

CHAPTER V

INTERNAL CONTROL SYSTEM

CHAPTER V

INTERNAL CONTROL SYSTEM

LABOUR AND EMPLOYMENT DEPARTMENT

5.1 Internal control in Inspectorate of Factories

Highlights

Internal control is an integral component of organisation's management processes which are established in order to provide reasonable assurance that operations are carried out effectively and efficiently, financial reports and operational data are reliable, and, applicable laws and regulations are complied with so as to achieve organisational objectives. Internationally, the best practices in internal control have been given in the COSO framework which is a widely accepted model for internal controls. In India, GOI has prescribed comprehensive instructions on maintenance of internal control in Government departments through Rule 64 of General Financial Rules, 2005. A review of internal controls in selected areas in the Inspectorate of Factories revealed ineligible provision of salary for vacant posts in budget estimates, non-reconciliation of receipts realised, incorrect maintenance of basic registers meant to ensure mandatory issue/renewal of licences of all factories and testing of all existing pressure vessels, and, continuing vacancies in the posts of Assistant Inspector of Factories, Assistant Civil Surgeons and various ministerial posts causing delays in the work of the Inspectorate. Delays of up to six years were noticed against the maximum of 90 days allowed in the Site Appraisal Committee (chaired by Chief Inspector of Factories) recommending to Government the setting up/expansion of factories involving hazardous processes. No independent internal audit system existed in the Inspectorate to assist the management in knowing the extent of compliance with various norms/rules in force and to correct themselves periodically.

- **Incorrect provision of salary for vacant posts in the budget estimates resulted in surrender of Rs 3.34 crore during 2002-07.**

(Paragraph 5.1.5(b))

- **Instead of creating a welfare fund for children working in match and fireworks factories as directed by the Supreme Court, Government wrongly created a fund for the children of the workers in these factories.**

(Paragraph 5.1.6(d))

- **The system of reconciliation of receipts in the Inspectorate of Factories was not fool proof, as envisaged in the Tamil Nadu Financial Code.**

(Paragraph 5.1.6(a))

- **Registers for ensuring the mandatory issue/renewal of licence for the factories and testing of all existing pressure vessels were not maintained properly in the divisions.**

(Paragraph 5.1.7(a))

- **Delays of up to six years against the permitted 90 days marred the functioning of the Site Appraisal Committee.**

(Paragraph 5.1.7(c))

- **No prosecution were initiated in 539 serious but non-fatal accident cases in Coimbatore.**

(Paragraph 5.1.8(c))

- **Vacancies in the post of Assistant Inspector of Factories and Assistant Civil Surgeons and of various ministerial posts affected the day to day work of the Inspectorate.**

(Paragraph 5.1.9)

5.1.1 Introduction

The Inspectorate of Factories (Inspectorate) is under the overall control of the Chief Inspector of Factories (CIF). The Inspectorate is enforcing the Tamil Nadu Factories Act, (TNFA) 1948 and 13 other Labour enactments (**Appendix 5.1**) in the State. It plays a key role in protecting the safety, health and welfare of workers in the registered factories. The Inspectorate is also entrusted with the important task of ensuring operational safety of the pressure vessels in the factories. A medical wing functioning in the Inspectorate is monitoring the health of the workers employed in chemical factories which have potential occupational health risks to the workers.

5.1.2 Organisational set up

The CIF is the Head of the Inspectorate and is assisted by one Additional CIF, Four Joint Chief Inspectors of Factories (JCIFs), 29 Deputy Chief Inspectors of Factories (DCIFs), 51 Inspectors of Factories (IFs) and 45 Assistant Inspectors of Factories (AIFs) under the reorganised set up of the Inspectorate since April 2005. Besides, one Civil Surgeon, 8 Assistant Civil Surgeons (ACSS) and one Accounts Officer are also part of the Inspectorate.

5.1.3 Audit Objectives

The review was conducted to ensure the extent and adequacy of enforcement of Tamil Nadu Factories Act and other connected Labour enactments in the State and to test compliance with the Tamil Nadu Financial Code (TNFC), Tamil Nadu Treasury Code, Receipts and Payments Rules, 1983, instructions in the Budget Manual and related accounting and instructions, Tamil Nadu Factories Act (TNF) Act, Tamil Nadu Factory Rules (TNF Rules) 1950.

