Chapter II

Compliance Audit Observations

Chapter-II

Compliance Audit Observations

Power Department

West Bengal Power Development Corporation Limited

2.1 Infructuous expenditure and blocking of funds due to deficient planning

Erroneous assumptions by the West Bengal Power Development Corporation Limited (WBPDCL), while analysing requirements for Renovation and Modernisation of electrostatic precipitators, led to infructuous expenditure of ₹ 4.64 crore.

As per Schedule I of the Environment (Protection) Rules[28], 1986, which had prescribed (January 1989) the standards for emission of environmental pollutants by thermal power stations (TPS), the standard, for particulate matter (PM) emissions, was 150 milligrams per normal cubic metre (mg/ Nm^3). Subsequently, in December 2015, the standard was reduced to 100 mg/ Nm^3, for TPS, that had been installed till December 2003.

The West Bengal Power Development Corporation Limited (WBPDCL), a power generating State Public Sector Enterprise, had been operating a TPS at Kolaghat (KTPS), having capacity of 1,260 MW, consisting of six units of 210 MW each. These included Units 1, 2 and 3, commissioned[29] between October 1984 and September 1990, with designed PM emission levels not exceeding 750mg/Nm^3. In September 2011, the Central Pollution Control Board (CPCB) inspected KTPS and issued (December 2011) a notice on WBPDCL, to submit an action plan (with firm timelines), for fulfilling the prescribed norms. WBPDCL intimated (September 2012) CPCB that the work for all the units would be completed in FY 2018-19. However, CPCB, not being satisfied with the reply, issued (October 2012) a show cause notice. Consequently, WBPDCL approved (February 2014)[30] 'in-principle' investment, in renovation and modernisation (R&M) of the electrostatic precipitators (ESPs[31]) of the three units.

WBPDCL awarded (March 2017) the work to M/s K.C. Cottrell India Private Limited (Vendor), at a price of ₹ 137.03 crore. The work was scheduled to be completed within 240 days from the shutdown of each unit. It was to lead up to the conduct of a successful performance guarantee (PG) test, which was to be followed by 30 days of observation *i.e.* total 270 days[32] from shutdown to observation. The shutdown of Unit 3 was in April 2017. Subsequently, it was re-commissioned in September 2019 and the PG test was held in June 2021. Thereafter, Units 1 and 2 were shut down, in June 2018 and July 2020, respectively.

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[28] *Issued under Sections 6 and 25 of the Environment (Protection) Act, 1986 (29 of 1986).*

[29] *Unit # 1: 09 September 1990, Unit # 2: 09 March 1986 and Unit # 3: 12 October 1984.*

[30] *157th Meeting of the Board of Directors of WBPDCL.*

[31] *Electrostatic Precipitators (ESP) are installed in the power station to arrest fly ash and reduce suspended particulate matter within the prescribed emission norms.*

[32] *240 Days+ 30 Days.*

The variable cost of running these units was high, in comparison to other, more efficient units. During the financial years 2016-17 to 2019-20, WBPDCL had incurred average annual loss of ₹ 81.46 crore, towards operating Units 1 and 2. Subsequently, WBPDCL decided (September 2020) to decommission and dismantle both Units 1 and 2, as the units were not running efficiently and could not meet the pollution norms. Government of West Bengal approved (February 2022) the proposal to decommission both Units.

Meanwhile, WBPDCL issued (October 2020), short closure notice to the vendor, in regard to ESP work related to Units 1 and 2. Thereafter, it constituted (December 2020) a committee to look into the issues arising out of the contract closure and settlement of dues to the vendor. As recommended (December 2020) by the Committee, an amendment in the purchase order was undertaken, with a total negotiated cost of ₹ 20.47 crore, for supply and Service for Units 1 and 2.

Audit observed that:

- WBPDCL had commissioned (February 2015) a Detailed Project Report (DPR) through M/s Steag Energy Service (India) Private Limited, for ESPs, coal mills and associated systems, to achieve the emission norms. However, the DPR had considered (April 2016) a designed calorific value of coal (3,800 Kcal/ Kg), whereas the actual average calorific value, of the coal received at KTPS, had been lower, *i.e.* between 3,040.42 Kcal/ Kg and 3,201.77 Kcal/ Kg, from FY 2014-15 to FY 2016-17.
- The ESP work had been awarded in March 2017, when both Units 1 and 2 had been in operation[33] for over 25 years. In addition, against the cost of ₹ 20.47 crore, for supply and Service executed towards Units 1 and 2, WBPDCL had paid ₹ 14.83 crore and the balance of ₹ 5.64 crore was pending (as of April 2022).

In response, WBPDCL stated (February 2023) that:

1. The Central Electricity Authority's Study Report on Reduction of Barriers to Renovation and Modernisation Intervention in Thermal Power Stations in India, had observed (November 2013) that, after the fatigue life of about 25 years for a thermal plant, preventive measures, such as R&M work, can be taken, for safe, reliable and economical operations, for another 15 to 20 years. Accordingly, it had decided (February 2018)[34] to take up R&M Units 1 to 3.
2. WBPDCL's plan to undertake renovation and modernisation (R&M) had assumed receipt of coal with gross calorific value of 4,500 Kcal/ Kg and operations of all six coal mills at the full capacity of 26 MT/ hour. These assumptions, were however, unrealistic. Consequently, without upgrading the coal milling system, the desired results could not have been achieved.
3. Hence, WBPDCL had decided (September 2020) to retire Units 1 and 2, since both units were running inefficiently and could not meet the pollution norms. However, as ESP work at Unit 3 had already been completed, it had not been considered for retirement.

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[33] *Unit-1 was 26 years 06 month 13 days and Unit-2 was 31 years 13 days.*

[34] *Item No. 14 of the 187th Board Meeting, held on 07 February 2018.*

4. Against the negotiated value of ₹ 20.47 crore, ₹ 15.83 crore was for useful material, which could be used at KTPS, and the balance of ₹ 4.64 crore was towards the cost of labour.

WBPDCL's admission that the assumptions considered, while proposing renovation and modernisation work, were unrealistic, supports the audit observation that erroneous assumptions and deficient planning had led to infructuous expenditure of ₹ 4.64 crore.

Government replied (August 2023) that, initiative was taken by WBPDCL to run the Units 1, 2 and 3 for another period of 15-20 years and R&M contract work was awarded with an assumption of availability of captive coal with 4,500 kcal GCV. The precondition of availability of 4,500 kcal GCV was unrealistic and desired results could not be achieved without upgradation of milling system which involved significant capital expenditure. As Unit 1 & 2 both were running inefficiently and could not meet the pollution norms, WBPDCL decided (September 2020) for retirement of both the units.

Thus, Government accepted the fact about unrealistic assumption and deficient planning which led to WBPDCL's proposal for renovation and modernisation work of aging units, which finally led to infructuous expenditure of ₹ 4.64 crore.

West Bengal Power Development Corporation Limited

2.2 Infructuous expenditure on an unviable coal block

West Bengal Power Development Corporation Limited (WBPDCL) incurred expenditure of ₹ 52.89 crore, on a coal block that had been surrendered by the preceding allottee, for being commercially unviable.

The Hon'ble Supreme Court of India cancelled (August/ September 2014) allotment of 204 coal blocks, which included the Kasta[35] (East) coal block. Thereafter, the Ministry of Coal (MoC), Government of India (GoI), offered (18 February 2015), 42 of these cancelled blocks, to Government Companies/ Statutory Corporations, for end-use in the power sector. Accordingly, the West Bengal Power Development Corporation Limited (WBPDCL), an electricity generating company, owned by the Government of West Bengal, entered (30 March 2015) into an agreement with MoC, for allotment of the Kasta (East) coal block and deposited (31 March 2016) upfront fees of ₹ 25 crore, as provided for under the said agreement.

