

## CHAPTER-IV

### 4. TRANSACTION AUDIT OBSERVATIONS

Important audit findings arising out of test check of transactions made by the State Government companies/Statutory corporations are included in this Chapter.

#### GOVERNMENT COMPANIES

##### Assam Industrial Development Corporation Limited

#### 4.1 Unjustified assistance to a unit

*The decision to release Rs.20 lakh as equity participation to a unit, having authorised capital of Rs.10 lakh only, having two sets of names in the Memorandum and Articles of Association, which was in violation of the provisions of the Companies Act, 1956 resulting in undue benefit to the unit in the background that the then Chairman of the Company was related to a promoter of the unit.*

The Company, as a measure of industrial promotion policy, extends financial assistance in the form of loans, equity participation *etc.*, particularly to new industrial units. For this purpose, yearly budgets depicting the purposes and nature of financial assistance are prepared and approved. Scrutiny (February 2007) of records revealed that the Company during 2005-06 had not made any budgetary provision for disbursement of financial assistance as equity participation to any industrial unit.

The Company, however, released (August 2005) Rs.20 lakh as equity participation on the directions (June 2005) of the Board to M.M. Carbon Products Private Limited (unit) to finance a project for manufacturing of carbon products.

Audit scrutiny further revealed the following:

- the Company released Rs.20 lakh as equity participation to the unit even though the authorised capital of the unit was Rs.10 lakh (one lakh shares of Rs.10 each) only, as on the date of sanction. Further, the Company did not have any information about the increase in authorised capital of the unit subsequently;
  - the Company's Secretary informed (December 2005) the Finance and Accounts department about the receipt of the share certificate (bearing Number 0004) for two lakh equity shares of Rs.10 each against the amount released by the Company. However, the share certificate neither mention the date of issue of certificate nor the date of allotment. This omission raises doubt about the authenticity of the share certificate;
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- as per Sections 15 and 30 of the Companies Act, 1956, the signatories to Memorandum of Association (MOA) should also be signatories to the Articles of Association (AOA). It was noticed that the name of one of the signatories (Mrs. Mina Mahanta) to the MOA of the unit was replaced (Mrs. Deepika Bora, the then Chairman of the Company) in the AOA. Further, one of the promoters of the borrower unit was the son of the then Chairman (Mrs. Deepika Bora) of the Company.

Thus, the decision of the Company to release Rs.20 lakh as equity participation in a unit having authorised capital of Rs.10 lakh only; having two sets of names appearing as subscribers in the MOA and AOA was in violation of the Companies Act, 1956; and where its own Chairman had an interest, was not justified and resulted in the undue benefit to a unit.

The Management confirmed (April 2007 and July 2007) that the MOA and AOA could be amended to accommodate the increased share capital. The reply is not tenable as the details about the increase in the authorised capital have not been furnished to audit (July 2007). The reply is also silent about two sets of names in the MOA and AOA of the unit in violation of the Companies Act and about non-indication of dates in the share certificate purported to have been issued by the unit.

The matter was reported to the Government in February 2007; their reply is awaited (September 2007).

### **Assam State Development Corporation for Other Backward Classes Limited**

#### ***4.2 Ineffective implementation of schemes for upliftment of OBC***

***Failure to exercise due care about authenticity of the beneficiaries, lack of Board's supervision in realisation of loans and diversion of funds culminating in avoidable liability for payment of penal interest of Rs.22.97 lakh to lender (NBCFDC)***

Assam State Development Corporation for Other Backward Classes Limited (Company) was incorporated (August 1975) to undertake the task of economic upliftment of members of the Other Backward Classes (OBC) living below double the poverty line in Assam by providing financial assistance. The financial assistances were provided through various schemes implemented by National Backward Classes Finance Development Corporation (NBCFDC) for setting up of small businesses or trades. Scrutiny of records relating to extension of financial assistance to members of OBC of society revealed that failure to exercise due care about authenticity of the beneficiaries, lack of proper initiative for realisation of loans and diversion of funds resulted in payment of penal interest to lender (NBCFDC) due to non-payment of dues not only defeated the very objectives of the schemes but also resulted in non-recovery of Company's dues of Rs.311.02 lakh.

*Audit Report (Commercial) for the year ended 31 March 2007*

The Company sanctioned and disbursed term loans totaling Rs.527.07 lakh to 751 OBC beneficiaries upto 31 March 2007 for setting up of various business or trade in the sectors like \*SS, SSI, SSB, Agriculture, Transport.