5.1.4 Audit coverage

The review was conducted between December 2006 and April 2007 by test-check of records relating to the calendar years 2002 to 2006 in Labour and Employment Department in the State Secretariat, Office of the CIF and Offices of three¹ JCIFs, eight² divisions out of the total 24 divisions (33.33%), each headed by a DCIF including the offices of 13 IFs attached to them. An entry conference was held with the CIF on 27 March 2007.

5.1.5 Compliance with State Financial Rules and instructions in Budget Manual

a) Budget formulation

The details of budget provision and expenditure of the Inspectorate during 2002-07 are given below:

(Rupees in lakh)				
Year		Budget Provision	Actual Expenditure	Savings(-) /Excess(+) (Percentage with reference to Budget provision)
2002-03	Non-plan	977.17	846.24	(-) 130.95 (13)
	Plan	-	-	-
2003-04	Non-plan	974.16	863.28	(-) 110.88 (11)
	Plan	12.17	10.74	(-) 1.43 (12)
2004-05	Non-plan	996.11	950.09	(-) 46.01 (5)
	Plan	13.22	11.64	(-) 1.58 (12)
2005-06	Non-plan	1027.56	968.38	(-) 59.18 (6)
	Plan	29.55	34.07	(+)4.52 (15)
2006-07	Non-plan	1173.61	1078.28	(-) 95.33 (8)
	Plan	41.41	38.52	(-) 2.89 (7)

¹ Chennai, Coimbatore and Madurai.

² Coimbatore I, II, Cuddalore, Virudhunagar, Sivakasi, Thiruvallur, Thiruvottiyur and Tiruppur.

The department improved its budget process, as the savings under the major share of expenditure viz. non-plan expenditure was restricted from 13 per cent in 2002-03 to 8 per cent in 2006-07 indicating a realistic estimation of expenditure, except for the provision for vacant posts, as discussed below.

b) Surrender of funds due to provision for vacant posts

Provision for salary made for all the vacant posts resulted in surrender of funds

According to the Tamil Nadu Budget Manual, estimate for salary should be provided on the basis of expenditure to be incurred during the year for persons likely to be on duty irrespective of the sanctioned strength. Instead, the Inspectorate had made provision towards salary for all the vacant posts³ in budget estimates, which led to surrender of funds. Such incorrect provision of funds in violation of the existing financial rules resulted in surrender of funds of Rs 3.34 crore during 2002-07.

5.1.6 Compliance with State Treasury Rules/Receipt and Payments Rules/Court orders

a) Cash and receipt control

Under the Tamil Nadu Factories Rules, 1950 (TNF Rules) (Rule 4 and 7), DCIF collects fees for grant and renewal of licence at specified rates, pressure vessel testing fees, medical examination fees, contract labour registration fees and Inspector of Factories receive contract labour licence fee from contractors. The above revenues are received in the form of demand drafts or remittance challans.

Absence of reconciliation of receipts.

Articles 8 and 9 of the TNFC require departmental controlling officers are to obtain regular accounts and returns from their subordinates for the amounts realised by them and paid into the treasury and consolidate the figures in a register. The receipt figures are then to be reconciled with that of the Accountant General (AG). The unreconciled figures have to be investigated in detail to ascertain the procedural lapses/misappropriation.

The details of revenue realised by the Inspectorate for the State as a whole during the last five years were given in **Appendix 5.2**.

Despite the receipt of the licence fee being a major revenue of the Inspectorate, that on an average *per annum* ranged between 18.99 lakh and 117.09 lakh in eight sample divisions during 2002-06, none of the divisions maintained a cash book for the receipts and remittance of fees and the required reconciliation certificate was not recorded in any of the eight sample divisions. The divisions maintain a demand draft register with the date of receipt, date of remittance into treasury and date of credit into Government Account. A reconciliation certificate is necessary for explaining the difference between the

³ 2002: 209, 2003:223, 2004:73, 2005:273 and 2006:294.

amounts as stated in the departmental records and treasury records in cases of delayed accounting. Despite delay in realization of DDs, no bank reconciliation statement was indicated in the registers maintained to show the position of reconciliation. The non-maintenance of cash book in divisions was also reported (March 2007) to CIF for which a reply is yet to be received (May 2007).

In Coimbatore Division, audit found that the figures were noted from the treasury records in the register of reconciliation and a certificate was obtained from the Treasury Officer. When this was pointed out, the JCIF Coimbatore stated (March 2007) that the correct procedure would be followed in future.

