CHAPTER-IV

4 TRANSACTION AUDIT OBSERVATIONS RELATING TO GOVERNMENT COMPANIES AND STATUTORY CORPORATIONS

Important audit findings noticed as a result of test check of transactions made by the State Government companies/Statutory corporations are included in this Chapter.

Government companies

State Industries Promotion Corporation of Tamil Nadu Limited

4.1 Loss on allotment of land to private entrepreneurs

Incorrect assessment of the cost of land resulted in a loss of Rs.19.88 crore to the Company.

In order to facilitate industrial growth in the State, the Company acquires, develops and allots land to the entrepreneurs. The Company allotted (July 2005 and February 2006) 210.87 acres and 250 acres of undeveloped land to Nokia India Private Limited (Nokia) and Flextronics Technologies India Private Limited (Flextronics) respectively in the industrial park at Sriperumbudur, Chennai. A review of records relating to the allotment of land to these parties revealed the following:

4.1.1 The State Government and Nokia signed (April 2005) a Memorandum of Understanding (MOU) for establishing an electronic hardware manufacturing facility by Nokia at Chennai. As per the MOU, the Company was to provide 200 acres of industrial land at Sriperumbudur to Nokia at lease charge of Rupees eight lakh per acre with no annual or monthly rent payable. Subsequently, as Nokia expressed (April 2005) its preference to acquire undeveloped land, the Company indicated (April 2005) the cost of undeveloped land at Rs.4.50 lakh per acre to the State Government. Accordingly, the State Government issued (July 2005) an amendment to the MOU for allotment of 200 acres of undeveloped land. The Company allotted (July 2005) 210.87 acres of land to Nokia at Rs.4.50 lakh per acre, and received (July 2005) Rs.9.49 crore.

It was observed that after acquisition (1996) of land, the land owners filed (December 1996) suits in various courts for award of higher compensation. The courts awarded higher compensation ranging from Rs.4.20 lakh to Rs.14 lakh per acre *plus* other statutory benefits (like solatium at 30 *per cent* of compensation amount and interest on the compensation amount from the date of acquisition of land till the date of payment). While indicating (April 2005) the land cost of Rs.4.50 lakh per acre to Nokia, the Company, however, did not take into account the above compensation paid to the land owners. It was noticed that even the Land Acquisition Department of the Company had indicated (February 2005) the acquisition cost of land at Rupees eight lakh per acre. Thus, the allotment of land at less than the acquisition cost resulted in loss of Rs.7.38 crore (with reference to Rupees eight lakh per acre) to the Company.

4.1.2 Similarly, the State Government signed (October 2005) a MOU with Flextronics to establish a hardware manufacturing facility for electronic products. As per the MOU, 250 acres of industrial land at a lease charge of Rs.4.50 lakh per acre with no annual or monthly rent payable was to be made available by the Company. It was noticed that the Company had revised (November 2005) the land acquisition cost in Sriperumbudur to Rs.9.50 lakh per acre based on the actual expenditure incurred till then. The Company, however, did not bring this fact of increase in acquisition cost to the notice of the Government and Flextronics. The Company allotted (January 2006) 250 acres of undeveloped land at Rs.4.50 lakh per acre and received (February 2006) Rs.11.25 crore. Thus, the allotment of land at less than the acquisition cost resulted in loss of Rs.12.50 crore.

It was noticed that the Company had requested (October 2006) the Government to compensate for the losses sustained by it in the allotment of land to Nokia and Flextronics. No decision has been taken by the Government on this matter so far (September 2007).

The matter was reported (May 2007) to the Management/Government; their replies are awaited (September 2007).

4.2 Loss due to incorrect adoption of cost of land

Erroneous computation of land cost by the Company resulted in short recovery of Rs.2.33 crore from the allottees of land

The Company is engaged in acquisition and development of land and other infrastructural facilities to promote industrial development in the State. The Company allotted (November 2005) 235.56 acres of undeveloped land to South India Mills Association (SIMA) in Phase-III of Cuddalore Industrial Park at Rs.3.50 lakh per acre.

It was observed that the Company while seeking (March 2005) approval of its BODs for allotment of land to SIMA indicated the enhanced compensation of Rs.11.91 crore for the entire land of Phase-III. The Company, however, did not include the amount of enhanced compensation while arriving at the total acquisition cost and accordingly worked out the total acquisition cost as Rs.29.04 crore instead of Rs.40.95 crore. Thus, the acquisition cost was taken as Rs.2.43 lakh per acre instead of Rs.3.42 lakh per acre while fixing the price of land as Rs.3.50 per acre and allotment of the land to SIMA.