Sector	No. of beneficiaries	Amount of loan disbursed	Realised			Amount accrued and due as on 30 June 2007		
			Principal	Interest	Total	Principal	Interest	Total
(Rupees in lakh)								
Transport	64	72.49	59.41	29.54	88.95	13.08	5.50	18.58
Agriculture	186	82.08	43.50	23.78	67.28	38.58	19.38	57.96
Service	39	18.08	8.99	3.96	12.95	9.08	5.04	14.12
Small Business	434	297.96	152.95	79.62	232.57	145.01	30.14	175.15
Small Scale Industries	28	56.46	25.88	15.94	41.82	30.59	14.62	45.21
<b>Total</b>	<b>751</b>	<b>527.07</b>	<b>290.73</b>	<b>152.84</b>	<b>443.57</b>	<b>236.34</b>	<b>74.68</b>	<b>311.02</b>

The amount of loan was repayable with up-to-date interest accrued thereon in 60 equal monthly instalments after a gestation period of one month from the date of disbursement of the loans. The loans were to be secured by way of mortgage of land and other immovable property or to be secured 50 per cent by way of securities like Bank Fixed Deposit Receipts, Indira Vikash Patra, National Savings Certificates etc., and the rest 50 per cent guaranteed by the service holders. Out of the above disbursed amount, the Company could realise only Rs.443.57 lakh (principal Rs.290.73 lakh, interest Rs.152.84 lakh as on 30 June 2007) from 336 beneficiaries, leaving accrued and due amount of Rs.311.02 lakh (principal Rs.236.34 lakh and interest of Rs.74.68 lakh) due from 415 beneficiaries. The value of securities like Bank Fixed Deposit Receipts, Indira Vikash Patra, National Savings Certificates etc., in hand against the unrecovered loan amount of Rs.236.34 lakh were Rs.83.90 lakh only as against required 50 per cent security of Rs.118.17 lakh.

***Absence of monitoring authenticity of the borrowers***

The scrutiny of the records revealed that while accepting securities, the Company did not exercise due care about authenticity of the borrowers and the documents/certificates offered by the beneficiaries against the amount of loan disbursed. In a case of disbursement (February 2001) of loan of Rs.3.31lakh to a loanee for carrying on business under the Mini Flour Scheme (SSI sector), the two Fixed Deposit Receipts (FDR) for Rs.2.65 lakh pledged in favour of Managing Director of the Company of Indian Overseas Bank of Nagaon branch turned out to be fake. The Company after a lapse of 16 months from the date of bank's confirmation filed (August 2005) a case through Bakijai proceedings with the Certificate Officer, Nagaon for realisation of Rs.5.77 lakh (including interest). In another instance, it was noticed that against an outstanding amount of Rs.77.21 lakh (including interest) due from 44 beneficiaries, the Company could encash the securities valued at Rs.12.86 lakh only thereby resulting in non-realisation of Rs.64.35 lakh. The Company did not invoke the guarantees in any of the above cases.

\* SS (Service Sector), SBS ( Small Businesses Sector), SSI (Small Scale Industries)

### ***Absence of Board's supervision and diversion of funds***

Against the statutory requirement<sup>†</sup> of one Board meeting in every three months (*i.e.* 20 meetings in five years), the Company held only nine Board meetings during the period March 2001 to February 2006. The Board was not constituted after 26 February 2006 inspite of repeated request made by the Company to the Government. The Board of Directors in their meetings (June 2004 and January 2005) observed that in the greater interest of the OBC people of the State, it is necessary to keep the Company functional at any cost and hence, ensuring payment of salaries to its employees regularly is a priority which cannot be overlooked. Under the circumstances, the Company was left with no alternative but to continue pooling all its available source of funds for meeting the financial shortfall. In both the meetings, the Minister of Welfare of Plain Tribes & Backward Classes Department and Chairman of the Company informed that he would take up the matter with the State Planning & Development department for finding out the ways and means for mitigating the financial burden of the Company. The discussions revealed that the Board gave stress on payment of salaries to the staff rather than repayment of dues to the NBCFDC. The Company repaid only Rs.244.34 lakh to the NBCFDC out of recovered amount of Rs.443.57 lakh, which was adjusted (by the NBCFDC) against principal (Rs.167.54 lakh), interest (Rs.53.83 lakh) and penal interest (Rs.22.97 lakh). The remaining amount of Rs.199.23 lakh was diverted towards meeting establishment expenditure including salaries.