The reconciliation register was not maintained correctly in any of the sample divisions. The treasury figures were copied in the reconciliation register without comparing the departmental figures with the treasuries figure and the certificate of reconciliation was given by the division. Proper reconciliation of receipts in the Inspectorate was not done despite the total revenue of the Inspectorate being an average of Rs 15.60 crore *per annum* during 2002-06.

Non-reporting of a mis-appropriation case to Audit.

Flaws in the reconciliation of receipts can lead to misappropriation. The periodical reports pertaining to the performance of the erstwhile Tirunelveli (Testing and Safety) Division including the details of their receipts were not received by the Inspectorate during 2003 and 2004. Despite this, the Inspectorate failed to take immediate action in this regard. A case of misappropriation of Rs 35 lakh relating to this division came to the notice of CIF later. Prompt action by the Inspectorate when reports were not received from Tirunelveli division could have led to earlier detection of this misappropriation of pressure vessels testing fees. Despite Article 294 of TNFC stipulating that all misappropriation be immediately reported to Accountant General, the CIF failed to report this misappropriation after detection in July 2004.

b) Deficiencies in DD register

DD registers in three⁴ out of eight sample divisions showed that the reference to the serial number and the dates of receipt noted in DD Register were not entered in Form 2 & District-wise Licence Register. In the absence of these details, no correlation could be established to see whether all the factories, issued with fresh/renewal licence had actually remitted the licence fees.

⁴ Sivakasi, Thiruvottiyur and Virudhunagar.

c) Non-issue of printed receipts

Based on an observation (November 1995) made by Audit in one of their inspection reports, CIF issued (February 1996) instructions to all DCIFs to issue temporary receipts for the revenue collected until permanent printed receipts were supplied by the Inspectorate. However, CIF failed to provide printed receipt even as of March 2007 and the receipt of DDs were acknowledged in the duplicate copy of the forwarding letters

d) Non-creation of Child Labour Welfare Fund

Government of Tamil Nadu was asked by the Supreme Court to create a welfare fund for medical aid, recreation and educational facilities for children working in match and fireworks factories. The contributions to the fund were to be from the management of match and fireworks factories and matching grant by Government of Tamil Nadu.

However, Government created (May 1991) a Fund called “Welfare Fund for the Match Workers in the Registered Match Factories in Tamil Nadu” instead of creating the “Welfare Fund for the child labourers in Match and fireworks Factories in Tamil Nadu”, from 1 January 1991.

Perusal of connected records revealed that against the envisaged utilisation of funds towards medical aid, recreation and educational activities for the children working in match factories, Rs 93.20 lakh was utilised for all the children of the workers of the match factories towards issue of free note books, uniforms, slates, playing materials, etc. and as of March 2007 Rs 33.84 lakh was available in the Fund.

5.1.7 Internal control activities

a) Testing of pressure vessels/plants

TNF Rules, 1950, stipulate (Rule 56(7)) that every pressure vessel (PV) in service shall be thoroughly examined by a notified person according to a specified schedule⁵. An application shall be submitted by the factory for examination one month in advance from the date on which the vessel falls due for such examination or test, along with the evidence of payment of specified fee, fixed by Government from time to time.

⁵ External test once in six months, Internal test once in a year, Hydrostatic test once in every two years or by Ultrasonic test once in four years.

Perusal of connected records revealed the following:

The divisions maintained a PV Testing Register indicating the details of testing fees collected and tests conducted. However, neither the due dates for subsequent mandatory test were mentioned in the register nor was an abstract struck. Thus there was no mechanism to watch whether all pressure vessels available in the factories covered by the division had been tested after collecting required fees, and defaulting factories reminded to remit the fees in time. The failure of CIF in evolving a mechanism in this regard would result in pressure vessels remaining untested and result eventually in endangering the factories and the lives of factory workers.

A perusal of the PV Testing Register in eight sample divisions revealed that (i) despite collection of testing fees tests were not conducted, and, (ii) in respect of external test when the factories remit fees belatedly, certificates were issued by the Inspectorate for two or more half years after conducting a single test. Failure to conduct periodical tests as required in the TNF Rules, 1950, and retention of amount without conducting PV test is irregular.

In Virudhunagar Division, despite collecting Rs 3.31 lakh from 18 out of 67 factories during 2005 and 2006, required tests were not conducted. No specific reasons were furnished by the division for this (July 2007).