Ministry of Coal, GoI, allotted (May 2016) the Kasta (East) coal block to WBPDCL. The responsibility of developing the coal block, as per the prescribed guidelines and milestone chart attached with the allocation letter, lay entirely with WBPDCL. Further, as required under the allotment agreement, WBPDCL submitted (December 2017) a Bank Guarantee (BG) of ₹ 20.50 crore, to MoC, GoI.

For development of the block, WBPDCL then appointed (March 2017), the Central Institute of Mining and Fuel Research (CIMFR)[36], as consultant, to, *inter-alia*, prepare the Mining Plan that was due for submission to MoC, GoI within six months from the date of Allotment Order *i.e.*, by November 2016.

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35 *Kasta (East) coal block is located in the Birbhum district of West Bengal.*

36 *Functioning under the aegis of the Council for Scientific and Industrial Research (CSIR).*

Moreover, the preparation of the Mining Plan got further delayed, since CIMFR's certification for the purpose of preparation of Mining Plans had expired. Therefore, WBPDCL appointed (August 2018) Indian Mine Planners and Consultants (IMPCON) as consultant to prepare the mining plan. The mining plan was then submitted[37] (September 2018) by WBPDCL to the Central Mine Planning & Design Institute Limited (CMPDI), which observed a discrepancy in Geological Co-ordinates and suggested to the MoC, GOI for their revision. Accordingly, MoC, GoI, issued (December 2018) a corrigendum to the allotment order.

Consequently, WBPDCL submitted the mining plan to MoC, GoI, in February 2019, against the scheduled date of November 2016, *i.e.* with a delay of 28 months.

In this regard, Audit observed, that:

- After preparation of the mining plans, WBPDCL had concluded (February 2019), that the coal block was economically unviable. It then applied (February 2019) to MoC, GoI, for surrender of the block and followed up in March 2019, with a similar proposal to the GoWB. In May 2021, MoC, GoI, terminated the agreement and the allotment order for the Kasta (East) coal block.
- Damodar Valley Corporation (DVC) (the previous allottee) had a Geological report for the said block, prepared through the Mineral Exploration Corporation Limited (MECL)[38], at a cost of ₹ 5.28 crore which was subsequently obtained by WBPDCL on payment of ₹ 5.28 crore to MoC, GoI, in April 2016. It was seen that the Kasta (East) was part of a contiguous block, comprising two other coal blocks. DVC had found (September 2008) that exploitation of the Kasta (East) block was unviable, unless the two adjoining blocks were assigned to the same allottee, for development and operation of an integrated coal mining project. Subsequently, MoC, GoI, had cancelled (May 2009) the allocation to DVC. Despite this, WBPDCL applied for the same coal block, in 2015.
- MoC, GoI, had encashed (August 2020/ May 2021) the entire BG (August 2020: ₹ 13.33 crore, May 2021: ₹ 7.17 crore).
- Moreover, between March 2016 and March 2020, WBPDCL had incurred expenditure of ₹ 32.39 crore[39], on the Kasta (East) coal block.

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37 *As per directives of Ministry of Coal vide no. 34011/ (48)/2009-CPAM dated 15th July 2015, a certificate from CMPDI was required to the effect that the Geological Co-ordinates (Longitude and Latitude) used in the preparation of New Mining Plan are in accordance with the vesting order and Geological Co-ordinates covered by Mining Plan do not encroach into any other / adjacent block.*

38 *MECL functions under the Ministry of Mines, Govt. of India, for systematic exploration of minerals "to provide high quality, cost effective and timebound geo-scientific Service for exploration and exploitation of minerals".*

39 *The amount of ₹ 32.39 crore comprised upfront fees (₹ 25 crore) to MoC, GoI; Geological Report cost (₹ 5.28 crore) paid to MoC, GoI; guarantee fees (₹ 1.11 crore) to GoWB; consultancy fees (₹ 93.89 lakh) to CIMFR, for preparation of Mining Plan; and certification fees (₹ 5.90 lakh) to CMPDI, for certificate regarding the Geological Co-ordinates used in preparation of New Mining Plan.*

The State Government stated (April 2023) that the Kasta (East) coal block had earlier been offered to Coal India Limited (CIL) and DVC, successively, but had been returned by them as being technically and economically unviable. Moreover, WBPDCL had applied for the coal block as a commercial venture, implying a degree of commercial risk, which may not fructify into a profitable venture. Therefore, WBPDCL decided to cut its losses and surrender the coal block.

The reply confirms the fact that the two preceding allottees, *viz*. CIL and DVC, had concluded that the block was commercially unviable. However, WBPDCL had still applied for it and had been allotted the coal block. Further, a Geological report, which showed that the single block was not viable independently, was already available. Despite this, WBPDCL had applied for the Kasta (East) block only, even though it was a portion of a contiguous block, comprising two other coal blocks.

The State Government further replied (September 2023) that technically as per the information based on Geographical Report, it cannot be concluded that the mines were economically viable or not. WBPDCL only after preparation of the Mining Plan could establish that the block is not viable and immediate action of surrender has been taken. It also stated that none of the previous allottees had prepared the Mining Plan and hence the decision of surrender by them was at their wish/ discretion.

The reply of WBPDCL needs to be viewed in light of the fact that coal blocks are identified after following a due process and it is for the applicants to evaluate whether it is viable for them or not before applying for the same. In the instant case, WBPDCL applied for the block without duly considering the fact of de-allocation of the Kasta (East) coal block for the previous allottee. Further, WBPDCL should have obtained the Geological Survey report prepared by DVC earlier and also analysed the tenth Report of Standing Committee on Energy properly. Lack of proper and prior due diligence resulted in allotment of the coal block to WBPDCL and its subsequent surrender, leading to infructuous expenditure[40] of ₹ 52.89 crore.

West Bengal State Electricity Distribution Company Limited

2.3 Non-levy of agency fees for development of Solar Dome at Eco Park

The West Bengal State Electricity Distribution Company Limited (WBSEDCL) set up a Solar Dome at Eco Park, New Town, Rajarhat, but did not claim agency fees of ₹ 2.58 crore on project implementation, as provided under the West Bengal Financial Rules, 1979.

According to the provisions[41] of West Bengal Financial Rules, 1979 (WBFR), designated entities, nominated as an agency of the Government of West Bengal, for execution of works, are, *inter alia*, permitted charging of agency fees, at

[40] *₹ 32.39 crore (Total Expenditure on Mine)+ ₹ 20.50 crore (encashed BG) = ₹ 52.89 crore.*

[41] *Rule 47D, Clauses 4 and 6 of Notification No. 5400F(Y) dated 25 June 2012, of Audit Branch, Finance Department, GoWB.*

prescribed rates, on the estimated cost of works. These agency fees are applicable towards invitation of tender, evaluation of bids, award of work, supervision, monitoring, checking of bills, releasing payments, as well as submission of utilisation and completion certificates.

The Power and Non-conventional Energy Sources Department, Government of West Bengal[42] (GoWB), submitted (February 2014) a proposal to the Municipal Affairs and Urban Development Department, GoWB (MAUDD), for setting up a Solar Dome at Eco Park, New Town, Rajarhat. The project, funded by the West Bengal Housing Infrastructure Development Corporation Limited (WBHIDCO) and MAUDD, was to be implemented by the West Bengal State Electricity Distribution Company Limited (WBSEDCL), at an estimated cost of ₹ 38.05 crore[43]. The project intended to create public awareness about solar energy and was also envisaged as a tourist attraction.

WBSEDCL awarded (November 2014) the work of initial planning, design, engineering, preparing architectural/ structural specifications, tender documents/ drawings, bills of quantities *etc*., to M/s DCPL (Consultant). Subsequently, WBSEDCL appointed[44] (December 2016) M/s Bridge and Roof Co. (India) Limited (Contractor), for the design, engineering, supply, construction, installation and commissioning of the project, at a price of ₹ 41.52 crore. WBSEDCL estimated (April 2021) the final project cost as ₹ 53.29 crore, including taxes and had released an amount of ₹ 46.97 crore[45] to the Contractor till October 2022.

Audit observed (February 2023) that:

- WBSEDCL had to engage its officers and it had provided infrastructure support, round the clock, for supervision of the project, as it monitored each stage of the Project, between February and December 2017.
- As an implementing agency, WBSEDCL had undertaken activities in connection with the floating of tender, appointment of Consultant/ Contractor, checking of bills, releasing of payments to the Contractor, submission of utilisation certificates etc., for which it was entitled to agency charges @ 5.50 *per cent*[46] on the cost of the project, as per WBFR.
- As an agency, WBSEDCL had not entered into Contract/ Memorandum of Understanding (MOU), detailing the terms and conditions and the agency fees to be allowed. Consequently, WBSEDCL had not claimed agency fees of ₹ 2.58 crore[47] for the project.

The Government stated (May 2023) that the Solar Dome had been constructed to increase public awareness on renewable energy. Further, the emphasis was

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[42] *The Power and Non-conventional Energy Sources Department, Government of West Bengal, was renamed as the Department of Power, vide notification No. 858-Home (Cons)/R2R(Cons)-08/20l6 dated 15 November 2019.*

[43] *Including consultancy cost of ₹ 1.45 crore (Phase I: ₹ 57.98 lakh, Phase II: ₹ 86.97 lakh).*

[44] *Through open tender, floated in May 2016.*

[45] *Up to the 22nd Running Account bill.*

[46] *Two per cent of the estimated cost of the works, for invitation of tender, evaluation of bids, award of work and 3.50 per cent, on supervision, monitoring, checking of bills, payment and submission of utilisation certificate and completion certificate.*

[47] *@ 5.5 per cent of ₹ 46.97 crore.*

more on the educational rather than the commercial aspects of the project. Moreover, WBSEDCL had set up the Solar Dome as per the direction of the Hon'ble Power Minister, Government of West Bengal. Hence, applicable charges were not considered for this project.

The reply of the Government is not acceptable, since WBSEDCL, being a commercial undertaking, should have realised the agency charges, under WBFR.

Government further replied (August 2023) that since WBSEDCL was a company registered under the Companies Act, 1956, having its own Civil Works Policy, the provisions of WBFR were not applicable to it. Government also replied that, in respect of whatever resources have been utilized for the project, the corresponding cost, in any case, would have been considered through the tariff mechanism.

The reply has to be seen in light of GoWB's notification (June 2012) stating that it may select State Organisations / Corporations for execution of Government works as agency of the Government. In the instant case, WBSEDCL was the implementing agency, responsible for monitoring and supervising the work. Hence, it was incumbent on WBSEDCL to claim agency charges in this regard.

Thus, non-collection of ₹ 2.58 crore, by way of applicable agency charges, for the development of the Solar Dome at Eco Park, New Town, Rajarhat, had resulted in avoidable burden on consumers, to the same extent.

West Bengal State Electricity Distribution Company Limited

2.4 Loss due to deficiencies in internal control

The West Bengal State Electricity Distribution Company Limited (WBSEDCL) failed to properly monitor the orders placed for supply of pre-stressed cement concrete poles, which led to loss of ₹ 3.38 crore.

The West Bengal State Electricity Distribution Company Limited (WBSEDCL) undertakes physical verification of store items and other allied activities, at different store units of WBSEDCL, on an annual basis. It also undertakes reconciliation between the stock figures appearing in the annual physical verification reports and the stock figures appearing in the Enterprise Resource Planning (ERP) Stock Balance. Such physical verification was, however, restricted to WBSEDCL's material stored at the Chord Road Central Store, other Zonal/ Divisional Stores, Hydel Store, Rural Electrification Project Stores and Purulia Pumped Storage Project Store and did not include WBSEDCL's material that was in the custody of contractors and suppliers (which had not been physically verified, up to FY 2021-22).

The Procurement and Contracts Department (P&C) of WBSEDCL is responsible for co-ordinating and undertaking physical verification of store items, by engaging the Service of Chartered and Cost Accountants firms. In addition, P&C also issues purchase orders and work orders. These orders include manufacture, supply, and ex-works deliveries of 8 metre pre-stressed cement concrete (PCC) poles and 9 metre PCC poles.

During March 2012 to December 2013, P&C had issued 11 purchase[48] orders on a casting centre[49] (Manufacturer), for manufacture, supply, and ex-work deliveries of 8 metre PCC (5,700 Nos.) and 9 metre PCC (4,184 Nos.) poles.

Audit observed (September 2022), from the relevant provisions[50] of the orders and scrutiny of related records, that:

- The Regional Manager, Paschim Medinipur Region, WBSEDCL (RM), was the designated Administrative Controlling Officer, on behalf of WBSEDCL.
- After manufacturing the poles, the Manufacturer was required to intimate the RM, with the advice that the necessary programme for testing be drawn up.
- The accepted poles were to remain in the stockyard of the Manufacturer and the Manufacturer was responsible for any loss or damage to these poles, till they were lifted by WBSEDCL.
- Following testing and acceptance of the poles, they were to be accounted for in the books of WBSEDCL. The RM was required to maintain accounts, in regard to storage of PCC poles at the Manufacturer's premises.
- The Manufacturer was required to submit, within the fifth working day of the succeeding month to the RM, the Monthly Progress Report of the preceding month, along with the division-wise lifting details for verification, failing which, testing of poles/ issue of test certificates/ processing of bills, was to be kept in abeyance. The available records, however, did not include such monthly progress reports.
- After issue of test certificates, the accepted poles were accounted for through stores receipt vouchers (SRVs), drawn up from June 2012 to May 2014, even though the poles continued to be physically stored in the Manufacturer's stockyard. WBSEDCL released (September 2012 to November 2014) the full payment of ₹ 3.77 crore to the manufacturer, without actual delivery of the material.
- WBSEDCL did not take physical delivery of the Poles and took up the issue with the manufacturer in August 2015. However, it could not succeed in getting physical custody of the Poles and finally lodged (July 2018) an FIR[51] against the manufacturer for non-cooperation.
- Moreover, the Chief Engineer (Distribution) had directed (March 2018) that physical verification of the poles be undertaken at the manufacturers' premises. This was, however, complied with only in FY 2022-23.
- WBSEDCL's Legal Adviser opined (April 2021) that WBSEDCL's failure to lodge a claim within three years of the amount falling due, had rendered the claim time barred. Moreover, the right to sue accrues only when someone has refused to pay the amount of dues, which is not time-barred.

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48 *Four Purchase Orders, from December 2012 to December 2013, for eight MTR PCC Poles and seven Purchase Orders, from March 2012 to December 2013, for nine MTR PCC Poles.*

49 *M/s Anadi PCCP Manufacturing Company, a sole proprietorship, at Rajbasa, Khemasuli, P.S. Kharagpur Local, Paschim Medinipur.*

50 *Clauses 6, 8 and 9, read with Clause 18.*

51 *F.I.R. No. 378/18 dated 13 July 2018, of Kharagpur Local Police Station.*

Consequently, any attempt at taking legal action against the manufacturer was futile.

WBSEDCL had provided an amount of ₹ 3.38 crore, in the accounts of FY 2022-23, towards non-supply of Poles.

Government replied (April 2023) that all bills had been paid based on the Stores Receipt Voucher (SRV) and other documents, according to the terms and conditions of the purchase orders.

The reply, however, did not address the deficiencies in internal control process, *i.e.* (a) payments being disbursed in full, without obtaining monthly progress reports or actual delivery of material (b) not undertaking periodic verification of physical stocks lying at virtual stores, in the custody of contractors and suppliers and (c) failure to raise claims against the manufacturer for non-delivery of materials.

Government stated (January 2024) that repeated attempts were made to recover the Poles from the said factory including lodging of FIR to the local police station, but the PCC Poles could not be recovered from the agency. It also stated that due to absence of SAP-ERP system at that time there was no visibility from Head Quarter Level regarding the physical stock of PCC Poles at various pole casting centres across the State. Apart from the above, physical verification of stock at every pole casting centre is also being executed at the year end.

Response of the Government confirms deficiencies in internal control system *i.e.* not taking action to obtain monthly progress reports from the manufacturer, not undertaking physical verification of poles at the Manufacturer's premises and non-pursuit of claims against the manufacturer, whereby WBSEDCL had to bear loss to the tune of ₹ 3.38 crore.

West Bengal State Electricity Distribution Company Limited

2.5 Failure to realize revenue from a permanently disconnected consumer

The West Bengal State Electricity Distribution Company Limited (WBSEDCL) supplied electricity to a consumer, without obtaining adequate security under the extant provisions, and then delayed the disconnection of supply, which led to non-realisation of electricity charges of ₹ 6.76 crore.

The applicable regulations[52] (April 2013) of the West Bengal Electricity Regulatory Commission (WBERC), permit a distribution licensee to require that all consumers furnish security deposits (SDs), of three months' estimated consumption, at prevailing rates. Further, the licensees are required to notify the consumers to increase their SD, as and when it becomes insufficient. The consumers are then required to deposit the additional amount of SD, within a period of one month from the notice. The licensees are also permitted to recover the additional amount, or its instalment amount, through the energy bills of the consumers. Moreover, Extra High Voltage (EHV), High Voltage (HV) and Low

[52] *Clauses 4.1, 4.2 and 4.2.6 of WBERC's (Miscellaneous Provisions) Regulations, 2013, vide notification No. 52/ WBERC dated 02 April 2013.*

& Medium Voltage (L&MV) consumers, having contract demand of 50 KVA and above, have the option of depositing the SD either in cash, or through an irrevocable Bank Guarantee (BG). Further, security deposits were required to be updated, in a phased manner, within March 2015.

Audit scrutiny of records showed (February 2023) that the West Bengal State Electricity Distribution Company Limited (WBSEDCL) had outstanding dues of ₹ 6.76 crore, from M/s Rohit Ferro Tech Limited[53] (RFTL), a permanently disconnected[54] consumer, as of March 2023.

RFTL, a consumer since March 2010, had a contract demand of 11,500 KVA, with supply voltage of 33 KV. Accordingly, based on its electricity consumption for the financial year 2019-20, RFTL was required to maintain SD of ₹ 10.47 crore, for the financial year 2020-21. RFTL had, however, maintained ₹ 1.17 crore only, as SD. RFTL had been irregular in making payment of electricity charges and had defaulted in payment of electricity charges from the month of December 2019 onwards.

Thereafter, RFTL went in for the Corporate Insolvency Resolution Process (CIRP)[55] in February 2020, with creditors being called upon to submit their claims by 21 February 2020. WBSEDCL belatedly submitted its claim on 29 August 2020, for ₹ 5 crore, against dues of ₹ 5.52 crore (from 01 December 2019 to 06 February 2020). The Resolution Professional (RP), under CIRP, paid WBSEDCL's energy charges only intermittently, during March 2020 to October 2021 and stopped paying the energy bills from November 2021 onwards.

In the meantime, WBSEDCL issued (30 March 2021) a notice for deposit of SD, but the same was denied by RFTL, citing that CIRP had already started in February 2020 and the Hon'ble National Company Law Tribunal (NCLT) had declared a moratorium, in terms of Section 14 of the Insolvency & Bankruptcy Code (IBC), 2016.

Power supply to RFTL was disconnected on 01 December 2021 and the agreement[56] was terminated on 19 January 2022. WBSEDCL raised (19 January 2022) the final bill for ₹ 9.71[57] crore, after adjustment of SD on RFTL. Thereafter, WBSEDCL issued (02 February 2022) a demand notice for ₹ 10.74 crore (energy dues: ₹ 10.23 crore; penalty and cost of recovery: ₹ 51.25 lakh) on RFTL.

M/s Tata Steel Mining Limited (TSML) acquired (07 April 2022) RFTL, under the order of NCLT. M/s TSML took over the plant (11 April 2022) and made payment of ₹ 5.67 crore[58], to WBSEDCL, on 12 April 2022. M/s TSML claimed

53 *Consumer ID: 932324100.*

54 *The Electricity Act, 2003, permits a licensee, after prior notice, to cut off electricity supply or disconnect any electric supply line, to any person, for non-payment of any charge of electricity or any other charge due.*

55 *Under the Provisions of the Insolvency and Bankruptcy Code, 2016.*

56 *The Power Supply Agreement, between RFTL and WBSEDCL, had been signed in March 2010.*

57 *Pertaining to the months of January 2020, February 2020, May 2021 and July 2021 to December 2021.*

58 *₹ 5.36 crore for the Post-CIRP period (inclusive of LPSC) + ₹0.31 crore for the Pre-CIRP Period.*

(July 2022) that the unpaid Pre-CIRP amount of ₹ 6.76 crore[59], including the late payment surcharge (LPSC), as claimed by WBSEDCL, stood extinguished, in terms of NCLT order dated 07 April 2022[60].

In this regard, Audit observed that:

- WBSEDCL had supplied electricity to RFTL, despite having insufficient SD, in contravention of Clause no 4.2.1 of Regulation 52 of WBERC[61].
- Although RFTL had defaulted in making payment of energy charges since December 2019 onwards, WBSEDCL had disconnected the power supply only in December 2021, *i.e.* 24 months after the default. This had led to accumulation of outstanding dues, with concomitant contravention of clause 4.1.1 of Regulation 55 of WBERC, which, *inter-alia,* stated that disconnection would be effected if payment had not been made within 30 days after the due date provided in the bill.
- Despite RFTL having gone in for CIRP in February 2020, WBSEDCL had continued to supply energy till November 2021.

Government, in its reply (June 2023), accepted that the Pre-CIRP outstanding dues (OSD) of ₹ 6.76 crore, were pending till date. The reply also stated that there had been a moratorium on disconnection of supply, under Section 14 (2) of the IBC, 2016.

Regarding the moratorium on disconnection of supply, Audit observed that, with effect from 28 December 2019, Section 14 (2A) of the IBC, 2016, had permitted disconnection of supply, if dues had not been paid for supply during the moratorium period. In the instant case, the RP had not been regular in making payments during the moratorium period. Despite this, WBSEDCL had not disconnected supply to the consumer.

Government further replied (August 2023) that disconnection had not been effected apprehending loss of employment in the event of permanent disconnection. It also stated that the Pre-CIRP OSD of ₹ 6.76 crore was pending and the same had been claimed through Form B.

The reply of Government is an admission of the fact that electricity had been supplied to the consumer, despite having insufficient SD and disconnection had not been effected, in contravention of Clause No. 4.2.1 of Regulation 52 of WBERC.

Thus, WBSEDCL had extended undue advantage to the consumer, by allowing power supply, despite not having sufficient SD and had also delayed disconnection of power supply, which led to loss of revenue of ₹ 6.76 crore, towards unrealised energy charges.

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59 *As on 07 February 2020, the Pre-CIRP amount stood at ₹ 6.76 Crore (Principal OSD ₹ 4.56 Crore+ LPSC ₹ 2.20 crore).*

60 *NCLT order dated 07 April 2022 related to the matter of TSML vs. RP of RFTL, wherein the resolution plan submitted by TSML for acquiring RFTL had been accepted. By virtue of the said order, TSML took over the plant of RFTL on 11 April 2022.*

61 *A consumer, on his/her licensee's demand, through a notice, may replenish the deposit, as and when it becomes insufficient and the same is to be done within a period of one month from the date of service of the notice. The notice is also required to mention that, on failure to deposit the replenishing amount of security deposit, the disconnection will be effected on completion of 30 days from the date of service of the notice.*

West Bengal State Electricity Distribution Company Limited

2.6 Loss of interest, due to delays in raising of energy bills on consumers

West Bengal State Electricity Distribution Company Limited (WBSEDCL) delayed raising energy bills for centralised bulk consumers, due to delay in revamping of the Meter Data Acquisition System (M-DAS), leading to loss of interest of ₹ 4.59 crore.

Regulations 36/55 (September 2007/August 2013), of the West Bengal Electricity Regularity Commission (WBERC), specified that, where the meter reading is taken through Meter Reading Instruments/ an Automated Meter Reading System and it is not feasible to record such meter reading on a card/ book/ document, then the licensee would, after the meter reading is taken, raise the bill as early as possible. In case of monthly billing, meter reading was normally to be taken between a period of 28 and 32 days of the last meter reading, unless specifically exempted by the Commission, in deserving cases. Consumers receiving electricity at High Voltage (HV) and Extra High Voltage (EHV), were to be issued monthly bills, with the due dates of payment being within 30 days of closure of the billing months.

In this regard, Paragraph Nos. 3.4 and 2.1.8.2 of the Reports of the Comptroller and Auditor General of India for the years ended 31 March 2015 and 31 March 2016, Government of West Bengal on Public Sector Undertakings, respectively, had brought out cases of undue delay in raising of energy bills by WBSEDCL. It was seen that WBSEDCL had been taking meter readings for centralised bulk consumers (HV & EHV)[62], through the remote access Meter Data Acquisition System (M-DAS)[63]. Spot meter reading was resorted to when meter reading through M-DAS failed. Further, the Government had stated (September 2018) that the time lag between reading the meters and raising of bills had been brought to almost 'Nil', with all consumers being brought under the ambit of modem-based meter reading.

Audit however, observed (February 2023) that, during the years 2019-22, 15,017 bills, out of 31,384 bills (*i.e.*, 48 *percent* of the bills), had been raised belatedly. This was mainly due to not recording meter readings through MDAS, within the due dates and taking spot meter readings later. These delays ranged from one day to 110 days. It was also noticed that the delays were mainly attributable to the obsolescence of modems and DCUs; lack of spares for repairs/ maintenance; non-resolution of connectivity problems of modem ports with meters *etc*. Despite the criticality of timely revenue collection, the problem of delays had not been adequately addressed. Consequently, delays in raising bills led to due dates for receipt of payments getting extended, which

[62] *Bulk consumers having connected load in excess of 1,499 KVA.*

[63] *M-DAS: The Meter Data Acquisition System is an automated system, implemented by WBSEDCL, to gather meter data from meters installed at different areas of West Bengal, under the jurisdiction of WBSEDCL. The gathering or fetching of data from remote places is achieved by retrofitting a modem to a meter or by daisy chaining several meters with a DCU (Data Concentrator Unit).*

delayed realization of income by WBSEDCL. This delayed realization meant that WBSEDCL sustained loss of interest of ₹ 4.59 crore[64], from April 2019 to March 2022.

Government, in its reply (June 2023), stated that: (i) when bulk reading was not available in M-DAS, physical meter reading was taken (ii) sometimes, due to certain anomalies, rectification of some of the billing parameters was done, which needed regeneration of bills.

Government in its further reply (March 2024) accepted the delays, stating that they were due to revision / regeneration of energy bills, shifting payment posting as per normal procedure of WBSEDCL and physical readings taken by site offices in remote areas / locations. It also replied that contracts for maintenance of modems could not be entered into and attempts to purchase new modems during 2022 and 2023 were not successful. WBSEDCL has decided to install smart meters instead of modem procurement to avoid double expenditure, expecting that they would be able to raise monthly bills of HV and EHV consumers by 6th day of the next month.

Thus, reply confirms that delays in finalisation of bills and deferred realization of revenue, led to loss of interest of ₹ 4.59 crore and consequential increase in the requirement of working capital.

West Bengal State Electricity Distribution Company Limited

2.7 Wasteful expenditure due to non-drawal of allocated power

West Bengal State Electricity Distribution Company Limited (WBSEDCL) incurred wasteful expenditure of ₹ 39 crore, towards capacity and other charges, due to non-drawal of allocated power from the Kanti Bijlee Utpadan Nigam Limited, during FY 2017-18.

The West Bengal State Electricity Distribution Company Limited (WBSEDCL), is the only State-owned electricity distribution company (DISCOM) in West Bengal. During FYs 2008-09 and 2009-10, West Bengal had experienced shortfall in energy availability, of 3.19 *per cent* and 2.76 *per cent*, respectively. Accordingly, to meet the electricity requirements of West Bengal, the Ministry of Power (MoP), Government of India (GoI), at the instance[65] of the Department of Power, Government of West Bengal (GoWB), had allocated (December 2010) 34-Megawatt (MW) power, from the Kanti Bijlee Utpadan Nigam Limited[66] (KBUNL), to WBSEDCL.

KBUNL was to source energy from National Thermal Power Corporation Limited, which had planned (April 2007) for completion of the two Units of the Muzaffarpur Thermal Power Station (MTPS, Stage-II) by October 2012/ January 2013. WBSEDCL entered (December 2010) into a 25-year Power

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[64] *Considering interest paid on cash credit availed at the rate of 7.95 per cent, 6.85 per cent and 6.50 per cent for the years 2019-20, 2020-21 and 2021-22 respectively.*

[65] *Reply of MoP-GoI of 08 January 2016, to the Central Electricity Regulatory Commission, referred to in Paragraph 16 of Order dated 31 March 2017, in Petition No. 182/MP/2015.*

[66] *KBUNL is a joint venture between the National Thermal Power Corporation Limited (NTPC) and the Bihar State Power Generation Company Limited.*

Purchase Agreement (PPA) with KBUNL, for purchase of 34 MW power from MTPS, Stage-II, on mutually agreed terms and conditions.

According to the PPA[67], in the event of default by WBSEDCL, KBUNL had the right to re-allocate a part or full allocated capacity to other bulk consumers. Moreover, KBUNL had the right to terminate the agreement, if WBSEDCL failed to comply with the terms of the PPA. In both scenarios, WBSEDCL would continue to be liable to pay the monthly capacity charges, until a firm arrangement, for sale of WBSEDCL's allocated share, to alternative customers, was tied up.

In this regard, an audit observation was issued to WBSEDCL (March 2023) mentioning the following points:

- Against the planned commissioning of the two Units of MTPS, Stage-II, in October 2012 and January 2013, commercial operations had commenced in March 2017 and July 2017, respectively.
- Meanwhile, WBSEDCL served (December 2015), a notice for termination of the PPA with KBUNL, for delay in the commissioning and commencement of supply of power. Subsequently WBSEDCL, through the Department of Power, Government of West Bengal (GoWB), approached (June 2016), MoP, GoI to de-allocate the power from KBUNL, due to delay in commissioning of the projects.
- KBUNL requested (January 2017) WBSEDCL to enter into necessary agreements with Central Transmission Utility[68], for wheeling of electricity from the bus bars[69] of KBUNL.
- Instead, WBSEDCL responded (February 2017) that the PPA executed between them stood terminated in December 2015 and GoWB had approached GoI to de-allocate the power from MTPS, Stage-II, in June 2016. KBUNL responded (March 2017) that the PPA obligation could not be unilaterally terminated and WBSEDCL was contractually bound to pay applicable charges under the PPA.
- After commencement of commercial operations of both units of MTPS, on 18 March 2017 and 01 July 2017, respectively, KBUNL started raising bills on WBSEDCL, towards capacity charges, from March 2017 onwards.
- Subsequently, WBSEDCL decided (February 2018) to revive the PPA and started drawing power from KBUNL, from April 2018 onwards.