#### **Assam Gas Company Limited**

### ***4.3 Loss due to delay in completion of project***

#### ***Loss of Rs.20.88 crore due to delay in completion of gas transportation system***

The Company entered into an agreement (November 2000) with Hindustan Fertilizers Corporation Limited, renamed as Brahmaputra Valley Fertilizer Corporation Limited (BVFCL), for laying a fully dedicated system for transporting natural gas from Oil India Limited (OIL) off-take point at Duliajan to their re-vamped plant at Namrup. The proposed system included laying of dedicated low pressure (LP) and high pressure (HP) pipelines including two new compressors.

As per clause 5.04 of the agreement, transportation of gas through dedicated pipelines was to be commissioned from 1 July 2002 and transportation of gas using the entire system including two new compressors was to be commissioned with effect from 30 June 2003.

As per clause 6.01 of the agreement, BVFCL was to pay gas transportation charges on unit rate basis for actual quantity supplied till the entire system was completed, commissioned and fully dedicated. After the entire system is

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<sup>†</sup> Section 285 of the Companies Act, 1956.

*Audit Report (Commercial) for the year ended 31 March 2007*

completed and dedicated, BVFCL was to pay a fixed monthly charge in respect of both the HP and LP pipelines irrespective of quantity of gas supplied. The applicable rates were as under:

<b>Particulars</b>	<b>Transport charge (Rs. /000 SCM)</b>	<b>Fixed monthly charges (Rupees in lakh)</b>
For HP Gas from OIL's off-take point at Duliajan (on installation commissioning and start of delivery of gas through two new compressors)	432.53	100.24
For LP gas from OIL's off-take point at Duliajan with 0.793 MMSCMD	294.76	58.44

The work of laying of the pipeline was completed by 30 September 2002, after a delay of three months. The compressors were commissioned on 24 and 26 March 2005, after a delay of almost 21 months from the scheduled date of commissioning of the entire system. The entire system was dedicated with effect from 10 August 2005.

Due to delay in completion of the project, the Company could not raise bills at monthly fixed rates in respect of the HP line till 10 August 2005 and thus, had to forgo revenue of Rs.20.88 crore as detailed below:

Total billable amount at monthly fixed charge of Rs.100.24 lakh for HP lines for 25 months 10 days from July 2003 to 10 August 2005 (Rs.100.24 x 25 months 10 days)	Rs.2,538.33 lakh
Less actual amount billed for the period from July 2003 to 10 August 2005	Rs. 450.34 lakh
<b>Total</b>	<b>Rs.2,087.99 lakh</b>

The Management while accepting the facts, stated (February 2007) that the proposal was submitted (January 2001) before the Public Investment Board (PIB) for the first time and after completion of 75 per cent of the work, the proposal was submitted (August 2003) to the State PIB again. The supply order for the compressors were placed (February 2004), after receipt of clearance (August 2003) from the State PIB and the same were commissioned (March 2005). The Company, however, could not explain the reasons for delay from January 2001 to August 2003 in obtaining clearance from the State PIB especially in view of the fact that the main component for laying of the line was already cleared by the State PIB. There was also a delay of six months in placing of supply order for compressors after receipt of clearance from PIB.

The matter was reported to the Government in December 2006; their reply is awaited (September 2007).

#### 4.4 Excess payment

##### ***Excess payment of Rs.55.12 lakh as Dearness Allowance (DA) and Dearness Pay (DP) to officers and staff***

The Company was required to pay Dearness Allowance (DA) to its officers and staff at rates notified by the State Government from time to time. The BOD, however, decided (July 2000) to pay DA from 1 January 1999 onwards on the basis of rates of DA as declared by the GOI since the State Government was declaring the same rates of DA effective from the same date, as a follow-up of the notifications of the GOI on the subject. The Company thereafter decided (June 2004) to convert DA equivalent to 50 *per cent* of Basic Pay as Dearness Pay (DP) and computation of DA thereafter on both Basic Pay and DP with effect from 1 April 2004 on the basis of the notification issued by the GOI on the subject. It was observed that the State Government, however, declared merger of DA as DP with effect from 1 November 2005 only. Thus, there was excess payment of Rs.55.12 lakh on account of DA/DP for 19 months from April 2004 to October 2005.

While accepting the facts the Company stated (February 2007) that the matter had been taken up with the State Government for *post-facto* approval, which was awaited.

The matter was reported to the Government in December 2006; their reply is awaited (September 2007).

#### 4.5 Non-recovery of service tax

##### ***Inaction on the part of the management to recover service tax from domestic consumers led to loss of Rs.20.27 lakh***

As per the notification issued (7 June 2005) by the Union Ministry of Finance, service tax at the rate of 10.2 *per cent* was payable with effect from 16 June 2005 on the total volume of gas transmitted to the consumers.

