a moratorium (September 2017 to July 2018) and ruled that supply of essential goods or services to the Consumer shall not be terminated or suspended or interrupted during the moratorium period. The dues of ₹50.37 crore (including ₹21.24 crore towards late payment charges) accumulated till July 2018, since the Company continued the power supply during the moratorium period. As per the final resolution plan approved (July 2018) by the NCLT,

²⁷ Incorporated on 17 November 1938 under the Hyderabad Companies Act, 1930

M/s. JK Paper Limited (New Consumer) took over the Mill from the Consumer and paid the monthly CC bills from August 2018 onwards and paid (September 2018) ₹3.85 crore towards final settlement of the outstanding dues of the consumer. Thus, the Company incurred loss of ₹50.37 crore due to continuance of power supply despite non-payment of dues resulting in non-compliance of the Electricity Act, 2003 and the Electricity Supply Code. Hence, responsibility needs to be fixed on the concerned officials for recovery of the loss sustained by the Company.

Government stated (December 2022) that even though the Mill was not running, the employees of the Consumer were staying in the housing quarters and utilised the power supply for water and lighting purposes. The Company issued disconnection notices to the Consumer from time to time but the employees of the Consumer approached different forums of Government. Disconnection of power supply was deferred as per the oral advice (October 2014) of the Industries and Commerce Department. Also, considering the request of the New Consumer to write off the dues of various State Government Departments and its agencies pertaining to the period prior to the NCLT's orders, the Industries and Commerce Department issued (March 2021) orders not to demand the past period dues and to write off such dues. Further, in a meeting held on 22 October 2022, the Industries and Commerce Department opined that balance CC dues of the Company would be settled by providing budgetary support at a later date.

The reply is not acceptable as the Company is yet to realise the outstanding dues from the Government.

Hyderabad
The



(SUDHA RAJAN)
Accountant General (Audit), Telangana

Countersigned



New Delhi
The

(GIRISH CHANDRA MURMU)
Comptroller and Auditor General of India