The certificates issued after testing were neither numbered serially for each type of test nor machine numbered. In the absence of numbered certificates the correlation between the certificates issued and the receipt of fees could not be made by the departmental authorities.

b) Non-revision of licence fees

**Non-revision of
Licence fees for
the last ten years.**

The factory licence is issued/renewed every year on payment of a fee prescribed by Government as per schedule to Rule 4(3) of Tamil Nadu Factories (TNF) Rules, 1950. Generally the fees are revised once in five years and the same was done on administrative basis, as no separate provision for this exist under Tamil Nadu Factories Act (TNFA), 1948 or TNF Rules, 1950 to provide a statutory base. The last revision of licence fees was made by the Government in December 1996 and it came into force from the calendar year 1997. Even after a lapse of 10 years, Government is yet to revise the licence fees, despite successive Central Finance Commissions insisting upon the need to achieve a greater degree of cost recovery in the services through periodical revision.

Similarly, the pressure vessel testing fee and medical examination fee which had been revised in October 1997 remained unrevised afterwards.

c) Delay in giving permission for the initial location of the factory

Inordinate delay in issue of initial permits.

Section 41(A) of the TNF Act, 1948 stipulates the appointment of a Site Appraisal Committee (SAC) for advising the Government on grant of permission for the initial location of a factory involving hazardous process or for the expansion of such factory. CIF is the Chairman of the Committee, which consists of representatives from connected departments. The SAC is required to make its recommendation to the State Government within a period of 90 days of the receipt of application in the prescribed form.

According to details furnished by the Inspectorate out of 45 applications relating to the entire State (including the pending nine applications on 31 March 2002) submitted to the SAC up to November 2006, eight applications were returned for rectification of defects and two applications received as early as in March 2000 and April 2000 were kept pending the reasons for which were not made available. Of the 17 applications recommended by SAC to Government, 12 applications were recommended by SAC after a period of four to 24 months from the date of receipt of application. Government had given its approval in these 17 cases after a delay of one to 63 months from the month of recommendation of SAC. For the remaining 18 applications recommended by SAC, Government approval is awaited for periods ranging from three to 134 months⁶ as of March 2007, the earliest being recommended in January 1996.

Though a time limit was fixed for SAC to submit their recommendation to Government, no such time limit was fixed for according approval by Government. Such undue delays in arriving at a decision, would erode the interest evinced by the applicants in starting the factories due to the spiraling cost increase, leading to the abandonment of the proposals and resulting in depriving many of the intended employment opportunities. Reasons for the pendency of applications with Government, though called for, were also not received (May 2007).

d) Deficiencies in Factory plan approval

Absence of follow-up action on the compliance of conditions mentioned in the plan.

Plan approvals are accorded by CIF/JCIF/DCIF for initial/additional installations. Perusal of connected records revealed that plan approvals are accorded by the CIF/JCIF/DCIF subject to various conditions and the approval sent to the factories concerned. However, follow-up action taken for the fulfilment of conditions prescribed by the officers was not watched. Some of the conditions mentioned in the approval letters, require definite compliance, as illustrated below:

⁶ 1996: 1 (134 months), 2000:2 (82 months), 2004:2 (30 and 34 months), 2005:1 (26 months) and 2006: 12 (3 months to 23 months).

- Non-establishment of ambulance room as required under Section 45(4) of TNF Act, 1948, and canteen as per rules 65 to 70 of TNF Rules, 1950.
- Non-furnishing of a certificate regarding the completion of buildings according to the plan and certificate for structural stability.
- Non-indication of the correct horsepower (HP) of various machines resulting in the absence of indication of total horsepower available in the factory.
- Wrong indication of labour rest room and car shed in the site plan etc.

CIF failed to evolve a mechanism to ensure the compliance of these conditions imposed by the plan sanctioning authorities duly involving all subordinate officers in a well defined follow-up procedure.