It was observed that the Company did not levy service tax on the domestic consumers for the period from 16 June 2005 to 31 December 2005 as the price for supply of gas to the domestic consumers for the year 2005 was fixed (August 2004) by a committee before the levy of service tax by the GOI. The Company, however, deposited the service tax of Rs.20.27 lakh leviable on domestic consumers into the Government account out of its own funds.

The Management stated (February 2007) that as per policy of the Company, monthly charges fixed for any calendar year would remain in force for rest of the year. It was also stated that in the background of 60 *per cent* of consumers paying dues for whole of the year in advance and thus availing cash discount, implementing any enhancement of dues on the consumers in the mid period was found to be impractical and the increase in expenditure would be borne by the Company.

The reply of the Management is not tenable on the ground that the tax liability under a statute should not be treated as normal business expenditure of the Company and therefore, the same should have been realised from the consumers and should not have been met from the Company's own funds.

Thus, lack of appropriate action by the Company in regard to levying of taxes resulted in non-realisation of service tax of Rs.20.27 lakh from the domestic consumers for the period from 16 June to 31 December 2005.

The matter was reported to the Government in December 2006; their reply is awaited (September 2007).

#### **4.6 Avoidable expenditure**

***The Company incurred avoidable extra expenditure of Rs.15.85 lakh due to non-acceptance of lowest offer of a valid tenderer***

The Company while inviting tenders (6 June 2003) through newspapers and its website, simultaneously enquired from ten known manufacturers for rates of different types of API<sup>‡</sup> grades ERW<sup>§</sup> MS pipes with validity of six months. Although, none of the parties quoted the rates with six months validity, the Company reviewed the price bids of following three tenderers:

Name of the tenderers	Rate of pipes		
	500 mm	400 mm	350 mm
	(Rate per meter in Rupees)		
Maharashtra Seamless Limited (MSL)	3,622.54	2,302.05	2,295.62
Jindal Pipes Limited (JPL)	3,913.63	2,477.94	2,267.95
Asian Mills (P) Limited (AML)	3,563.59	2,220.22	1,959.45

The rates quoted by AML were the lowest with validity period upto September 2003. The validity period in respect of other two parties (MSL & JPL) was upto October 2003. The Purchase Committee rejected (August 2003) the tender of AML on the ground that being a new firm it might default in delivery schedule and their workmanship was not known. The Committee also recorded that the project was time bound and delay on the part of the supplier would severely effect the completion of the project in spite of the fact that the lowest tenderer (AML) intimated (July 2003) the Company that they were holder of API license and an ISO 9001 accredited Company. They also categorically stated that they were producing in strict compliance to the latest version of API-51 specification and in case of doubt, the Company might send their technical expert for verification of their production facilities. The Company did neither make any further enquiry about their capability of maintaining time schedule nor engaged third party inspection of their factory.

The Board approved (October 2003) the proposal of the Purchase Committee after a lapse of four months from the closing date of the tender and accordingly supply orders were placed (October 2003) with MSL and JPL for delivery by 1 March 2004.

<sup>‡</sup> API - American Petroleum Institutes

<sup>§</sup> ERW - Electro Resistance Welding

Thus, the Company incurred extra expenditure of Rs.15.85 lakh as shown below:

Size of pipe	Quantity procured	Rate per meter	Lowest acceptable rate	Difference	Total extra expenditure
	(In meter)	(In Rupees)	(In Rupees)	(In Rupees)	(In Rupees)
500 mm	24,001.68	3,616.46	3,563.59	52.89	12,68,969
400 mm	1,206.39	2,298.26	2,220.22	78.04	94,147
350 mm	501.66	2,264.2	1,959.45	304.75	1,52,881
<b>Total</b>					<b>15,15,997</b>
Add: Assam Entry Tax at the rate of four <i>per cent</i> and Inspection of 0.55 <i>per cent</i> on price excluding freight charges					68,978
<b>Grand total</b>					<b>15,84,975</b> <i>i.e.Rs.15.85 lakh</i>

The Management stated (February 2007) that the lowest tenderer was asked (September 2003) to extend the validity of its rates up to 31 December 2003 which they agreed to extend upto 16 October 2003 and accordingly the offer was not considered. The reply is not tenable since the Purchase Committee had already rejected (August 2003) the tender of AML on the grounds of its being a new firm, and the Board took unduly long time (four months) to approve the proposal of the Purchase Committee.