Thus, omission to include the amount of enhanced compensation of Rs.11.91 crore in the computation of the cost of land resulted in short recovery of Rs.2.33 crore♠ towards the cost of land.

The matter was reported (May 2007) to the Management/Government; their replies are awaited (September 2007).

Tamil Nadu Civil Supplies Corporation Limited

4.3 Extra expenditure

Erroneous inclusion of contribution to the gratuity fund in the value of fringe benefits while computing the Fringe Benefit Tax resulted in extra expenditure of Rs.4.56 crore.

GOI introduced the 'Fringe Benefit Tax' (FBT)• in the Income Tax Act, 1961 by the Finance Act, 2005. As per Section 115 WB of the Act, fringe benefits *inter alia* means any privilege, service, facility or amenity, directly or indirectly provided by an employer, whether by way of reimbursement or

♠ Loss has been worked out by taking into account the margin of Rs.1.07 lakh (Rs.3.50 lakh – Rs.2.43 lakh) taken by the Company on wrongly calculated cost and deducting Rs.0.08 lakh (Rs.3.50 lakh – Rs.3.42 lakh) margin taken on increased amount. The loss is (1.07-0.08) lakh X 235.56 acres = Rs.233.20 lakh.

• FBT was introduced by inserting a new Chapter XII-H containing Section 115 to 115 WL in the Income Tax Act, 1961.

otherwise to his employees as consideration for their employment. It includes payments for entertainment, hospitality, conference, employees' welfare *etc*. FBT is chargeable for every assessment year commencing on or after 1 April 2006 in addition to the income tax, under Section 115 WA of the *ibid* Act.

It was noticed that Section 115 WB read with Section 115 WC of the *ibid* Act, did not specifically contain any provision for considering the contribution of the employers to approved gratuity fund as fringe benefits. This fact was further clarified (August 2005) by the Central Board of Direct Taxes that the employers contribution to approved gratuity fund is not to be considered as fringe benefits.

The Company, however, while computing (November 2006) the FBT payable for the assessment year 2006-07 erroneously included the employers' contribution of Rs.12.55 crore made towards the employees' gratuity trust fund as fringe benefits. The Company paid (2005-06) FBT of Rs.4.22 crore and interest of Rs.33.80 lakh (for short payment of quarterly installment of FBT) on this amount.

Failure of the Company to exclude the employers' contributions to the gratuity fund from the value of fringe benefits resulted in excess payment of income tax of Rs.4.56 crore (including penal interest of Rs.33.80 lakh).

It was noticed that the Company had filed (7 October 2007) revised return claiming refund of Rs.4.56 crore from the Income Tax Authorities after being pointed out (May 2007) by audit.

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

4.4 Loss of interest

Submission of an erroneous claim for reimbursement under the Public Distribution System of rice resulted in blocking of funds of Rs.3.99 crore and consequent loss of interest of Rs.58.52 lakh.

The Company procures paddy on behalf of the GOI and converts it into rice for distribution under the Targeted Public Distribution System (TPDS).

The State Government had entered (2002) into a Memorandum of Understanding (MOU) with GOI for distribution of custom milled rice (CMR) to the Below Poverty Line (BPL)/Above Poverty Line (APL) families in the State under TPDS at the prices notified by GOI. GOI reimburses the difference between the economic cost of rice and prices fixed under TPDS by GOI as subsidy.

During 2004-05, the Company distributed 2,29,986 MTs of CMR under TPDS to the BPL and APL families. The Company submitted (November 2005) a claim for Rs.19.73 crore to GOI for 95 *per cent* of the subsidy receivable from GOI after adjusting Rs.27.21 crore of advance subsidy already received for 2004-05.

It was observed that while submitting the subsidy claim for 2004-05, the Company erroneously adjusted subsidy of Rs.3.99 crore relating to previous year 2003-04 as advance subsidy for 2004-05. After being pointed out (January 2007), the Company submitted (February 2007) a claim to GOI seeking reimbursement of the short-claimed amount of Rs.3.99 crore for the year 2004-05.

The Management stated (September 2007) that GOI had sanctioned (August 2007) a sum of Rs.2.96 crore through Electronic Clearing Service against the claim of Rs.3.99 crore for the financial year 2004-05 and the balance amount would be reimbursed while getting the payment of balance 5 *per cent* claim. The fact remains that by erroneously reducing the advance subsidy received for the earlier year, the Company short claimed the subsidy resulting in interest loss.