Factories submit an application in Form 1 to the concerned authority for the approval of initial or additional plans. The form did not contain columns for the information on the present licence like horsepower and man power employed and details of the currency of the licence. This information plays a vital part in additional plans, as licences were renewed by the DCIF, while plans were initially approved by DCIF, JCIF or CIF as the case may be. The present Form 1 was not revised since 1987. An instance was noticed in one sample division (Coimbatore I) wherein the factory with its plan approved (2003) for 4117.65 HP and licenced to use up to 10,000 HP, continued functioning without getting the plan approved for their additional HP capacity despite the increase to 7,488 HP in 2006, on the pretext that they were permitted to use up to 10,000 HP. To an audit enquiry, the DCIF replied that in view of the revenue to Government, licence was given with permission to use up to a higher HP. The reply of DCIF was not tenable, as the approval for each of the subsequent increase in the capacity of the factory has to be obtained from the concerned plan approval authority.

e) Deficiencies in the system of issue of licences

According to the details given by the Inspectorate in their policy note for the year 2006-07 presented in the Legislature, 37,439 factories existed in the State as of 31 March 2006, which were covered under the Factories Act, 1948. However, the Inspectorate had not compiled data regarding the actual number of factories renewing their licences every year, duly obtaining the same from all divisions under its control despite a periodical return prescribed and received by it. As a result, the Inspectorate did not know the number of factories which continued functioning, without renewing their licence, violating the existing Rule 7(i) of the TNF Act, 1948, which stipulates that a factory cannot be operated without renewal of its licence.

The licence for a factory each year was valid upto 31 December. Factories submit an application in the prescribed form for renewal to DCIF for every calendar year. Rule 7(2) of TNF Rules, 1950, specifies that the renewal application should be submitted by 31 October every year. While, for applications received in November and December, an additional fee of 10 and

20 per cent of the licence fee respectively had to be remitted, for applications received beyond the expiry of licence, 30 per cent of the licence fee had to be additionally obtained. If the application has been made in accordance with Rule 7(2) of TNF Rules 1950, the premises should be held to be duly licenced until such date, as the DCIF may pass order on the application received for renewal under Rule 7(4)⁷.

Renewal applications kept pending without disposal.

Test check in the sample divisions revealed that (i) the entries were made in the register when the licences are issued/renewed and no monthly or annual abstract was struck in the register to compile the number of licences issued/renewed during a particular period. The basic record containing details of licensed factories was thus, not maintained properly to enable the department to ensure timely renewal of licences by all existing factories. In three sample divisions Thiruvallur, Coimbatore II, Tiruppur, Audit noticed that renewal was not made in 89, 89 and 83 cases respectively. (ii) The renewal applications received in time even during earlier years were kept pending by the DCIFs in two sample divisions (Coimbatore II and Tiruppur) for want of details, clearly indicating that the licence was not actually renewed. Though Rule 7(1) stipulates that a factory cannot be operated without renewal of licence, factories were allowed to continue their function for longer periods by DCIFs taking advantage of Rule 7(4). (iii) The lists of defaulters, prepared in January every year by the sample divisions was also not complete as they lacked important details like addresses of the factories, year from which the licence was to be renewed, etc. As a result, the IFs could not take any fruitful action either for renewing the licence or to initiate necessary legal action.

f) Factories “not working” not reviewed

The statistical details of the number of registered factories and number of factories not working in each year during 2001 to 2004, compiled by the Inspectorate were as under:

Year	No. of Regd. factories	No. of factories not working	Percentage of factories not working
2001	31,343	7,213	23
2002	32,723	NA	NA
2003	34,071	8,689	25
2004	34,520	8,692	25

NA - Not available (Details not available for the years 2005 and 2006.)

⁷ If the application has been made in accordance with this Rule, the premises shall be held to be duly licenced until such date as the DCIF may pass orders on application for the renewal.

The list includes seasonal factories which work only part of the year, closed factories not removed from the list of factories due to non-receipt of the closure report, and factories closed, due to cases pending in court.

The quantum of factories which were not working ranged about 23 to 25 *per cent*. Of this, the number of factories for which cases were pending in court was not collected and compiled by the Inspectorate.

The DCIF of the sample division, Tiruppur stated (March 2007) that out of 156 factories licences of which were not renewed, cases were pending in court in respect of 60 factories and for the remaining, removal proposals were not generated for want of sufficient supporting staff like AIF.

Despite fixing a target of 15 closure proposals per month for each IF by Tiruppur Division, no conclusive action was taken in respect of factories not working. The JCIF (Coimbatore) stated (March 2007) that the closure proposals involved long drawn processes like verification of pending dues to Government, cases pending in courts against the factories, obtaining a request from the owner for the closure of the factory, all of which are time consuming and required sufficient man power.