The matter was reported to the Government in December 2006; their reply is awaited (September 2007).

#### 4.7 *Infructuous payment*

##### ***Infructuous payment of Rs. 15 lakh as upfront fee to IDBI***

The Company applied (December 2000) to the Industrial Development Bank of India (IDBI) for a term loan of Rs.43 crore. The IDBI informed (December 2001) the Company that a formal letter of intent for grant of loan not exceeding Rs.15 crore could be issued only after deposit of Rs.15 lakh as upfront fee. Accordingly, the Company deposited (January 2002) Rs.15 lakh as upfront fee.

Subsequently, the Company obtained (March 2002) an offer from United Commercial Bank, Namrup (UCO Bank), which was found much cheaper with soft terms and conditions. In view of this, the Company decided to borrow Rs.25 crore from the UCO Bank. As the amount of loan was not taken from the IDBI, upfront fee of Rs.15 lakh paid to IDBI proved to be infructuous and unfruitful.

The Company stated (February 2007) that only after payment of upfront fee, the IDBI intimated (February 2002) the rate of interest and also that the amount of loan would be restricted to Rs.15 crore only. The reply is not tenable as it was incumbent on the Company to have ascertained various sources of loan with the most favourable terms and conditions before payment of upfront fees, which was not done by the Company. This resulted in



infructuous payment of Rs.15 lakh to IDBI.

The matter was reported to the Government in December 2006; their reply is awaited (September 2007).

## **STATUTORY CORPORATIONS**

### **Assam State Transport Corporation**

#### **4.8 Extension of undue benefits**

##### ***Failure to enforce provisions of the agreement on defaulting private bus owners resulted in loss of revenue of Rs.1.03 crore***

The Corporation allowed (September 2001) the private bus owners to operate their own buses under its banner and on its routes under 'Self Employment Scheme'. Accordingly, the Corporation entered into agreements with the private bus owners to operate their buses on approved routes in the State.

As per provision of Clause 39 and 40 of the agreement, the private bus owners were required to give at least 48 hours notice to the station authorities about the non-availability of buses on a particular day, failing which the Corporation was to levy penalty of Rs.500 per day.

Audit scrutiny revealed that number of private buses at Barpeta Station were off the road for an aggregate period of 20,516 bus days during October 2001 to March 2007, without any prior intimation to the station authorities of the Corporation as required under Clause 39 of the agreement. The Corporation did not invoke penalty Clause 40 of the agreement in these cases.

The Management stated (July 2007) that the Self-Employment Scheme was introduced with a view to revive the Corporation to tide over the acute financial crisis. Moreover, the Corporation is a commercial organisation and realisation of fine is not as per statutory provision rather implementation of fine is a mechanism through which the Corporation enforce the private operators to ply their vehicles regularly. As such, imposition and realisation of fines causes a negative effect on the earnings of the Corporation.

The reply is not tenable on the ground that the agreement entered into between the Corporation and the private operator stipulates imposition of fines in case the private buses go off the road without intimation to safe guard its financial interest. Thus, failure on the part of the concerned authorities of the Corporation to safeguard the financial interest of the Corporation in accordance with the terms and conditions of the Scheme and agreement resulted in revenue loss of Rs.1.03 crore.

The matter was reported to the Government in April 2006; their reply is awaited (September 2007).

## Assam State Electricity Board

### 4.9 Loss of revenue

#### *Loss of revenue of Rs.2.22 crore due to wrong categorisation of consumer*

As per Schedule of Tariff (SOT) effective from 1 April 2003, all establishments and institutions of commercial nature and connected with trading activities including commercial offices, Government and Public Sector commercial installations *etc.*, were required to be categorised as Commercial (Category-II) consumers. This classification was further modified in SOT effective from 3 June 2005. All establishments and institutions of commercial nature and connected with trading activities including Railway Stations availing power supply at 11KV or above and having connected load of 25 KVA and above were classified as HT Commercial (HT Category-II).

The office of the Assistant Accounts Officer, North-East Frontier Railway (NF Railway), Guwahati-1 (Consumer Number B/J-74) having connected load of 6,000 KW (7,058.82 KVA) at 33 KV supply (including Railway Station) was incorrectly categorised under 'Bulk Supply' instead of Commercial/HT Commercial by the Board.

Thus, wrong categorisation of the consumer resulted in short billing of Rs.2.22 crore during July 2003 to March 2007 and resulted in loss of revenue to the Board. The loss would further increase till the category of the consumer is changed.