Thus, submission of erroneous bill for claim of subsidy resulted in blockage of funds of Rs.3.99 crore resulting in loss of interest of Rs.58.52 lakh (at eight *per cent per annum*) for the period from November 2005 to August 2007.

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

4.5 Avoidable expenditure

Failure to place purchase order for the full tendered quantity of Green gram resulted in extra expenditure of Rs.29.04 lakh.

Tamil Nadu Civil Supplies Corporation Limited was entrusted (October 1999) with the purchase and supply of Green gram to Puratchi Thalaivar MGR Nutritious Meal Programme Centres (NMP). The estimated monthly requirement of Green gram (whole) for this purpose was 363 Metric Tonnes (MTs).

In order to ensure uninterrupted supply to the NMP centres, the Company invited (January 2005) tenders for supply of 1,000 MTs. As the lowest offer of Rs.20,740 per MT was considered to be higher than the prevailing market price, the Company cancelled the tender and called (March 2005) for a short tender. After negotiations, the offer of State Trading Corporation, Bangalore, (STC) was found lowest at Rs.20,362 per MT plus taxes.

The Tender Committee of the BODs recommended (March 2005) to restrict the purchase to 375 MTs against the tendered quantity of 1,000 MTs on the ground of anticipated fall in prices of gram after the harvest season (March and April). Accordingly, a letter of intent was placed (March 2005) on STC for purchase of 375 MTs of Green gram, which was subsequently confirmed (April 2005) by placing the formal purchase order. Against this purchase order, STC supplied (May and June 2005) 359.160 MTs.

The Company again invited (April 2005) tender for 1,500 MTs of Green gram and the negotiated offer of STC was the lowest at Rs.24,830 per MT plus tax.

The Company placed order (June 2005) on STC for the entire quantity of 1,500 MTs at that rate.

It was observed that the Company was aware (March 2005) of the rise in prices of Green gram due to heavy damage to crops caused by heavy rains and its consequent shortage in the market. This fact was also confirmed by a letter addressed (April 2005) by the Company to the State Government for substituting supply of Bengal gram/Peas in place of Green gram to the NMPs due to the rising prices. Further, National Co-operative Consumer's Federation, on whom an extension order for 200 MTs of Green gram at Rs.19,020 per MT was placed (March 2005), also refused (April 2005) to supply due to rising prices resulting from damages to crops by heavy rains. Thus, the Company had sufficient time and reasons to increase the quantity of Green gram to 1,000 MTs in place of 375 MTs, when the formal purchase order was placed (April 2005) on STC.

Failure to place order (April 2005) for the entire tendered quantity of 1,000 MTs on STC resulted in extra expenditure of Rs.29.04 lakh {(Rs.24,830 - Rs.20,362) X 625 MTs + 4 *per cent* sales tax} on subsequent purchase of the Green grams at higher prices.

The Government stated (July 2007) that by cancelling the tender (February 2005) due to high rate and purchasing one month requirement of Green gram at lesser rate in the subsequent tender (March 2005), the Company saved Rs.1.35 lakh. The decision to restrict the purchase of Green gram was taken on bonafide faith that the tender rate would come down in subsequent months. But the unprecedented heavy rains in delta area affected the standing crop resulting in reduced supply and consequent increase in price.

The reply is not tenable as the Company while placing (April 2005) orders for the restricted quantity of 375 MTs was very well aware of the crop failure due to heavy rains and lack of import. Further, the Company expected the rate per MT of Green gram to be more than Rs.22,000 per MT as could be seen from its letter (April 2005) seeking Government order for supply of Bengal gram. Thus, the Company could have avoided the extra expenditure on subsequent purchase of green gram.

Tamil Nadu Forest Plantation Corporation Limited

4.6 Loss due to inappropriate revision of price

The Company suffered loss of Rs.3.31 crore due to inappropriate revision of the price of pulp wood.

The Company is engaged in the raising of eucalyptus plantations and supplying pulp wood to the industries like Tamil Nadu Newsprint and Papers Limited (TNPL), Seshasayee Paper Boards (SPB) and others. It supplies pulpwood at the price fixed by the Government (Environment and Forest Department) every year based on the proposal of the Company.