JCIF should have arranged to conduct a review to ascertain the necessity of exhibiting such factories in their zone in the list, if they are not really working and not likely to commence work in the near future and for taking action for the closure of such factories. This will also enable the Inspectorate to have a true picture of the number of factories actually in existence and functioning and to organise the departmental man power in the districts/units according to number of working factories. The details of environmental and other hazards if any, in allowing such factories are also necessary for taking remedial action.

No review of the factories “not working”.

g) Deficiencies in issue of licence books

The licence to each factory was issued in the form of a book and was used for a period of five years for renewal purposes. The distribution of blank licence books was not watched by all the eight sample divisions, though their receipt from CIF was recorded in their stock register. While separate fees were prescribed for initial licence/renewal/duplicate licence, no records were available to see how many books were issued for initial licence and for renewal of licences or for duplicate licences. The absence of machine numbered books further complicated the issue. Though CIF allotted a block of five digit numbers to each DCIF for assigning a number from it, to each licence book issued for use, this was not followed by five⁸ divisions.

Issue of licence books without assigning identification numbers and non-accounting of licence books.

Each licence book was to be assigned serial numbers for avoiding misutilisation of licence books, thereby preventing any lapses which can lead to misappropriation/fraud. In Coimbatore, no number was found to have been assigned to the licence books issued.

⁸ Coimbatore I and II, Tiruppur, Sivakasi and Virudhunagar.

h) Non-enforcement of Safety Officers Rules

Revised Safety Officers Rules not enforced.

The appointment of Safety Officers is mandatory on the part of the management as per the TNF Act, 1948 (Section 40 B and Rule 61 AA of TNF Rules, 1950). Government issued (July 2001) a preliminary notification based on the proposal of CIF for framing separate rules for Safety Officers, viz. Tamil Nadu Safety Officers (Duties, Qualifications and Conditions of services) Rules, 2001. At the time of issuing final notification in the Government Gazette in December 2005, the existing Rule 61 AA was withdrawn. The CIF informed (January 2007) Audit, that no orders had been received to date from Government notifying the date from which the said rules should come into force. As the existing rule was withdrawn and the enforcement of new rule was not notified by State Government, the mandatory position of appointment of Safety Officers in factories, one of State Government's important functions, was still lying unaddressed.

i) Sanction and withdrawal of prosecution

Powers for sanction and withdrawal of prosecution given to the same officer.

Government ordered (February 1988 and May 1988) that the CIF would be the authority to sanction prosecution and also to withdraw the same under various Labour Acts⁹. The power of withdrawing should be with an authority, higher than the one to whom the prosecution sanction power was granted. The data on the number of prosecutions sanctioned and subsequently withdrawn by CIF under TNF Act during the last five years is given below:

Year	Number of prosecutions							
	sanctioned				withdrawn			
	Chennai	Coimbatore	Madurai	Total	Chennai	Coimbatore	Madurai	Total
2002	101	72	189	362	9	5	7	21
2003	144	107	282	533	6	7	17	30
2004	198	156	255	609	17	8	15	40
2005	232	225	438	895	23	6	8	37
2006	198	178	195	571	22	8	7	37

Audit noticed that in another labour Act, viz "Workmen's Compensation Act", while the CIF was the authority for prosecution, the power of withdrawal of prosecution was with Government. If both the powers of sanctioning prosecution and its withdrawal vest with the same authority, the sanction and withdrawal can become a routine matter, which can also lead to many legal issues. This was referred to Government and their response is awaited (May 2007).

⁹ Factories Act, Maternity Benefit Act, Payment of Wages Act, Child Labour, Prohibition and Regulations Act, Tamil Nadu Industrial Establishments (National and Festival Holidays) Act, Minimum Wages Act etc.

5.1.8 Monitoring mechanism

a) Non-maintenance of cash book, non-recording of reconciliation certificates, incorrect maintenance of reconciliation registers and non-correlation of the entries in the DD registers with the licence registers in the sample divisions mentioned in paragraph 5.1.6 above did not come to the notice of the controlling officers and the Head of the Department, as none of these irregularities had been mentioned in their reports.

b) **Inspection of factories and check inspection of departmental officers**

Tamil Nadu Factories Act, 1948 is intended to secure the safety, health and welfare of workers in registered factories by way of periodical inspections. Factories classified as Small Scale Industries (SSI) and not engaged in dangerous operations were to be inspected only once in a period of five years. Factories engaged in dangerous and hazardous operations and were not SSI, were to be inspected once in every six months. Match and fireworks factories were to be inspected every three months. In addition check inspections of subordinate offices were also to be under taken by higher officials as indicated by the targets fixed by CIF every year.

The classification of factories registered under the TNF Act, 1948, in the State, as reported by the Inspectorate and the number of factories inspected are given in **Appendix 5.3**.

The number of inspections carried out in five sample divisions are furnished in **Appendix 5.4**. The details from three sample divisions (Cuddalore, Thiruvallur and Tiruvottiyur) were not received (June 2007).

The CIF furnished the number of regular inspections and check inspections conducted, without giving the target for each of the inspection and break-up details of various categories of factories inspected.

The absence of break-up details of inspections conducted in SSI/non-SSI, dangerous and Major Accident Hazardous (MAH) factories, clearly showed that the adequacy of inspections conducted was not watched by Government.

Though the inspection report contained a column for indicating the previous date of inspection, majority of the officers did not mention the same. In the absence of a master index register in respect of SSI factories, the non-conduct of inspection in the five year period cannot be ruled out. Further, no split up details of inspections carried out in various type of factories like SSI, non-SSI, MAH, dangerous, etc. were made available by any of the eight sample divisions. Hence Audit could not also vouch for the adequacy of inspections carried out by them.

Previous date of inspection not mentioned in the inspection report.

No follow-up reports on the rectification of the contraventions included in check inspection reports.

Despite all the officers in the sample divisions having adhered to the target of check inspections, the subordinate officers did not report to their superior officers on the rectification of the contraventions included in the check inspection reports, and thereby the omissions/contraventions remained uncorrected. The same observations were thus repeated in successive check inspections in the sample divisions. Thus a well defined system had not been evolved for watching the rectification of contravention noticed during check inspections.

Details of check inspections conducted by the Addl. CIF, though called for, were not made available to Audit.

c) Absence of prosecution in the case of serious accidents

No prosecution initiated for serious but non-fatal accidents.

Though 667 serious accidents¹⁰ (but non-fatal) had occurred in five sample divisions during 2002-06, accident prevention measures were only suggested to the factories based on the investigation report of the accident carried out by the field officer concerned. Most of the investigation reports did not contain medical report based on which the permanent disablement caused due to the accident could be decided. In Coimbatore District, comprising three divisions, no case was initiated in any of the 539 serious accidents¹¹ (except in Pollachi and Coimbatore II circles where one case each was initiated for serious accident) and only suggestion for accident prevention measures were given. In Tiruppur Division of Coimbatore District, even for an accident involving amputation of hand, no prosecution was initiated against the factory.

5.1.9 Manpower management

Vacancies in manpower

The sanctioned strength of the technical and ministerial staff of the Inspectorate and the vacancy position during the last five years were as given below:

	Sanctioned strength	Vacancy position relating to				
		2002	2003	2004	2005	2006
Technical posts	145	15	17	9	22	25
Ministerial posts	787	194	206	64	251	268
Total	932	209	223	73	273	294

a) The vacancy of technical posts was high in the cadre of AIFs during last two years and ACSs during 2006, after the reorganisation of the Inspectorate, as mentioned below:

Name of the Post	Sanctioned strength	Vacancy in	
		2005	2006
Assistant Inspector of Factories	45	17	19 ¹²
Assistant Civil Surgeon	8	-	2

¹⁰ Coimbatore I:70, Coimbatore II:263, Tiruppur: 206, Virudhunagar: 69 and Sivakasi: 59.

¹¹ Coimbatore I:70, Coimbatore II:263 and Tiruppur: 206.

¹² Vacant from 1999-2000-1, 2001-02-3, 2002-03-2, 2003-04-1, 2004-05-4 2005-06-1, May 2006-1 and June 2006-6.

The period of vacancy in the post of AIF ranged from seven years to six months. The inspection work of factories allotted to the AIF posts, which were vacant, was attached to other AIF/IF. As each AIFs/IFs has been allotted specified targets, this additional work load affected their regular work.

Huge vacancies in the ministerial posts.

b) The Ministerial staff working in the Inspectorate are under the control of Commissioner of Labour. The vacancy in the ministerial posts went from 64 in 2004 to 268 out of 775 in 2006. The ministerial posts lying vacant during the last three years are given in **Appendix 5.5**.

The data revealed that after re-organisation of the Inspectorate, the position of availability of ministerial posts deteriorated.

The CIF replied (March 2007) that routine and regular inspections, special/holiday/check inspections which required a lot of follow up action was delayed due to chronic vacancies in the ministerial posts. The assistance of ministerial posts is a prime need, especially in matters relating to collection of revenue from factories such as licence fees, pressure vessels testing fees, medical examination fees etc., apart from communication of inspection orders, show cause notice to factory management, filing cases against erring managements, etc.

Though the test check of records in sample divisions also confirmed the reply of CIF, Audit observed that the following factors, also contributed to the deficiencies: (a) The Manual of Office Procedure, published as early as in 1976, was not updated till date. (b) As the enforcement of Testing & Safety functions were carried out separately by earmarked Divisions before reorganisation, after the major reorganisation of the Inspectorate in April 2005, preparation of a compendium of instructions for carrying out various functions attached to different posts in the reorganised set-up would have helped staff of the reorganised divisions carrying out efficiently both the functions viz. enforcement of Acts and Rules and testing & safety. Various deficiencies pointed out in different paragraphs were mainly due to non-compliance of the instructions/orders/norms revised and fixed from time to time by Government/CIF as the same were not known to the staff in the reorganised divisions. The availability of all the instructions in a single place for reference in an updated manual/compendium would have been helpful.

5.1.10 Internal audit

Non-existence of internal audit mechanism

Government introduced the internal audit system in 19 departments in October 1992. However, the Department of Labour and Employment under whose control the Inspectorate is functioning, was not one of the selected departments. Government did not extend the system to other departments even as of date (March 2007).

Independent internal audit mechanism not existing in the Inspectorate.

Despite the availability of the Accounts Officer in the department, no independent internal audit system exist in the Inspectorate, to assist them in knowing the extent of compliance of various norms/rules in force to correct themselves periodically.

In the absence of internal audit the subordinate offices were inspected by the immediate higher offices in the Inspectorate. Besides, CIF conducts inspection of the offices of one DCIF and one IF selected at random, every year. These inspections are of a routine nature, based on a standard questionnaire. This inspection does not cover various aspects of the implementation and compliance of concerned Acts and Rules.

5.1.11 Conclusion

Provision was made towards salary for all vacant posts in the budget estimate in violation of the existing financial rules. Against a welfare fund envisaged for the welfare of child labourers in match and fireworks factories as directed by the Supreme Court, a fund was created wrongly for the welfare of children of the workers in the match factories. Reconciliation of the receipts of the Inspectorate was not conducted. Basic registers for ensuring the mandatory issue/renewal of licences for all the factories and of testing of all pressure vessels functioning in the factories in the State were not properly maintained in the divisions. Delays of up to six years against the permitted 90 days were noticed in the Site Appraisal Committee (chaired by CIF) recommending to Government the setting up or expansion of factories using hazardous process. Follow-up action was not taken for ensuring compliance of the contraventions mentioned in the initial plan approvals, check inspection reports, etc. No independent internal audit system was in existence in the Inspectorate.

5.1.12 Recommendations

- A master register containing all the details of existing factories should be maintained by each division, with details of fees collected for issue/renewal of licences for each factory, so as to enable the Inspectorate to compile details of factories that had failed to renew the licence in time.
- Similarly, a register containing all details of existing pressure vessels in factories should be maintained in each division with details of fee remitted for testing against each of the pressure vessels, so as to enable the Inspectorate to identify pressure vessels which had not been subjected to mandatory periodical testing for ensuring their safety.
- All officers of the Inspectorate should take follow-up action in respect of contraventions mentioned by superior officers in their reports and report to them for effective functioning of the Inspectorate.
- Government should fix a time frame to approve recommendations of the Site Appraisal Committee.

- The precise requirement of various cadres in the Inspectorate should be worked out, based on the work load of each division/circle and provided for the smooth functioning of the Inspectorate.
- An independent internal audit wing should be set up duly specifying the mandate, staffing pattern and plans for carrying out internal audit of all the offices/wings of the Inspectorate within a specified period.

The above points were referred to Government in July 2007; reply had not been received (November 2007).

Chennai
The

(SHANKAR NARAYAN)
Principal Accountant General (Civil Audit)
Tamil Nadu and Puducherry

Countersigned

New Delhi
The

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