The Management stated (August 2007) that the consumer was rightly categorised as bulk consumer (others). The reply is not acceptable as the electricity connection was released to the Assistant Accounts Officer, N F Railway, Guwahati-1, which should have been categorised as HT Commercial (HT Commercial-II).

The matter was reported to the Government in February 2007; their reply is awaited (September 2007).

### 4.10 Non-realisation of additional load security

#### *The Board failed to realise the additional load security of Rs.54.85 lakh from the consumers as per the Terms and Conditions of Supply*

As per clause 7(c) of the Terms and Conditions of Supply (TCS), 1998 as amended (July 2000), all the existing consumers, whose security deposit fell short of three/two\* times of the average monthly billed amount during the preceding calendar year, were required to pay the differential amount as security deposit within thirty days from the date of notice/bills, failing which the connection was liable to be disconnected without further notice.

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\* Three times for Low Tension Consumers and two times for High Tension Consumers.

Test check of records (June 2006) of the Executive Engineer, Jorhat Electrical Division-II, revealed that against billable amount of revised load security of Rs.69.68 lakh in respect of 13,323 consumers, bills for Rs.55.12 lakh only were served on 6,812 consumers. Thus, the bills for remaining Rs.14.56 lakh in respect of 6,511 consumers had not been raised so far (July 2007). The Board could realise only Rs.14.83 lakh (out of bills for Rs.55.12 lakh) from 1,274 consumers upto July 2007.

Thus, non-realisation (Rs.40.29 lakh) and non-serving of bills (Rs.14.56 lakh) for additional load security from the consumers was violative of the provision of TCS.

The Board accepted (July 2007) the audit observation.

The matter was reported to the Government in July 2006; their reply is awaited (September 2007).

#### **4.11 Loss of revenue**

<b><i>Loss of revenue of Rs.23.62 lakh due to unjustified withdrawal of compensation bill</i></b>
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Clause 21 (ii) (i) of the Terms and Conditions of Supply (TCS), 1998 provided that interfering and tampering with the meter and metering system shall generally be treated as malpractice. Clause 22 (c) and (d) of the TCS further provided that if interference with the meter and metering system is detected, the Board may, without prejudice to any other legal action that may be taken against the consumer, ask him to pay compensation to be assessed on the basis of demand factor, load factor and connected load for a period of six months prior to the date of detection and will be billed at the rate twice the existing tariff. Clause 22 (f) (i) (a) also provides that a consumer aggrieved by such assessment, may appeal to the appropriate authority, within a period of 15 days from the date of issue of compensation/assessment bill/notice, after depositing 50 per cent of the assessment bill.

On inspection of the premises of Khona Tea Estate, Sibsagar by the Meter Testing and Inspection (MTI) sub-division, Tinsukia, it was found (March 2001) that the seal of both the meter and meter cabinet was in broken condition. Accordingly, the Area Manager (AM), Jorhat Industrial Revenue Collection Area (JIRCA) served (September 2003) a compensation bill of Rs.23.62 lakh for malpractice done by the consumer. The consumer filed (September 2003) an appeal before the appropriate authority against the compensation bill without depositing 50 per cent of compensation bill (Rs.11.81 lakh).

The Appellate Authority directed (May 2004) the Board to withdraw the assessment bill served by the AM, JIRCA, as written permission to break the seal of meter box was accorded (April 1998) by the then Assistant Executive

Engineer, Charaideo Electrical sub-division (AEE, CESD). Accordingly, the assessment bill was withdrawn (May 2004) by the Board.

It was observed that the entertainment of appeal by the Appellate Authority was not proper as the consumer did not deposit 50 *per cent* of the billed amount under appeal. Further, the orders of the Appellate Authority were not based on the merit of the case as the consumer was allowed to break the seal of meter box only and not the seal of meter itself. While allowing the consumer to break the seal of meter box, the consumer was asked to inform MTI and AM, JIRCA immediately on breaking the seal, which was not done. As such, order of the Appellate Authority in favour of the consumer for withdrawing compensation bill was not justifiable. As a result of withdrawal of the bill, the Board sustained a revenue loss of Rs.23.62 lakh.

The Management stated (August 2006) that the meter had not shown any appreciable difference of consumption during the said period in comparison to the readings recorded thereafter and there was a procedural lapse on the part of the Assistant Executive Engineer not sealing the meter in time.

The reply is not acceptable as compensation bill is required to be raised and realised in cases of malpractice under Clause 21 (ii) (i) of the TCS, 1998 and the actual consumption pattern was not relevant for the purpose. Further, the consumer had not reported breaking of seals of meter and meter cabinet at any time. The Board, therefore, sustained a loss of Rs.23.62 lakh due to withdrawal of assessment bill.