As a consequence of a meeting (August 2004), the Company signed (November 2004) a long term agreement with TNPL for a period of 15 years, wherein Company agreed to supply 70 *per cent* of the production or

approximately 52,500 MTs of eucalyptus pulp wood *per annum* to TNPL in 2005-06, 1.57 lakh MTs *per annum* from 2006-07 till 2008-09, 1.40 lakh MTs in 2009-10 and 1.75 lakh MTs *per annum* from 2010-11 onwards, whichever was higher. TNPL agreed to pay at the price of Rs.1,300 per MT pending final price to be fixed by the Government for the year 2004-05 *plus* 5 *per cent* administrative charges and applicable taxes. As per the agreement, the price for the subsequent years was to be fixed by the State Government for every block of two financial years based on the cost, market price, *etc*.

The Finance sub-committee of the Company in the meeting examined (September 2005) the pricing of pulpwood for the year 2005-06 and worked out the price at Rs.1,786 per MT, after taking into account the input cost, overheads, profit and lease rent. The Company requested (September 2005) the State Government to fix the price of pulpwood at Rs.1,800 per MT. Accordingly, the Government fixed (February 2006) the price of pulpwood at Rs.1,800 per MT for the year 2005-06.

TNPL, however, did not agree (March 2006) to this price and sought clarification from the State Government. The State Government pending further clarification, asked (April 2006) the Company to adopt the rate of Rs.1,300 per MT instead of Rs.1,800 per MT for supplies made to TNPL. Meanwhile, the Company supplied (2005-06) pulpwood at this rate (Rs.1,800 per MT) to SPB.

The Company took up the matter with the State Government several times explaining the basis for its request to fix the price of the pulpwood at Rs.1,800 per MT for the year 2005-06. The Government again considered the request of the Company and ultimately fixed (April 2007) the rate at Rs.1800 per MT for the block of two financial years of 2006-07 and 2007-08. No clarification for the rates to be adopted for 2005-06 was given.

Thus, the failure of the Company to convince the State Government and inappropriate decision of the State Government to revise the price to Rs.1,800 per MT from 2006-07 only resulted in a loss of Rs.3.31 crore on the sale of 66,258 MT at Rs.500 per MT of pulpwood to TNPL during 2005-06.

The matter was reported (August 2007) to the Management/Government; their replies are awaited (September 2007).

State Transport Undertakings

4.7 Avoidable expenditure

Failure to reject the offer of a tenderer that was not conforming to the tender conditions resulted in avoidable expenditure of Rs.1.95 crore

The State Government had designated (April 2000) the Institute of Road Transport (IRT) as a nodal agency to finalise the tenders for procurement of selected items like bus chassis, tyres, re-treading materials, lubricants, paints and tickets, *etc*., required by all the seven State Transport Undertakings (STUs).

The IRT floated (February 2006) tender enquiry for purchase of 37,958 9.00X20-14 PR Rib tyres (subsequently, the requirement was reduced to 33,528 tyres). As per the tender conditions, the prices offered by the tenderers should be firm during the period of contract. Four parties responded. Offer of three tenderers were firm and prices ranged from Rs.5,545 to Rs.5,909 per tyre, whereas the offer of fourth tenderer, MRF Limited (MRF) was for variable price at Rs.5,674 per tyre. As per the offer of MRF, any revision in the price on account of any increase in input cost would be communicated and the revised rates would be applicable. After negotiations, all the tenderers other than MRF agreed to supply at the lowest price of Rs.5,545 per tyre.

After evaluating the performance of tyres of all the four tenderers, IRT decided (May 2006) to award the rate contract to MRF for the supply of 24,000 tyres at Rs.5,674 per tyre with variable price (as their tyre was ranked first in performance) and to the other three tenderers at Rs.5,545 per tyre on firm price basis for the balance quantity of 9,528 tyres. The decision to award contract to MRF, when the tender terms provided for firm prices was not justified. Further, it was noticed that even after accepting variable price, no base price of raw material was specified in the contract to work out the variable sale price.

MRF, without effecting any supply even after a lapse of 40 days from the date of award of the contract, demanded (June 2006) increased price of Rs.6,639 per tyre on the ground of 45 *per cent* increase in the cost of natural rubber.

After protracted correspondence, MRF agreed (July 2006) to supply 4,000 tyres as a special case, at the originally contracted price of Rs.5,674 per tyre with no further obligations to either of the party. IRT decided (July 2006) not to consider the price rise sought by MRF and short closed the order. IRT further decided to invite fresh tender for purchase of 42,386 tyres, including the short closed quantity of 20,000 tyres by advancing the next tender which was due in October 2006. Against the fresh tender, IRT recommended (August 2006) to place orders at the rate of Rs.6,650 per tyre on firm price basis, without considering the offer of MRF, who had again quoted variable price.

Thus, acceptance of price with price variation clause, which was not in line with the tender led to short closure of the purchase order. This resulted in avoidable expenditure of Rs.1.95 crore (Rs.6,650 – Rs.5,674) X 20,000) on purchase of the short closed quantity of 20,000 tyres in the subsequent orders.

The matter was reported (August 2007) to the IRT/Government; their replies are awaited (September 2007).

Tamil Nadu State Transport Corporation (Madurai) Limited

4.8 Avoidable expenditure

Delayed shifting of a surplus electric retreading chamber resulted in avoidable expenditure of Rs.37.72 lakh on use of costlier fuel for retreading of tyres.

Retreading of tyres increases the life of a tyre till it is finally condemned and its cost is less than that of a new tyre. The retreading processes could be steam boiler process (coal), thermos boiler process (diesel) and electric chamber process (electricity). While the raw materials cost and the labour cost are the same for all the three processes, the fuel cost is the cheapest in electric chamber process (Rs.42 per tyre), costlier in steam boiler (Rs.99.35 per tyre) and the costliest in thermos boiler process (Rs.224.37 per tyre).

Madurai region of the Company was utilising the steam boiler for retreading and had one thermos boiler as a standby. About 2,400 tyres were required to be retreaded in this region every month. Tirunelveli region of the Company had two electric chambers with a retreading capacity of 1,600 tyres per month per chamber as against requirement of retreading of only 1,360 tyres per month. As the requirement of Tirunelveli region could be taken care of by one electric chamber, the second electric chamber was surplus.

The Company proposed (February 2006) to shift the surplus electric chamber from Tirunelveli region to Madurai region but did not take any action to shift the same until pointed out (December 2006) by audit. The Company shifted (February 2007) the surplus electric chamber from Tirunelveli to Madurai region, which was put into use in April 2007.

Thus, delay in shifting the electric chamber resulted in avoidable expenditure of Rs.37.72 lakh[♣] on costlier fuel (coal) used in retreading of tyres through steam boiler process in Madurai region during April 2004 to March 2007.

The matter was reported (March 2007) to the Management/Government; their replies are awaited (September 2007).

[♣] Calculated with reference to the year-wise difference between the cost of fuel (coal and electricity) and number of tyres which could have been retreaded with surplus electric chamber.

Tamil Nadu Industrial Investment Corporation Limited

4.9 Loss due to defective appraisal of loan application

Defective appraisal of a proposed dyeing unit by the Company led to non recovery of dues of Rs.1.75 crore from the unit.

Vanavil Dyeings, Tirupur, a Small Scale Industrial Unit, (VDT) in the business of dyeing of cotton hosiery cloth, submitted (January 2000) a proposal to the Company for providing financial assistance for setting up a second unit to undertake job work and own dyeing of yarn and fabrics with installed capacity of 300 and 150 tonnes *per annum* respectively. As the dyeing activity is water intensive, the unit proposed to purchase water from private sources to meet its requirement. VDT also proposed to implement the project in a period of eight months and commence commercial production by September 2000. In support of the business prospects for the new unit, VDT submitted enquiry letters for a value of Rs.27.02 lakh from only four of its regular customers for fabrics and yarn dyeing.

After examining the proposal, the Company sanctioned (January 2000) term loan of Rs.90 lakh under the Refinance Scheme for Textile Industry under Technology Upgradation Fund (RTUF) and Rs.20 lakh under the general scheme to VDT for procurement of machinery. The entire loan amount was repayable in 24 quarterly instalments after a moratorium period of one year from the date of first disbursement of the loan. As per one of the additional conditions, the unit should obtain clearance from the Tamil Nadu Pollution Control Board (TNPCB).

The Company, however, relaxed (November 2000) the condition relating to clearance from TNPCB and decided (November 2000) to release 75 *per cent* of the sanctioned loan to VDT. Accordingly, the Company disbursed (during July 2001 to January 2004) the loan amount of Rs.108.78 lakh (Rs.89.23 lakh under RTUF and Rs.19.55 lakh under the general scheme). The project, however, was completed in February 2003 with a delay of 30 months.

VDT defaulted in payment of interest since August 2003. No repayment of principal was made from the beginning despite rescheduling (August 2002) of the loan due to poor capacity utilisation of the yarn dyeing machinery for want of orders. On many occasions (August 2003 to May 2005), the cheques issued by VDT towards the dues to the Company were dishonoured. As a result, the Company foreclosed (July 2004) the account and tried to sell (October 2004) the machinery of the unit without success. The unit finally became (May 2005) defunct.

It was noticed that the following adverse financial position of VDT should have been considered while appraising the loan application.

- The capital base of VDT was as low as Rs.14 lakh.
- Unsecured loan of VDT had increased from Rs.11.57 lakh in 1996-97 to Rs.28.03 lakh in 1998-99.
- Sundry creditors balance as on 31 March 1999 was Rs.22.41 lakh.
- Turnover of the unit has declined from Rs.68.02 lakh in 1996-97 to Rs.59.58 lakh in 1998-99.
- Net profit of the unit also declined from Rs.3.21 lakh to Rs.2.93 lakh during the same period.

Thus, disbursement of loan of Rs.108.78 lakh without considering the adverse financial position of the unit as stated above resulted in mounting of outstanding dues to Rs.1.75 crore (principal: Rs.1.08 crore; interest:Rs.0.67 crore) up to July 2006. The chances of recovery of dues are bleak since the unit has been defunct since May 2005.

The matter was reported (May 2007) to the Management/Government; their replies are awaited (September 2007).

Tamil Nadu Industrial Development Corporation Limited

4.10 Avoidable recurring loss

Failure to disinvest its shareholding in an associate sector unit resulted in recurring loss of Rs.1.08 crore *per annum* to the Company.

A reference is invited to paragraph 2A.11.3 (a) (i) of the Report of the Comptroller and Auditor General of India (Commercial) for the year ended 31 March 2000 wherein the Company's diminishing scope of recovery of the investment of Rs.7.48 crore made in the equity share capital of SPIC Organics Limited (SOL) was commented upon. The Company then stated (May 2000) that disinvestment in SOL would be made at the appropriate time.

SOL was subsequently merged (April 2000) with Manali Petrochemicals Limited (MPL), a group company of Southern Petrochemical Industries Corporation Limited (SPIC). Consequently, SPIC, being parent company, executed (November 2000) an Associate Sector Agreement with the Company. The agreement *inter alia* provided that the Company would have the right to disinvest its entire shareholdings in MPL in the open market at any point of time by inviting open bids.

As MPL's accumulated losses mounted to Rs.35.33 crore as on 31 March 2005, MPL proposed (May 2005) a capital restructuring plan to reduce its share capital of Rs.114.70 crore by 25 *per cent* (Rs.28.67 crore). The Company agreed (July 2005) to the proposal for reduction of the paid up share capital of MPL subject to the condition that SPIC execute an undertaking to

buy the shares held by the Company in MPL at the highest price of the three prices to be worked out as per the formula mentioned in the Associate Sector Agreement. SPIC, however, did not agree (8 August 2005) to this condition. The Capital restructuring plan of MPL was approved (October 2005) in an Extraordinary General Meeting of its shareholders, though the Company voted against the same. Consequently, the value of the Company's investment in MPL decreased from Rs.7.48 crore to Rs.5.61 crore.

It was observed that since SPIC did not agree to the proposal of the Company to buy its share in MPL at the highest of the three prices mentioned in the agreement, the Company should have disinvested (August 2005) its shareholding itself as shares of MPL were being quoted in the share market between Rs.19.45 and Rs.28.85 in that month. This would have enabled the Company to realise an income of Rs.20.44 crore (computed with reference to the closing price of Rs.27.35 per share of MPL in August 2005) and by investing this amount, the Company could have earned an annual return of Rs.1.64 crore (at the overall borrowing rate of eight *per cent per annum*). As against this, the Company earned only Rs.1.12 crore during 2005-06 and 2006-07 as dividend. Thus, failure to disinvest its share in MPL resulted in a recurring annual loss of Rs.1.08 crore (expected interest earning of Rs.1.64 crore minus dividend Rs.0.56 crore).

The Management stated (February 2007) that the reduction in share capital enabled MPL to wipe off its accumulated losses and restore payment of dividend to the shareholders. It further stated that it would be worthwhile to hold on the shares of MPL as the intrinsic value of the shares was likely to be far in excess of the quoted price with an assured dividend of 10 to 20 *per cent*.

The reply is not tenable as the investment of Rs.7.48 crore made by the Company in 1995 did not yield any return till 2004-05. