

CHAPTER V

AUDIT OF TRANSACTIONS

URBAN DEVELOPMENT DEPARTMENT

AKOLA MUNICIPAL CORPORATION

5.1 Unintended benefit to the property holders

Failure of the Akola Municipal Corporation to raise Special Water Tax demand of Rs 3.12 crore resulted in extending unintended benefit to the property holders

The model bye-laws in respect of Water Supply and Special Water Tax (SWT) were notified by the Government of Maharashtra(GOM) in June 1978. The schedule prescribing minimum rates for recovery of SWT depending on nature of locality, usage (Residential/Commercial) and diameter of connection appended to the said bye-laws was amended in April 1997. The Akola Municipal Corporation (AMC) after formation in October 2001 continued to levy the rates adopted by the then Municipal Council from 1 April 2000. The Water Works Department (WWD) of AMC provides water connections (WC) to the property holders subject to payment of charges including SWT for the year. The list of connections provided during the year is passed on to the Property Tax Department (PTD) for raising demand of SWT along with Property Tax (PT) in future.

Scrutiny of records of AMC (November 2008) and subsequent verification (May 2009) revealed that 32534 connections were provided upto 31 March 2008 by the WWD. The details of connections provided were passed on to PTD for raising demand from the subsequent years. The demand of PT including SWT was, however, raised for 23543 WCs only. The demand covering the period upto 31 March 2008 for 8991 WCs amounting to Rs 3.12 crore was not raised due to non updating the records by PTD. Of this outstanding amount, Rs 1.28 crore pertains to a comparatively current period from 2002-03.

On this being pointed out, the AMC accepted (May 2009) the facts and stated that the recovery of SWT would be enforced through a special drive.

Thus, failure of the AMC to update the PT records over six years, lack of monitoring of PTD by the higher management and non-raising of demands for

SWT of Rs 3.12 crore along with PT has resulted in deferment of revenue and extending unintended benefit to the property holders.

The matter was referred to Government in May 2009; reply had not been received (November 2009).

BRIHANMUMBAI MUNICIPAL CORPORATION

5.2 Loss of revenue due to non recovery of tax on pet dogs

Non recovery of tax from pet dog owners as required under Mumbai Municipal Corporation Act resulted in loss of revenue of Rupees one crore during last five years

Section 191A of the Mumbai Municipal Corporation Act, 1888 provides that a tax not exceeding Rs 100 *per annum* shall be levied on every dog over the age of six months kept within Brihanmumbai Municipal Corporation (BMC) area. There are four dog units in BMC for collection of tax and issue of licenses for pet dogs. Every person who owns or is in charge of a dog on which tax is leviable is required to submit a return to the Corporation and pay the tax due. The Act requires that BMC shall maintain a register showing the names and addresses of the person liable to pay tax.

It was noticed (December 2008) that from 2004-05 onwards BMC did not maintain authentic data on pet dogs as required under the Act and there was no effective monitoring on recovery of tax on dogs, issue of licenses and submission of returns by dog owners. As stated by BMC (June 2009), 4200 and 7652 licenses only were issued during 2007-08 and 2008-09 respectively as against 27147 pet dogs available in the city as per an Animal Census conducted by BMC in 2007. BMC stated (June 2009) that advertisements were issued through leading news papers during 2008 which resulted in increase in number of pet dog licenses. It was further stated that a decision had been taken to computerize the process of dog licenses and issue them through Citizen Facilitation Centres in 24 Wards under BMC.

Thus, due to failure to create data of dog owners, BMC suffered a recurring loss of revenue of Rs 20 lakh per annum by non-levy of tax on 20,000 dogs (approximately) every year. The revenue lost during 2004-05 to 2008-09 amounted to Rupees one crore.

Also, the sterilization and vaccination of all dogs by BMC could not be ensured in the absence of suitable data. Further, as BMC had not prescribed any standard procedure to ensure the issue of licenses for all pet dogs and depends on voluntary approach by the public, future revenue losses cannot be

ruled out.

The matter was referred to the Government in June 2009; reply had not been received (November 2009).

5.3 Non recovery of Service Tax from a Foreign Service provider

Brihanmumbai Municipal Corporation did not recover Service Tax amounting Rs 27.65 lakh from a Foreign Service provider resulting in overpayment to the contractor and non-payment of Service Tax to Government of India

As per the Service Tax Rules, 1994, in the case of Foreign Service provider, the recipient of the taxable service in India is responsible to deduct applicable taxes from the bills of the service provider and pay to Government of India (GOI).

Audit scrutiny (September 2008) of transactions of BMC for 2006-07 revealed that BMC had entrusted (January 2007) the project work of preparation of master plan for the Veermata Jijabai Bhosle Udyan Zoo to M/s HKS Designer and Consultant International Co. Ltd, Thailand who had quoted a fee of Rs 2.26 crore and Service Tax of Rs 27.65 lakh separately as required by BMC. While making payments during June 2007 to July 2008, BMC did not recover Service Tax of Rs 27.65 lakh from the Foreign Service provider. This has also in a way resulted in overpayment of Rs 27.65 lakh to the contractor and nonpayment of Service Tax to the GOI.

On this being pointed out, BMC stated (January 2009) that the contractor has been asked to pay either the Service Tax immediately or give consent for recovery from subsequent bills due to him. The contractor, however, intimated (January 2009) that the Service Tax included in the contract payment was Service Tax payable in Thailand. Thus, although the Service Tax was quoted separately by Foreign Service provider as per the requirement in the proforma given by BMC (which also worked out to exactly the rate of 12.24 *per cent* payable in India), the failure to indicate it as Service Tax payable to GOI coupled with non compliance of the relevant rules resulted in excess payment of Rs 27.65 lakh to the Foreign Service provider.

The matter was referred to Government in September 2009; reply had not been received (November 2009).

JALGAON MUNICIPAL CORPORATION

5.4 Overpayment of penal charges

Application of incorrect rate of penal charges on belated payment of royalty fee on supply of raw water resulted in overpayment of delayed payment charges of Rs 41.19 lakh

The Jalgaon Municipal Corporation (JMC) is required to pay royalty fee at the prescribed rate for the raw water supplied to it by the Irrigation Department. Delayed payment charges (DPC) are payable at the prescribed rate for belated payment of royalty fee. The State Government revised the rate of the DPC (December 2002) from 10 *per cent* of the monthly outstanding amount of each month to 10 *per cent* of the amount *per annum* from 1 April 2002.

Audit scrutiny revealed (June 2008) that JMC continued to pay DPC to Irrigation Department at the pre-revised rate of 10 *per cent* of the monthly outstanding amount for the period from April 2002 to February 2008 and paid DPC aggregating to Rs 51.15 lakh as against Rs 9.96 lakh payable for the said period. This resulted in overpayment of delayed payment charges of Rs 41.19 lakh.

On this being pointed out in audit, JMC accepted the fact and stated (June 2009) that the matter was taken up with the Irrigation Department in May 2009 for adjustment of the overpaid DPC in future bills. Further report on recovery/adjustment of overpaid amount has not been received (June 2009).

The matter was referred to Government in June 2009; reply had not been received (November 2009).

KOLHAPUR MUNICIPAL CORPORATION

5.5 Loss due to transmission and distribution losses of water and rebate on cess payable to Pollution Control Board

The Kolhapur Municipal Corporation suffered loss of Rs 11.40 crore on account of heavy transmission and distribution loss of water during 2003-09 due to defective construction of the Water Supply Scheme. The Corporation also suffered a loss of Rs 0.36 crore on account of rebate on cess payable to Maharashtra Pollution Control Board due to inadequate provision for sewer water treatment before discharge into the river

The Kolhapur Water Supply Scheme consisting of construction of KT Weir at Shingnapur, transmission and distribution systems, reservoirs and water treatment plant of 60 MLD capacity had been executed by Maharashtra

Jeevan Pradhikaran (MJP) during 1999-2001 as deposit contribution work. Out of the total cost of Rs 40.62 crore, Kolhapur Municipal Corporation (KMC) spent Rs 30.26 crore (76.67 *per cent*) and the balance by the State Government. Audit scrutiny of the records of Shingnapur Water Supply Scheme revealed (June 2005/April 2009) that KMC had suffered losses amounting to Rs 11.76 crore on account of heavy leakages of water and rebate in cess payable to Maharashtra Pollution Control Board (MPCB) as follows :

(i) The loss of raw water in transmission from Panchaganga river to water treatment plant and thereafter in distribution of treated water exceeded the maximum permissible limit of 2 *per cent* and 15 *per cent* respectively. This resulted in loss of Rs 11.40 crore during 2003-09 due to excessive transmission and distribution loss of water. The excessive loss of water was due to use of Pre-Stressed Cement (PSC) pipes instead of Mild Steel (MS) pipes, improper alignment of PSC pipes, inadequacy of air valves *etc.* The loss had been higher in section with PSC pipes and it was minimum in sections with MS pipes. Though KMC had stated (April 2009) that action was taken by the contractor and MJP upto 31 December 2005 to rectify the defects, loss of water due to leakages and pollution persisted indicating the failure of KMC to arrest the recurring loss on this account.

(ii) As per Section 7 of the Water (Prevention and Control of Pollution) Cess Act, 1977, local bodies are eligible for rebate of 25 *per cent* on the cess payable by it to MPCB if they set up the Sewer Treatment Plant (STP) and discharge the sewer water after treatment into the river. However, KMC had been discharging untreated sewer water into Panchganga river as it had not set up STP of adequate capacity. The MPCB had levied water cess of Rs 1.45 crore during January 1992 to June 2008 and KMC paid Rs 60 lakh upto September 2007. Had KMC set up the STP or increased the capacity of existing STP, it would have availed rebate of 25 *per cent* amounting to Rs 36.32 lakh on the total amount of water cess levied by MPCB. The failure of KMC to set up STP of adequate capacity resulted not only in loss of rebate amounting to Rs 36.32 lakh but also in polluting the river Panchaganga. It also caused frequent failure of another water treatment plant of KMC at Kasababawada for which water from Panchaganga is drawn from a point down the stream.

The matter was reported to the Government in August 2009, reply had not been received (November 2009).

5.6 Acceptance of Contractor's alternative design resulted in less demand for shops and consequential loss of revenue

The Kolhapur Municipal Corporation accepted an alternative design from a contractor for construction of a commercial complex (Vichare Market) on Finance, Build and Transfer basis which proved to be disadvantageous to the Corporation. This resulted in 178 shops remaining vacant for over five years and recurring loss of revenue which aggregated to Rs 1.08 crore till March 2009

The Kolhapur Municipal Corporation (KMC) decided (April 2001) to develop a commercial complex (Vichare Market) in the premises of its Vichare High school on Finance, Build and Transfer (FBT) basis. After construction of Vichare Market on a plot admeasuring 5800 square meters, the contractor was to hand over to KMC 100 shops for hawkers (937.04 square meters), 100 shops (439.64 square meters) for retailers and school premises on 211.37 square meters area free of cost. The Contractor had the option to accept the plan as per tender documents or to have an alternative design with the prior approval of KMC and the right to collect non-refundable upfront payment (premium) from the occupants of the remaining shops during first five years.

Audit scrutiny revealed (June 2005/April 2009) that while accepting an alternative design from the Contractor, KMC failed not only to ensure proper entrance for its 200 shops but also to have an encroachment free easy access thereto. Though the Contractor handed over (February 2004) 200 shops and school premises to KMC, it could allot (April/July 2005) only six shops to retailers and 74 to hawkers and collected lease premium, rent and maintenance charges of Rs 5.59 lakh and Rs 2.80 lakh respectively upto March 2008. Out of 74 hawkers to whom shops were allotted, 39 allottees paid deposits (Rs 2.80 lakh) and only 16 hawkers had taken possession of shops. As such 178 out of 200 shops remained unoccupied (March 2009) resulting in recurring loss on account of non-realization of premium, maintenance, deposits and lease rent. The loss of revenue on this account up to March 2009 aggregated Rs 1.08 crore. This indicated that KMC failed to realize that the alternative design was advantageous only to the contractor. No effective steps were taken by KMC for gainful utilization of shops.

KMC stated (February 2009) that demands for these shops were poor as they were not on the main road and that hawkers were resisting to move to shops allotted to them. However, the hawkers were being persuaded to accept the allotments. Further report has not been received (July 2009).

The matter was reported to the Government in August 2009; reply had not

been received (November 2009).

5.7 Short levy of road restoration charges

Kolhapur Municipal Corporation had short levied road restoration charges for Optic Fiber Cable laying by Rs 1.08 crore due to incorrect application of the rates prescribed. On this being pointed in audit, the Corporation recovered Rs 0.70 crore from two companies in 2002 and Rs 0.38 crore in 2007-08.

Government of Maharashtra (GOM) decided (27 April 2000) to recover restoration charges from the companies providing network of Optic Fiber Cable (OFC) at the rate of Rs 750 and Rs 300 per running meter for asphalt and side margin roads respectively within boundaries of Local Bodies. The restoration charges were to be deposited in advance with the Local Bodies.

Scrutiny (July 2002) of records revealed that Kolhapur Municipal Corporation (KMC) while granting permission to three private companies⁴⁹ for road excavation, collected the restoration charges at the rate of Rs 320 and Rs 345 per meter instead of the applicable rate of Rs 750 per meter resulting in short recovery of restoration charges of Rs 1.08 crore.

On this being pointed out in audit (July 2002), KMC issued (August 2002) notices to three companies for the recovery of charges short levied and recovered (October 2002) Rs 0.70 crore from two companies⁵⁰. Although the third company⁵¹, accepted (December 2003) the liability of Rs 0.38 crore they did not make the payment. A case was filed against the firm in a court of law for non-payment of outstanding dues of Rs 0.38 crore and the amount was finally recovered in 2007-08.

Thus, while KMC recovered road restoration charges of Rs 1.08 crore at the instance of audit, the case reflects inadequate internal control in collection of restoration charges. KMC could have avoided the delay and litigation, had it verified the correctness of restoration charges through a well established precheck or other internal control system.

The matter was referred to the Government in September 2009; reply had not been received (November 2009).

⁴⁹ M/s. Huges Telecom (India) Private Ltd., M/s. Bharti Telesonic Ltd., and M/s. The Giga Solution Private Ltd.

⁵⁰ M/s. Huges Telecom (India) Private Ltd., M/s. Bharti Telesonic Ltd.

⁵¹ M/s. The Giga Solution Private Ltd.

SANGLI MIRAJ KUPWAD MUNICIPAL CORPORATION

5.8 Financial loss due to excess investment in Co-operative Bank

Injudicious and excess deposit of fund in a Co-operative Bank by Sangli-Miraj-Kupwad Municipal Corporation in violation of Government directives and its retention inspite of audit comment thereon resulted in blockage of deposit of Rs 14.11 crore

As per Section 92 of the Bombay Provincial Municipal Corporations Act, 1949, the surplus money in a Municipal Fund can be deposited in a Scheduled bank or an approved Co-operative bank provided it does not exceed the amount specified by the State Government. The Government Resolution (GR) of October 1977 stipulates that Municipal Corporations should not deposit more than 20 *per cent* of their surplus funds in any one co-operative bank.

Audit scrutiny of records of Sangli-Miraj-Kupwad Municipal Corporation (SMKMC) revealed (January 2007) that as on 31 March 2006 the SMKMC had a surplus of Rs 28.06 crore of which Rs 25.07 crore (89 *per cent*) had been invested in a single Co-operative Bank *viz.* Vasantdada Shetkari Sahkari Bank Limited,(VSS Bank) Sangli. When the excess deposit was pointed out by audit in January 2007, the SMKMC had stated that the deposit would be brought down to permissible limit and balance amount would be invested in a Nationalized bank. Subsequent scrutiny by audit (February 2008) however revealed that SMKMC instead of bringing down the amount deposited in VSS Bank, further deposited an additional amount of Rs 2.37 crore in December 2007. Out of this, while an amount of Rs 0.50 crore was received back by SMKMC in January 2008, the remaining Rs 1.87 crore was reinvested in January 2008 by VSS Bank even without the required sanction of Standing Committee of SMKMC. As on 31 March 2008, the total investment/deposit of SMKMC was Rs 27.58 crore of which the deposit in VSS Bank alone was Rs 19.83 crore (72 *per cent*) as against the permissible limit of Rs 5.52 crore. SMKMC did not even encash fixed deposits in VSS Bank amounting to Rs 9.77 crore which had matured during the period 2006-09.

In July 2008, the Reserve Bank of India (RBI) imposed restrictions on VSS Bank under Section 35A of Banking Regulation Act, 1949 and in January 2009 cancelled its license due to severe deterioration in its financial position and prohibited it from carrying on any banking business. RBI also requested the Registrar of Co-operative Societies, Maharashtra to issue an order for winding up the VSS Bank and appointment of liquidator.

Thus, the injudicious investment by SMKMC not only flouted the

Government directives but also failed to take corrective action on the audit comment (January 2007) which resulted in blockage of Rs 14.11 crore. Further, though SMKMC had stated (January 2007) that the investment would be brought down to permissible limit and balance investments would be made in Nationalized bank on maturity, the SMKMC had not encashed even the deposits amounting to Rs 7.63 crore which had matured before the imposition of restriction by RBI in July 2008. SMKMC had taken up with RBI (May 2009) for refund of investments but there was no further progress.

The matter was referred to Government in May 2009; reply had not been received (November 2009).

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