The matter was reported to the Government in June 2006; their reply is awaited (September 2007).

#### ***4.12 Undue benefit***

##### ***Extension of undue benefit of Rs.14.01 lakh to a consumer by accepting outstation cheques***

As per Terms and Conditions of Supply (TCS) of the Board, the consumers are required to pay their energy bills by cash/local cheques/demand drafts within 15/30 days as applicable from the date of their presentation.

It was observed that the Area Manager, IRCA-II, Maligaon was accepting outstation cheques against the policy of the Board from one of its consumers Assam Tubes Limited, since July 2003. The bank took 24 to 182 days in crediting the amount of cheques. A cheque (May 2005) of Rupees seven lakh was credited (April 2007) by the bank after a delay of two years. The energy bills for subsequent months did not include the arrear amount. Audit scrutiny revealed that the Board continued to grant rebate for the timely payment of dues even though there was a delay in clearance of cheques. From the records made available to audit, it was noticed that the Board neither took up the matter with the bank for early realisation of cheques nor asked the consumer to make payment by local cheques to avoid delay in clearance. Further, the

reasons for accepting out station cheques in violation of terms and conditions of supply are also not available on record.

The Board paid bank charges of Rs.79,270 for collection of these outstation cheques besides loss of interest of Rs.8.70 lakh on delayed realisation of cheques. The Board also allowed rebate of Rs.4.52 lakh to the consumer for timely payment of such dues.

Thus, the Board extended undue benefit of Rs.14.01 lakh to the consumer.

On being pointed out (February 2007) by the audit, the Board raised (May 2007) claim for surcharge (Rs.23.79 lakh) and rebate (Rs.4.52 lakh) on the party, recovery of which was awaited (September 2007). It was also intimated (27 November 2007) by the Area Manager, Industrial Revenue Collection Area-II, Maligaon that they had stopped the practice of accepting the outstation cheques from the party and the recovery, as and when made, would be intimated in due course.

The matter was reported to the Government in February 2007; their reply is awaited (September 2007).

### **General**

#### ***4.13 Delay/non-deposit of Contributory Provident Fund led to avoidable payment of interest***

#### ***Non-deposit of Contributory Provident Fund in time resulted in accumulation of liabilities of Rs.43.30 crore and interest accrued thereon of Rs.18.10 crore***

The Employees Provident Fund and Miscellaneous Provisions Act, 1952 envisages that every employer should deposit the Contributory Provident Fund (CPF) deducted from the salary and wages of the employees including employer's share alongwith administrative charges to the Provident Fund Commissioner within 15 days of the close of every month. The Act further provides that where an employer defaults in payment of any contribution to the fund or in payment of any charge payable under any other provisions of the Act, the Central Provident Fund Commissioner or such other officer as may be authorised by the Central Government, may recover penalty/damages at the prescribed rates from the employer.

Audit scrutiny conducted in May-June 2007 of the records relating to collection and deposit of CPF by one\*\* Corporation and four†† Companies, as shown in the **Annexure-24** revealed that due to non-deposit of CPF contribution in time by these companies/corporation resulted in huge accumulation of liabilities (outstanding contribution of Rs.43.30 crore and accrued interest of Rs.18.10 crore) upto periods ranging between October 1999 to April 2007.

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\*\* Assam State Transport Corporation.

†† Assam Seeds Corporation Limited, Assam Tea Corporation limited, Fertilchem Limited and Assam Plains Tribes Development Corporation Limited.

The matter was reported to the Management/Government in August 2007; their replies have not been received (September 2007).

### **Follow up action on Audit Reports**

#### **4.14.1 Action Taken Notes--outstanding**

The Comptroller and Auditor General of India's Audit Reports represent culmination of the process of scrutiny starting with initial inspection of accounts and records maintained in the various offices and departments of the Government. It is, therefore, necessary that they elicit appropriate and timely response from the Executive. Finance (Audit & Fund) Department, Government of Assam issued (May 1994) instructions to all administrative departments that immediately on receipt of Audit Reports, the concerned departments would prepare an explanatory note on the paragraphs and reviews included in the Audit Reports indicating the action taken or proposed to be taken and submit the 'Action Taken Note' (ATN) to the Assam Legislative Assembly with copy to the Principal Accountant General/Accountant General within 20 days from the date of receipt of the Reports. Besides this, the department would ensure submission of written Memorandum as called for on the para(s) concerning the department within the time limit prescribed by the Assam Legislative Assembly from time to time.

