CHAPTER-III

COMPLIANCE AUDIT PARAGRAPHS RELATING TO STATE PUBLIC SECTOR ENTERPRISES

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Important audit findings emerging from test check during the audit of the SPSEs are included in this chapter.

DNP Limited

3.1 Avoidable Expenditure

The procurement process of a new compressor (February 2021) at a cost of ₹ 30.61 crore was done without ensuring competitive price discovery and was in violation of the rules. Two new compressors also remained underutilised to the extent of 59 per cent.

The Finance Department, Government of Assam (GoA) vide its notification (July 2018) instructed all Administrative Departments and its subordinate Directorates/Offices/ Agencies to use e-procurement portal for procurement of all goods, services and works valued ₹ 50 lakh and above from 1 August 2018. Further, as per Rule 254 of the Assam Financial Rules (AFR), sealed tenders should invariably be invited by advertisement.

As per Sl. No. 5 of Central Vigilance Commission (CVC) guidelines issued (2006) on "Shortcomings/lapses observed in stores/purchase contracts", the placement of repeat order on the basis of the rate discovered in earlier contract was not judicious without ascertaining the current market rate and could only be considered as a favour to the firm. Further, clause 17 of CVC guidelines issued in November 2002 stated that payment of mobilisation advance should be made only in cases of select works and that the advance should be interest bearing so that the contractor does not draw undue benefit.

Scrutiny of records (April 2023) revealed, DNP Limited (Company) was engaged in transportation of natural gas through its dedicated pipeline received from Oil India Limited (OIL) for transmission to Numaligarh Refinery Limited (NRL) by operating three gas engine driven compressors (one compressor kept on standby), which were installed and commissioned (February/March 2011) by Kirloskar Pneumatic Company Limited (KPCL). The Company was supplying one MMSCMD[111] gas with an annual contracted quantity of 300 MMSCM. As on March 2022, the three existing gas engine driven compressors of the Company had run 12th year of the shelf life of 25 years.

Audit noticed that the Company awarded (August 2019) the work for procurement of a new compressor to KPCL at a cost of ₹ 29.15 crore after inviting tender, which was

[111] Million Metric Standard Cubic Meters per Day

installed and commissioned after 21 months[112] in May 2021. Further, another new compressor was also procured (February 2021) at a cost of ₹ 30.61 crore from the same supplier (KPCL) without inviting tender by repeating the order at the rate quoted by KPCL in August 2019, in violation of guidelines issued by GoA (July 2018) and CVC (2006). The Company, thus, did not ensure competitive price discovery by ascertaining current market price through e-procurement portal of GoA before purchasing this compressor. It was also noticed that for procuring the above two compressors, the Company paid interest free mobilisation advance amounting to ₹ 12.66 crore to KPCL in contravention of CVC guidelines, the recovery of which started only after 4 to 9 months in 3 to 4 instalments. The compressor was installed and commissioned in November 2022. The two new compressors started operations from June 2021 and December 2022 respectively.

Audit noticed that though the Company had taken decisions in its Board meeting (June 2018 and February 2021) to purchase these new compressors with the objective of meeting future increase in business and the fact that the existing compressors were getting old, till the date of Audit (April 2023), the Company had not taken any action to construct new pipelines in order to increase its business for supply to new customers. It was, further, seen that Petroleum and Natural Gas Regulatory Board (PNGRB) had discussed (November 2020) the idea of declaring the pipeline as 'common carrier'[113] with the Company prior to issue of a public notice for the same, which was essential to expand its future business. Citing the above ground, the Company sought (December 2020) approval from the Board of Directors (BoD) to procure the fifth compressor, which was approved by the BoD. Meanwhile, the Company clearly abandoned that idea as evident from its reply (December 2020) to PNGRB that the Company did not have demand from fresh customers or pipeline entities and such ventures would require detailed techno-commercial examination, additional capital and revenue expenditure. Nor did, the Company take up with OIL/Central Government or make any effort to increase supply of natural gas by increasing its allocation during 2017-2022. Thus, the existing supply level of one MMSCMD with an annual contracted capacity of 300 SCM to NRL remained constant.

Thus, it is evident that even as the Company purchased and installed two additional compressors in May 2021 and November 2022 at a cost of ₹ 59.76 crore, it did not have any plan for increasing business, nor had it taken any measure for the same.

The procurement of two new compressors also lacked justification as seen from the insufficient utilisation of existing installed capacity. Audit observed that the utilised capacity against installed capacity (6,312 KW) for the existing three compressors upto May 2021 was to the extent of 4,208 KW (66 *per cent*) by keeping one compressor as

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[112] The excessive time (21 months) taken to complete the work compared to the approved schedule (14 months) was primarily due to the fact that the machines were imported from USA and the global pandemic situation during the work period.

[113] Common carrier means such pipelines used for transportation of petroleum, petroleum products and natural gas by more than one entity as the PNGRB may declare or authorise from time to time.

standby. With the procurement of two additional compressors having installed capacity of 5,592 KW, total installed capacity went up to 11,904 KW. However, the actual utilised capacity remained constant at 4,900 KW[114] (41 *per cent*) for the last 2 years due to non-expansion of business. Further, now, instead of one compressor that was initially kept as standby, three compressors are effectively being kept as standby. In absence of increased business, the procurement of two additional compressors instead of enhancing productivity of the Company had only increased the maintenance charges from ₹ 0.16 crore in 2017-18 to ₹ 0.29 crore in 2023-24.

Thus, process of procurement of a new compressor (₹ 30.61 crore) in February 2021 was in violation of the extant rules/guidelines of the GoA and CVC. Further, the Company extended undue favour of ₹ 12.66 crore[115] towards mobilisation advance for procurement of two compressors and the amount would have earned interest of ₹ 0.31 crore. Also, the procurement was avoidable as the compressors were underutilised to the extent of 59 *per cent*.

The Company in its reply, which was also endorsed by the Government, stated (September 2020) that it did not invite tender during procurement of the fifth compressor, since KPCL had already participated in the earlier tender process. Further, the compressors were procured due to the existing compressors getting old and future increase in business.

The reply is not tenable as the invitation of tender to obtain most competitive pricing is the very essence of procurement process under the extant rules and guidelines. Further, there were no known operational inefficiencies with the existing compressors whose economic useful life was designed for upto 25 years since its installation that warranted purchase of new compressors. Moreover, the Company did not have any new demand from fresh customers or pipeline entities and the required additional capital and revenue expenditure. The Company also had not taken up with OIL/Central Government to increase its natural gas allocation for its expansion plans.

Recommendation*: The Company should explore the possibility of increasing its supply of natural gas to customers to enhance utilisation of the installed capacity in future.*

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[114] As per information furnished by the Company, the utilized capacity was mentioned as 4,208/4,900 KW. As such the higher of the two was considered on the conservative side.

[115] ₹ 3.93 crore (January/February 2020) + ₹ 8.73 crore (March/May 2021).

3.2 Non-imposition of Penal Interest

The Company suffered loss of ₹ 3.68 crore due to failure to impose penal interest as required under the Gas Transportation Agreement.

Assam Gas Company Limited (AGCL) signed (June 2005) a Gas Transportation Agreement (GTA) with Numaligarh Refinery Limited (NRL) for transportation of natural gas from off-take point of Oil India Limited (OIL) to Numaligarh for use in the refinery of NRL. Subsequently, AGCL, assigned (March 2009) the GTA to DNP Limited (Company) after its incorporation, for executing the natural gas transportation agreement with NRL from Duliajan to Numaligarh. The Transportation tariff was fixed (April 2012) by an Apex Level Committee consisting of members of AGCL, NRL and OIL at ₹ 2,496/TSCM[116] effective retrospectively from March 2011 (with annual escalation of 3 *per cent*) and to be reviewed in future.

Further, Clause 9.02 and 9.03 of the GTA stated that:

NRL would pay the Company for invoices within 30 days from date of invoice. In the event, NRL had any objection, it should after making the full payment of the invoice, inform the Company of the objections. NRL and the Company should meet and settle any such objections to the satisfaction of both the parties. Any adjustment arising out of the same should be made in the subsequent month's invoice immediately following the month in which such settlement was arrived at; *(Clause 9.02)*

In the event of delay in payment of invoices beyond 30 days of invoice, interest for such delayed payments would be payable by NRL to the Company or vice versa, as the case may be, for the period from the due date till date of actual settlement at 0.50 *per cent* over the cash credit rate chargeable by State Bank of India (SBI), from time to time. *(Clause 9.03)*

However, after six years of the fixation (April 2012) of tariff, NRL requested (February 2018) the Company to review the transportation tariff. During the course of negotiation, NRL informed (June 2018) the Company that from April 2018 onwards, the transportation tariff would be paid on ad hoc basis on rate applicable for March 2018. Accordingly, NRL paid transportation charges during April 2018 to August 2022 on *ad hoc* basis at a fixed rate of ₹ 2,980.36/TSCM instead of applicable rate ranging between ₹ 3,069.77/TSCM to ₹ 3,256.72/TSCM (including 3 *per cent* annual escalation). This was not as per the terms of agreement, wherein NRL was liable to pay the full amount of transportation charges even where there was any objection to the tariff.

Subsequently, based on negotiations, the Company, finally fixed (April 2022) the rate at ₹ 2,990/TSCM for three years, with effect from April 2021. Accordingly, NRL started paying at the new tariff rate from September 2022 and released an amount of

[116] Trillion Standard Cubic Meters

₹ 18.01 crore towards the difference of tariff withheld earlier to the Company for the period from April 2018 to August 2022. The Company, however, did not charge penal interest on NRL amounting to ₹ 3.68 crore[117] for delayed payment of the withheld amount of tariff payable to the Company for the period from April 2018 to August 2022 as required under GTA.

Thus, the Company suffered loss of ₹ 3.68 crore due to failure to impose penal interest as required under the Gas Transportation Agreement.

The Company in its reply, which was also endorsed by the Government, reiterated (September 2023) the above mentioned facts, but was silent on the reasons for non-imposition of penalty as stipulated under GTA.

Recommendation*: The Company should take steps to impose penal interest on NRL as required under the Gas Transportation Agreement.*

[117] Interest calculated for the period from April 2018 to August 2022, considering the SBI base lending rate as applicable from time to time, since cash credit rate was not available.

Assam State Warehousing Corporation

3.3 Unfruitful Investment

Due to weak project management and inadequate monitoring of the work on the part of the Corporation, two cold storage projects remained incomplete after 8 years and the expenditure of ₹ 8.98 crore remained unfruitful. The Corporation also lost the opportunity of earning potential revenue of ₹ 2.56 crore as rent due to non-completion of the two cold storages.

Government of Assam (GoA) sanctioned (March 2012) ₹ 15.01 crore to Assam State Warehousing Corporation (Corporation) for construction of cold storage of 2,000 MT capacity each at Sarupathar (₹ 7.46 crore) and Karimganj (₹ 7.55 crore). The Corporation invited tenders (March 2012) and issued (June 2012) Letter of Acceptance (LoA) for both the works to the L1 bidder, *viz*., M/s Engineer's Guild, Guwahati and final work order was issued in October 2012 at a cost of ₹ 14.39 crore (Sarupathar: ₹ 7.01 crore and Karimganj: ₹ 7.38 crore). The contractor started execution of the works in November 2012.

Further, as per the contract agreement, the contractor was to complete both the works within 24 months (*i.e.,* October 2014) from the date of their commencement (November 2012). As per clause 32 of the bid documents, the contractor was to submit performance security of 2 *per cent* of the contract price within 21 days of receipt of LoA to be valid up to 30 days from the date of expiry of defect liability period *i.e.,* November 2014. Accordingly, the Corporation obtained (June 2012) a performance security of ₹ 0.34 crore[118] against works with validity upto September 2015. The contract also provided for secured advance to the contractor to the extent of 90 *per cent* of the value of secured materials[119].

Audit observed that as per inspection report of the Corporation (November 2015), one year after the target date of completion, the physical progress of the work was stated to be 23 *per cent* at Sarupathar and 44 *per cent* at Karimganj. However, the financial progress of the works at Sarupathar and Karimganj was 34.56 *per cent* (₹ 2.42 crore) and 52.76 *per cent* (₹ 3.89 crore) respectively. The total expenditure incurred as of November 2015 worked out to be ₹ 6.31 crore[120] as against the total approved project cost of ₹ 14.39 crore. The physical progress was however not commensurate with the financial progress in both the works as more funds were released to the contractor without the corresponding physical progress. Despite that the contractor stated from time to time that the delay was due to his financial difficulty. The Corporation released (March/May 2017) an additional amount of ₹ 1.73 crore (Sarupathar: ₹ 1.13 crore and Karimganj: ₹ 0.60 crore) without any justifiable reasons. The Corporation

[118] ₹ 0.17 crore against Sarupathar and ₹ 0.17 crore against Karimganj
[119] Equipment and other material actually brought at site by the contractor.
[120] Including mobilisation advance.

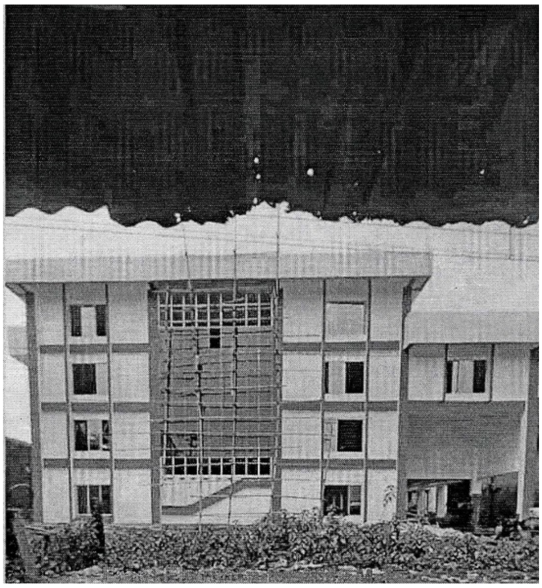
finally terminated (December 2017) the contract and decided to complete the work through other agencies at the risk and cost of the contractor.

Audit, however, noticed that in February 2020 after a lapse of two years, the Corporation instead of getting the work completed at the risk and cost of the contractor as decided earlier, decided to allow the old contractor to continue the works and to complete by April 2021. Further, an additional amount of ₹ 1.93 crore was released against the works at Karimganj (September 2020 to March 2021). Hence, by April 2021, a total of ₹ 8.57 crore[121] had been released to the contractor against the project cost of ₹ 14.39 crore, though the project remained incomplete as per the approved extended date of completion.

Sarupathar

Physical Progress: 45.29 *per cent*

Karimganj



Physical Progress: 83.60 *per cent*

Despite non-completion of the project within the extended target date of completion (April 2021), there was no documentary evidence of the action taken by the Corporation to get the work completed during May 2021 to August 2023, indicating weak monitoring of the work. In August 2023, Audit noticed that the Corporation conducted inspection of the project sites after 2 years and 3 months after the extended target date of completion (April 2021), which indicated that the physical progress of work at Sarupathar was 45.29 *per cent* and Karimganj was 83.60 *per cent* as against physical progress of 23 *per cent* (Sarupathar) and 44 *per cent* (Karimganj) in November 2015. Thus, the project had been delayed for more than 8 years from the

[121] ₹ 2.76 crore (Sarupathar) and ₹ 5.81 crore (Karimganj). This excludes mobilisation/secured advance details of which were not available with Audit.

initial target date of completion (October 2014). As of August 2023, a total of ₹ 8.98 crore[122] had been released to the contractor by the Corporation.

Thus, it is evident that due to weak project management and inadequate monitoring of the work on the part of the Corporation, the progress of the project was tardy and stalled at every stage during the period of execution of the project and remained incomplete for more than 8 years of the original scheduled completion date (October 2014). Consequently, the expenditure of ₹ 8.98 crore (₹ 3.17 crore against Sarupathar and ₹ 5.81 crore against Karimganj) incurred for the project remained unfruitful. The Corporation also lost the opportunity of earning potential revenue of ₹ 2.56 crore (₹ 0.32 crore[123] per year) as rent due to non-completion of the two cold storages for eight years.

The Corporation in its reply mentioned (October 2023) that the works were delayed due to site problems faced by the contractor and that the project cost would have gone up if it had terminated the contract. The reply is not tenable as the Corporation should have ensured that the project was completed within the original stipulated timeframe so as to prevent cost escalation. Further, the project still remained incomplete even after 10 years of the work order (October 2012) leading to blockage of funds as well as foregoing the opportunity to earn revenue from them.

***Recommendation**: The* Corporation *should take steps to get the works completed without any further delay and utilise the warehouses to start generating revenue.*

The matter was reported (September 2023) to the Government; their replies have not been received (October 2023).

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122 ₹ 3.17 crore (Sarupathar) and ₹ 5.81 crore (Karimganj). This excludes mobilisation/secured advance details of which were not available with Audit.

123 Calculated on the basis of rates applicable for Food Corporation of India against Bongaigaon Warehouse Centre during April 2017 (40,000 bags x ₹ 3.38 per bag per month x 12 months).

Assam Gas Company Limited

3.4 Loss of Interest Income

Failure of the Company to split the high value STDs (valuing ₹ 2.08 crore each) into less than ₹ 2.00 crore denomination at the time of their renewal led to loss of ₹ 0.43 crore towards interest income.

Failure of Assam Gas Company Limited (Company) to review its investment in Short Term Deposits (STDs) of banks, which resulted in loss of interest income was pointed out in paragraph 3.8 and paragraph 2.5.3 of the Report of the Comptroller and Auditor General of India (PSUs) - Government of Assam (GoA) for the year ended 31 March 2012 and 31 March 2019 respectively. This was also discussed by the Committee on Public Undertakings (COPU), which had recommended (August 2020) that the Company should make a separate investment policy[124].

However, during subsequent (July 2023) review of the Company, Audit noticed that the Company was yet to adopt an investment policy duly approved by the Board of Directors and continued to make investments ignoring prudent practice for securing higher interest rates to maximise returns.

The Company invested (7 August 2021) ₹ 15.92 crore by splitting it into eight STDs valuing ₹ 1.99 crore each at interest rate of 5 *per cent* per annum for a period of one year (maturity value: ₹ 2.09 crore each). The Company reinvested (7 August 2022) the matured amount of ₹ 16.64 crore (after deduction of tax) with State Bank of India (SBI) in STDs for a denomination of above ₹ 2.00 crore, which yielded less return as compared to STDs for denomination below ₹ 2.00 crore. The Company, while reinvesting (7 August 2022) the above eight matured STDs (₹ 2.08 crore each), failed to instruct SBI to split the STDs into a denomination of less than ₹ 2 crore, which yield higher returns on the investment. As such, the STDs were auto-renewed by SBI at an interest rate of only 2.70 *per cent* per annum despite higher rate of interest (5.30 *per cent*) being available on STDs of amounts less than ₹ 2.00 crore denomination on the date of renewal. The above investments were done without approval of the Board of Directors. No investment policy to guide such investment decisions in order to maximise its returns was available despite having been recommended by Audit and COPU earlier.

Thus, failure of the Company to split the high value STDs (valuing ₹ 2.08 crore each) into less than ₹ 2.00 crore denomination at the time of their renewal led to loss of ₹ 0.43 crore towards interest income.

The Company in its reply stated (September 2023) that the STDs were under lien and as such were put in auto renewal mode.

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[124] Paragraph 3.8 has been discussed by the COPU, while paragraph 2.5.3 has not yet been taken up for discussion.

The reply is not tenable as due to failure of the Company to request the SBI for splitting high value STDs into lesser denominations to earn higher interest during August 2022, the STDs were auto-renewed by the bank resulting in loss of interest income. The Company, however, was silent on its non-compliance to COPU's recommendation for framing Investment Policy.

***Recommendation**: GoA/Company should fix responsibility for the loss of interest income on STDs invested in SBI due to failure to take timely action with the bank to earn higher returns. The need for a separate investment policy is also reiterated.*

The matter was reported (August 2023) to the Government; their replies have not been received (October 2023).

Assam State Film (Finance and Development) Corporation Limited

3.5 Non-claiming of income tax refund

Failure of the Company to submit income tax returns during 2014-15 to 2021-22 and claim refund of income tax deducted at source, resulted in foregoing of ₹ 0.04 crore against the years 2014-16, for which the condonation period is over, while ₹ 0.31 crore was not claimed against the years 2016-22, for which the condonation period of six years was available.

Income Tax Act, 1961 (Act), Section 139 provides that every person, including a company or firm should furnish income tax return (ITR) before the due date, if the assessee's total income assessable under the Act, exceeded the maximum amount which is not chargeable to income tax. Further, as per Section 239 every claim for refund shall be made by furnishing ITR in accordance with the provisions of section 139 and as per Section 119(2)(b)[125] no condonation application for claim of refund/loss shall be entertained beyond six years from the end of the assessment year for which such application/claim is made.

Assam State Film (Finance and Development) Corporation Limited (Company) was incorporated in September 1974 by GoA for development of Assamese Cinema. During the financial years during 2014-15 to 2021-22, the Company suffered losses in the range of ₹ 15.52 lakh (2016-17) to ₹ 72.08 lakh (2019-20).

Scrutiny of the annual tax statements of the Company issued by the Income Tax Department under section 203AA of the Income Tax Act, 1961 revealed that various institutions[126] had deducted income tax at source amounting to ₹ 0.35 crore during 2014-15 to 2021-22 from the income earned by the Company. As the Company had incurred losses since 2014-15 to 2021-22 in all the years[127], it could have claimed refund of income tax deducted at source by filing ITRs as per Section 139 mentioned

[125] read with Circular No. 9 of 2015 dated 9 June 2015
[126] Banks, Public and Private Sector institutions etc.
[127] The Company finalised its accounts till 2015-16 and prepared provisional accounts till 2021-22.

above. However, the Company, did not file ITRs nor claim any refund from the Income Tax Department in a timely manner. No reasons were recorded for the same.

Thus, failure of the Company to file ITR and claim refund of income tax deducted at source during 2014-15 to 2021-22 led to foregoing of ₹ 0.04 crore against the years 2014-16, for which the condonation period is over, while ₹ 0.31 crore was not claimed against the years 2016-22, for which the condonation period of six years was still available.

Recommendation*: The Company should ensure timely submission of income tax returns to Income Tax Department and claim refund of income tax deducted at source amounting to ₹ 0.31 crore within the condonation period as provided under the Act to avoid further financial loss on this account.*

The matter was reported (September 2023) to the Government/Company; their replies have not been received (October 2023).

Guwahati
The: 25 July 2024

(KUMAR ABHAY)
Accountant General (Audit), Assam

Countersigned

New Delhi
The: 16 August 2024

(GIRISH CHANDRA MURMU)
Comptroller and Auditor General of India