Audit also observed that WBSEDCL had not paid the outstanding dues of ₹ 33.46[70] crore, for the period March 2017 to March 2018, which had

[67] *Clause Nos. 6.2.9 and 12.4.*

[68] *As per clause 3.0 of the PPA, Sale of electricity shall be at the bus bars of the stations and it shall be the obligation and responsibility of WBSEDCL to make the required arrangements for evacuation of electricity. For timely evacuation of Power, KBUNL shall initially make an application for connectivity and long term access to the Central Transmission Utility on behalf of the beneficiaries.*

[69] *The conductor material, acting as a junction, for collecting electricity from the turbo-generators of the generating units and distributing it to various output circuits of the transmission systems.*

[70] *Arrear capacity and compensation charges, for the period from 18.03.2017 to 31.03.2018.*

accumulated to ₹ 64.25[71] crore in June 2022. KBUNL, thereafter, agreed for (June 2022) one time settlement of outstanding dues, on payment of ₹ 39 crore by WBSEDCL, without reopening further claims/counter claims. WBSEDCL paid ₹ 39 crore, in six instalments, between July and December 2022.

The State Government replied (June 2023) that WBSEDCL had entered into PPA with KBUNL during '*deficit installed capacity*' period. Therefore, there was monopoly of generators like KBUNL and beneficiaries like WBSEDCL were helpless in ensuring that the terms and conditions were balanced, as it affected the supply of power from them.

However, the reply is not acceptable, as WBSEDCL had entered into an agreement with KBUNL, that could not have been unilaterally cancelled and, therefore, WBSEDCL's attempt, to unilaterally withdraw from the PPA, was not valid. Moreover, WBSEDCL had belatedly decided (February 2018) to honour the PPA, which had resulted in payment of charges, for the period during which power had not been drawn from KBUNL.

The State Government further replied (September 2023) that it was not mentioned in the PPA that agreement cannot be cancelled / terminated in any circumstances and capacity charges in case of delayed commissioning and resulted termination to be paid by the beneficiaries. This was only established after the order of CERC of March 2018. It further stated that average energy purchase rate from KBUNL was ₹ 6.03 *per* KWH. By not drawing such power from KBUNL and replacing the same through short term power purchase resulted into gain even after incurring expenditure of ₹ 39 crore.

The reply of the Government is not acceptable, as allocation of power from the Central Sector Generating Stations, which have been set up considering the long-term PPAs entered into by the procurers, is made at the instance of the State Government/procurers and the procurers are not entitled to unilaterally terminate the PPAs. The procurer has a right to the allocated capacity under the PPAs at all times and correspondingly, has the obligation to pay the fixed charges for the power allocated even in case of non-scheduling of power of its own violation. Further, the contention of Government that WBSEDCL gained from short term power purchase instead of buying power from KBUNL, needs to be viewed in light of the fact that, since 2017-18, the average short term power purchase cost of WBSEDCL was ₹ 3.89 *per* KWH whereas the average variable cost of power by KBUNL was only ₹ 2.26 *per* KWH. Further, fixed charges were also payable by WBSEDCL, indicating that short term power purchase was not beneficial to WBSEDCL.

Thus, unilateral cancellation of the agreement and non-drawal of allocated power from KBUNL had resulted in wasteful expenditure of ₹ 39 crore towards capacity and other charges.

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[71] *Arrear capacity and compensation charges of ₹ 33.46 crore plus late payment surcharge of ₹ 30.79 crore.*

Industry, Commerce & Enterprises Department

West Bengal Industrial Development Corporation Limited

2.8 Loss due to incorrect fixation of price for land allotted to a private party

The West Bengal Industrial Development Corporation Limited (WBIDCL) incurred loss of ₹ 12.86 crore, due to incorrect computation of the Base Price of land, in deviation from its pricing policy for land.

According to Section 17 A (1) (b) of the West Bengal Inland Fisheries (Amendments) Act, 1993, "*No person shall fill up any water area including embankment or artificially depressed land holding as aforesaid, with a view to converting it into solid land for the purpose of construction of any building thereon or for any other purpos*e".

As per Section 9 of the said Act, "*No water area including embankment or naturally or artificially depressed land holding shall be put to use other than fishery except with the prior approval of the State Government*".

Further, as per Section 8.2 of the National Water Policy (2012), *encroachments and diversion of water bodies (like rivers, lakes, tanks, ponds etc.) must not be allowed*. Also, as per Para no. 22 of Supreme Court's Judgement (November 2019)[72], *schemes which extinguish local waterbodies albeit with alternatives are violative of Constitutional principles and are liable to be struck down.*

The West Bengal Industrial Development Corporation Limited (WBIDCL) was established under the Industry, Commerce and Enterprises (ICE) Department, to provide necessary infrastructure for development of Industries. The functions of WBIDCL include: (i) acquiring land for setting up Industrial Parks (IPs) (ii) development of these plots, built-up industrial sheds and common facilities and (iii) allotting plots/ sheds for industrial/ commercial purposes.

According to the pricing policy of land and modules, of the Industrial Parks (IPs) of the West Bengal Industrial Development Corporation Limited (WBIDCL), the price of land and modules *inter alia* included the amount paid by WBIDCL for acquisition of the land and administrative cost @ 10 *per cent,* charged on all items, excluding infrastructure. Further, the price of such land was to be arrived at by distributing the above expenditure (acquisition cost + administrative cost) within the allocable land [73] *i.e.*, within the portion of land which is eligible or suitable for industrial use only.

The Government of West Bengal (GoWB) decided (August 2017), to transfer 1,326.93 acres[74] of Government land, in favour of WBIDCL, for industrial purposes. The total value of land was calculated on the Present Market Value

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72 *Civil Appeal No. 5109 of 2019 (Jitendra Singh vs. Ministry of Environment &Ors) dated 25 November 2019.*

73 *"Allocable land" is a portion of land which is eligible or suitable for industrial use. It represents the land that is designated for industrial development or falls within the specific zoning category for industries.*

74 *Haringhata (Nadia): 358.19 acres, Goaltore (Paschim Medinipur): 950.16 acres, Budge Budge (South 24 Pgs): 9.85 acres and Domjur (Howrah): 8.73 acres.*

assessed by IGR, West Bengal, plus the capitalized value, which is 50 *per cent* of the present market value. Thus, the total value of land is to be derived as Present Market Value + Capitalised Value. For development of industrial infrastructure, WBIDCL decided (September 2017) to set up an Industrial Park (IP), on approximately 130 acres of land (out of 358.19 acres), at Haringhata, Nadia in first phase.

The total cost of procurement (market value, along with capitalized value) of such land, amounting to ₹ 206.73 crore, was allotted (February 2018) by the GoWB, as Grant, to WBIDCL. WBIDCL paid an amount (March 2018), of ₹ 206.73 crore to L&LR&RR[75] Department, for acquisition of 358.19 acres of land, at Haringhata, Nadia.

WBIDCL acquired (October 2018) and received possession of the 358.19 acres of land (Freehold), from the L&LR&RR Department, GoWB, for setting up of IPs.

WBIDCL floated (August 2018), an advertisement (on the WBIDCL website), seeking expression of interest (EOI), from prospective entrepreneurs, for investment in the Haringhata Industrial Park, Nadia (HIP). The price of land, in this IP, was fixed at ₹ 63.49 lakh[76] per acre, for allotment on a long-term lease basis, for a period of 99 years, on as-is-where-is basis.

In response to WBIDCL's advertisement, M/s Instakart Service Pvt Ltd (ISP) applied (September 2018), for 107.35 acres of land, for setting up a Regional Distribution Centre, in HIP, with a proposed investment of ₹ 991.00 crore. The BoD of WBIDCL, in its 337th meeting, approved (October 2018) the allotment of 107.35 acres, to ISP, in HIP. Further, the Standing Committee of the Cabinet on Industry approved (December 2018), the proposal for allotment of land, to ISP, in HIP.

WBIDCL allotted (January 2019) 107.35 acres of land, to ISP, at a value of ₹ 68.16 crore[77]and handed over physical possession of the said land, in April 2019. An additional 1.77 acres[78] of land was allotted to ISP, in March 2020, at a value of ₹ 1.07 crore[79]and handed over in June 2020. WBIDCL entered (9 February 2021) into a deed of lease, with ISP, for 109.12 acres of land, at HIP, for 99 years.

Audit observed (December 2022) that, the layout plan of HIP, comprised 54.56 acres of *jheel* and 1.331 acres of pond *i.e.* water bodies. Thus, the total area available for development was only 302.299 acres[80]. Hence, as per the Pricing Policy of land and modules of WBIDCL, the Base Price of total allocable land, should have been ₹ 75.23 lakh per acre[81]. Thus, the lease premium to be collected from ISP, on the basis of the total area available for development,

75 *Land & Land Reforms and Refugee Relief and Rehabilitation Department, GoWB.*

76 *(₹206.73 crore/358.19 acres + 10 % administrative cost) As per the decision of the 336th meeting of WBIDC Board on 3rd July 2018.*

77 *(107.35 acres × ₹63.49 lakh per acre).*

78 *Cabinet approval for additional allotment of 1.77 acres of land was not found available on records.*

79 *The land value was deposited with WBIDC, on 11 March 2020.*

80 *358.19 acres – (54.56 acres + 1.331 acres).*

81 *₹206.73 crore/302.299 acres + 10 % administrative cost.*

amounted to ₹ 82.09 crore[82]. However, the lease premium actually collected by WBIDCL, from ISP, was ₹ 69.23 crore[83] only.

Thus, WBIDCL sustained loss of ₹ 12.86 crore (₹ 82.09 crore – ₹ 69.23 crore), due to incorrect computation of the Base Price of land, without considering the area available for development, in deviation from the pricing policy.

Government replied (May 2023) that the base price of land, of the Haringhata Industrial Park, had been approved (July 2018) by the Board of Directors of WBIDCL as ₹ 63.49 lakh per acre after detailed discussion on the matter and the Cabinet had also approved (December 2018) the allotment of land to the private party, on the basis of which the allotment letter had been issued to the organization.

The reply did not elaborate the reasons for not following WBIDCL's pricing policy for computation of the base price of land at the time of allotment to a private party. Further, as per the layout plan of HIP, 55.89 acres of land was under water, which was not allocable for industrial development.

Thus, computation of the base price of land, without consideration of the actual allocable area for development, had resulted in loss of ₹12.86 crore.

Public Enterprises and Industrial Reconstruction Department

Durgapur Chemicals Limited

2.9 Lack of action despite Cabinet Decision led to avoidable expenditure

Due to non-adherence to the decision of the Cabinet Committee to effect stake sale of Durgapur Chemicals Limited and suspension of operations of the plant on the recommendations of the Expert Committee of the West Bengal Pollution Control Board, the Department had to bear an avoidable expenditure of ₹ 42.37 crore, towards the salaries and wages of idle manpower.

Durgapur Chemicals Limited (the Company) was incorporated in July 1963, as a public sector company wholly owned by the Government of West Bengal (GoWB). The Company had a Chlor-Alkali Plant and was the prime supplier of products such as Caustic Soda Lye, Liquid Chlorine, Hydrogen Gas *etc*., to Steel Plants. Despite financial-cum-operational restructuring and business optimization efforts, undertaken (February 2004 to July 2010) by GoWB, the company continued to incur losses since the financial year 2007-08. GoWB, in its Cabinet Meeting dated 17 August 2016, decided on a stake-sale of State Government's share in the business of the Company, in such a way that the commercial interests of the Government would be protected.

In this connection, Audit observed (January 2022) the following:

- GoWB had directed (August 2016) the Public Enterprises & Industrial Reconstruction Department (the Department) to take up the process of stake-sale in the business of DCL, following legal procedures enunciated

[82] *109.12 acres x ₹75.23 lakh.*

[83] *₹68.16 crore (107.35 acres) +₹1.07 crore (1.77 acres).*

under the Companies Act, 2013. In the Cabinet Committee meeting (August 2016) it was also proposed by the Department to appoint a Transaction Advisor, for undergoing the process of stake-sale, until the time the share transfer had taken place and requisite funds had been deposited in the state exchequer.

- The West Bengal Pollution Control Board (WBPCB) conducted (June 2019) inspection of the plant of DCL and observed overall non-maintenance of safety codes and Standard Operational Practices (SoP), which could lead to explosions, uncontrolled fires and major catastrophe, inside the plant and surrounding area *etc*.
- On the basis of the report[84] of the WBPCB in regard to the said inspection, the Expert Committee (constituted by WBPCB) recommended (December 2019) temporary suspension of the operations of DCL. It also recommended (16 December 2019) that the status in this regard be reviewed after at least after one year.
- The Department belatedly decided (in December 2019, *i.e.* more than three years after the Cabinet decision) to: (a) suspend the operations of DCL and (b) reimburse full salaries and emoluments of all the 439 employees[85] of DCL. The Department issued the suspension order[86] and the operations of the plant were suspended with effect from December 2019.
- Audit observed that DCL was dependent on plan fund assistance of the GoWB, for meeting its electricity bills and committed expenditure towards loans. Although the Company had continued to incur losses[87] in most years, it was able to pay/ meet the salaries of its employees out of the income from operations[88] earned by it. During FYs 2016-17 to 2019-20, the company utilised 12 *per cent* to 16 *per cent*[89] of its net income earned from operations, for paying salaries to employees. After temporary suspension of operations, DCL demanded (January 2020) financial assistance of ₹ 6.91 crore, for compliance with Environmental Safety issues, in terms of the recommendations of the WBPCB. The Department did not release the same. However, it paid financial assistance to DCL, amounting to ₹ 63.69 crore[90], from June 2020 to March 2023, towards Salary, Electricity Bills, Water Bills, re-payment of loans and replacement of equipment and machinery.

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84 *Reviewed the status of plant of DCL during 20 & 21 November 2019.*

85 *Permanent employees: 186, Contractual employees; 10 and Employees engaged through contractors: 243.*

86 *Memo No.747/ PE&IR/ SM-21/ 2019 dated 26.12.2019.*

87 *FY 2016-17: loss of ₹ 26.74 crore, FY 2017-18: Profit of ₹ 7.73 crore, FY 2018-19: loss of ₹ 16.41 crore, FY 2019-20: loss of ₹ 16.81 crore and FY 2020-21: loss of ₹30.79 crore.*

88 *FY 2016-17: ₹ 88.73 crore, FY 2017-18: ₹ 66.92 crore, FY 2018-19: ₹ 81.68 crore, FY 2019-20:₹ 68.74 crore and FY 2020-21: Nil.*

89 *FY 2016-17: 12%, FY 2017-18: 16%, FY 2018-19: 14%, FY 2019-20: 16% and FY 2020-21: Nil.*

90 *Salaries & wages: ₹ 48.87 crore (from June 2020 to March 2023) and Electricity & Water Bills: ₹ 14.82 crore (from January 2021 to March 2023).*

- Thus, the Department had failed to take concrete steps to implement the Cabinet decision of August 2016, *i.e.* it had not appointed a transaction advisor for implementing the process of stake sale till March 2023. It had also not reviewed the status of the plant after one year of temporary suspension in this regard, although it was required to do so, in terms of the recommendations of WBPCB's expert committee. Consequently, the Department had borne avoidable expenditure of ₹ 42.37 crore[91], on the salaries and wages of idle manpower, from Government funds.

Government replied (May 2023) that, after the decision of the Cabinet in August 2016, the Department had been relocated several times from December 2016 to March 2021, adding that, during the pandemic outbreak (COVID), the Department could hardly sustain its routine activities. Before embarking to implement the Cabinet Decision on 100% stake sale, attempts were made to keep DCL operational. It was only in December 2019 that suspension of operations was done, on the direction of the WBPCB, for non-maintenance of stringent pollution norms. Discontinuation of salaries and wages would have led to a precarious situation in the families of such employees. It further replied that the process of implementation of the Cabinet decision on stake sale had been initiated by the Department and Transaction Advisor had been appointed (April 2023) to complete the process of stake sale within a period of nine months.

The reply of the Department is not acceptable, as mergers/demergers/re-locations are administrative decisions, which should be carried out in a timely and proper manner. Further, the Government had functioned during the pandemic outbreak also. Non-review of the status of WBPCB's expert committee recommendations in December 2020, coupled with non-release of financial assistance by the Department, to DCL, towards ensuring compliance with environmental safety issues, had prevented revival of operations of DCL. There was undue delay in appointment of the Transaction Advisor, which was indicative of the delayed implementation of the Cabinet decision, leading to incurring of avoidable expenditure.

Thus, due to delay in implementing the decision of the Cabinet and not reviewing the status of recommendations of WBPCB's expert committee, the Department had to bear avoidable expenditure of ₹ 42.37 crore, towards salaries and wages of idle manpower.

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91 *From December 2020 to March 2023 (considering one-year review period from December 2019).*

Micro, Small & Medium Enterprises and Textiles Department

West Bengal Small Industries Development Corporation Limited

2.10 Disallowance of ITC and interest payment thereon

Non-collection / preservation of Tax invoices, by the West Bengal Small Industries Development Corporation Limited (WBSIDCL) and mismatches in VAT returns, led to disallowance of Input Tax Credit of ₹ 5.99 crore and resultant loss of ₹ 1.59 crore.

The West Bengal Value Added Tax Act, 2003 (Act) was enacted to levy tax on: (i) sale of goods in West Bengal, on the basis of the value added to such goods, at each stage of their sale and (ii) purchases of certain goods in West Bengal, in specified circumstances.

Section 22 of the Act *inter alia* prescribes the following conditions and restrictions, whereby a registered dealer becomes entitled to claim input tax credit (ITC) or input tax rebate:

(a) ITC is allowed to a registered dealer who has purchased taxable goods ('purchasing dealer'), during a tax period, for use by him in West Bengal.

(b) ITC is allowed to the extent of the amount of tax paid or payable by the purchasing dealer, on his purchase of taxable goods *[Section 22(4)]*.

(c) ITC is not to be claimed by the purchasing dealer until he receives the original tax invoice, evidencing the amount of tax, from the registered dealer *[Section 22(5)]*.

Chapter VI of the Act provides for scrutiny and verification of the returns and statements and documents furnished by a dealer/casual dealer[92], as also for audit of accounts and other documents, maintained by a dealer. Section 33 of the Act deals with *"Interest for non-payment or delayed payment of net tax payable or for non-reversal of input tax credit of input tax rebate"*.

The West Bengal Small Industries Development Corporation Limited (WBSIDCL) is engaged in the business of purchasing and selling goods in West Bengal, due to which it had been filing quarterly VAT returns (under Section 32), as a registered dealer. On scrutiny of its VAT returns and Assessment Orders, Audit observed (April 2022) that WBSIDCL had claimed ITC of ₹ 24.83 crore[93], u/s 22 of the Act, during April 2014 to June 2017, but the Department of Commercial Tax, Dharmatala Circle (Tax Authority) had disallowed ITC of ₹ 5.99 crore[94], due to the inability of WBSIDCL to substantiate its claims, by producing proper documentation and invoices, as detailed below:

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92 *'Casual dealer' means a person other than a dealer who, whether as principal, agent or in any other capacity, has occasional transaction involving buying, selling, supplying or distributing goods in West Bengal, whether for cash or deferred payment, or for commission, remuneration or other valuable consideration, whether he has fixed place of business in West Bengal or not (extract from Section 2(7) of the WBVAT Act, 2003.*

93 *FY 2014-15: ₹ 4.73 crore; FY 2015-16: ₹ 9.08 crore; FY 2016-17: ₹10.73 crore; FY 2017-18: ₹ 0.29 crore (Total: ₹ 24.83 crore).*

94 *FY 2014-15: ₹ 4.73 crore; FY 2015-16: ₹ 0.84 crore; FY 2016-17: ₹0.42 crore; FY 2017-18: Nil (Total: ₹ 5.99 crore).*

FY 2014-15: WBSIDCL was allowed time, by the Tax Authority, to reconcile its claim for ITC, but it had neither reconciled the claim, nor had it produced the required documents before the Tax Authority. Its entire claim for ITC of ₹ 4.73 crore was disallowed[95] (July 2017) by the Tax Authority and demand, of ₹ 8.70 crore (including interest of ₹ 3.08 crore u/s 33 of the Act), was raised. WBSIDCL deposited (September 2017) ₹ 0.91 crore and preferred (October 2017) an appeal against the Assessment Order. Subsequently, the Board of Directors of WBSIDCL decided (February 2019) to opt for settlement under the 'Settlement of Disputes' Act 1999 offered by the Government of West Bengal and further paid (March 2019) ₹ 1.04 crore, as final settlement.

FY 2015-16: ITC claim of ₹ **0**.84 crore was disallowed (June 2018) by the Tax Authority, due to ITC mismatch[96] (₹ 0.78 crore) and unauthorized ITC report[97] (0.06 crore). The Tax Authority further raised a VAT demand of ₹ 0.29 crore, which was paid (August 2018).

FY 2016-17: ITC claim of ₹ 0.42 crore was disallowed[98] (July 2019) by the Tax Authority, and demand, for ₹ 1.24 crore (which included interest of ₹ 0.24 crore u/s 33 of the Act), was raised. WBSIDCL availed of the 'Settlement of Disputes Scheme, 2020' and settled the dispute by paying ₹ 0.25 crore[99] on 31.03.2021.

Audit observed that concealment of sales, by suppliers, for evading taxes, had been a regular feature since FY 2011-12. During FY 2013-14, 47 supplying units had understated sales, while filing VAT returns, due to which WBSIDCL had been unable to claim ITC.

Further, the summarised position of annual tax liability, for the financial years 2014-15 to 2016-17, *vis-a-vis* the tax paid/settled, is given in **Table-2.1**.

Table 2.1: Annual tax liabilities for the financial years 2014-15 to 2016-17

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	Total
(A) Taxes paid/ TCS/ ITC allowed	46.28	982.81	1,246.48	2,275.57
(B) Amount paid after Demand Order / under Settlement of Disputes scheme	195.51	29.29	24.91	249.71
(C) Tax paid to suppliers but ITC disallowed	473.44	84.15	41.71	599.30
(D) Total expended by WBSIDCL {(A)+(B)+(C)}	715.23	1,096.25	1,313.10	3,124.58
(E) Tax payable as per Demand Order	607.73	1,012.09	1,346.13	2,965.95
(F) Net Loss (+) / Gain (-) of WBSIDCL {(D) – (E)}	(+) 107.50	(+) 84.16	(-) 33.03	(+) 158.63

95 *The claim was disallowed due to lack of supporting documents.*

96 *ITC mismatch means the unreconciled difference between the ITC claimed by the dealer and the corresponding tax liability reported by the concerned supplier of goods.*

97 *The 'Unauthorized ITC' report shows the ITC claimed by the dealer but disallowed by the VAT Authority, for want of proper explanation.*

98 *Disallowed due to no online reconciliation having been done by the seller.*

99 *25 per cent of the net tax payable of ₹ 1.0 crore (i.e. ₹ 1.24 crore less ₹ 0.24 crore) was paid.*

Thus, the inability of WBSIDCL, to collect and preserve original tax invoices, for production at the time of assessment, to the Tax Authority, along with mismatches in VAT returns, led to disallowance of the ITC of ₹ 5.99 crore, due to non-compliance with Sections 22 (4) & (5) of the Act, *ibid*, and resultant loss of ₹ 1.59 crore to WBSIDCL.

The matter was reported to the Government (September 2022 and July 2023); reply was awaited (June 2024).

KOLKATA	**(BIBHUDUTTA BASANTIA)**
The	**Principal Accountant General (Audit-II) West Bengal**

Countersigned

NEW DELHI	**(GIRISH CHANDRA MURMU)**
The	**Comptroller and Auditor General of India**