Though the Audit Reports presented to the Legislature for the period from 2001-02 to 2005-06 contained comments on 76 paragraphs/reviews, explanatory notes on four paragraphs/reviews only were received till August 2007 as indicated below:

<b>Year of Audit Report (Commercial)</b>	<b>Date of presentation to the State Legislature</b>	<b>Total paragraphs/ reviews in Audit Report</b>	<b>No. of paragraphs/ reviews for which explanatory notes were not received</b>
2001-2002	March 2003	16	16
2002-2003	July 2004	16	15
2003-2004	August 2005	17	15
2004-2005	February 2006	13	13
2005-2006	March 2007	14	13
<b>Total</b>		<b>76</b>	<b>72</b>

Department wise analysis of paragraphs/reviews for which explanatory notes are awaited is given in **Annexure 25**. Departments of Power and Industries & Commerce were largely responsible for non-submission of explanatory notes.

#### **4.14.2 Compliance to Reports of Committee on Public Undertakings (COPU)--outstanding**

The replies to paragraphs are required to be furnished within six weeks from the date of presentation of the Report by the Committee on Public Undertakings (COPU) to the State Legislature.

Replies to 38 recommendations pertaining to five Reports of the COPU, presented to the State Legislature between August 1997 and December 2004

had not been received as on August 2007 as detailed below:

Year of the COPU Report	Total number of Reports involved	Number of recommendations where ATNs replies not received
1997-98	1	1
2002-03	1	9
2003-04	2	18
2004-05	1	10
<b>Total</b>	<b>5</b>	<b>38</b>

### ***Action taken on persistent irregularities in Audit Reports***

**4.14.3** With a view to assist and facilitate discussion of paras of persistent nature by the State COPU, an exercise has been carried out to identify the extent of persistent irregularities pertaining to Government companies and Statutory corporations.

#### ***4.14.4 Government companies***

Irregularities of various nature (as detailed in **Annexure 26**) having financial implication of Rs.1.59 crore (Assam Petrochemicals Limited) and Rs.3.49 crore (Assam Gas Company Limited) were included in the Reports of the Comptroller and Auditor General of India for the years 1998-99 to 2003-04 (Commercial)—Government of Assam, but no corrective action has been taken in these cases by the concerned PSUs/State Government.

#### ***Statutory corporations***

Irregularities of various nature (as detailed in **Annexure 27**) having financial implication of Rs.44 crore (Assam State Electricity Board) were included in the Reports of the Comptroller and Auditor General of India for the years 1998-99 to 2005-06 (Commercial)—Government of Assam, but no corrective action has been taken in these cases by the concerned PSUs/State Government.

### **Response to inspection reports, draft paragraphs and reviews**

**4.15** Audit observations noticed during audit and not settled on the spot are communicated to the heads of PSUs and concerned departments of the State Government through inspection reports. The heads of PSUs are required to furnish replies to the inspection reports through respective heads of departments within a period of four weeks. A review of inspection reports issued up to March 2007 pertaining to 30 PSUs disclosed that 1,536 paragraphs relating to 322 inspection reports remained outstanding at the end of September 2007; of these, 86 inspection reports containing 480 paragraphs had not been replied to for more than one year. Department-wise break-up of inspection reports and audit observations outstanding as on 30 September 2007 are given in **Annexure 28**.

Similarly, draft paragraphs and reviews on the working of PSUs are forwarded to the Principal Secretary/Secretary of the Administrative Department concerned, demi-officially, seeking confirmation of facts and figures and their comments thereon within a period of six weeks. It was, however, observed that the written replies on 12 draft paragraphs and two reviews forwarded to various departments between March and August 2007 as detailed in *Annexure 29* had not been received so far (September 2007). The reviews and draft paragraphs were discussed in the ARCPSE meeting (June and July 2007) and State Audit Committee meeting (July 2007).

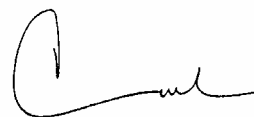
It is recommended that the Government should ensure that (a) procedure exists for action against the officials who failed to send replies to inspection reports and ATNs on the recommendations of COPU as per the prescribed time schedule, (b) action to recover loss/outstanding advances/overpayment is taken within the prescribed period and (c) the system of responding to audit observations is revamped.



**GUWAHATI  
THE**

**(SWORD VASHUM)  
Principal Accountant General (Audit),  
Assam**

Countersigned



**NEW DELHI  
THE**

**(VIJAYENDRA N. KAUL)  
Comptroller and Auditor General of India**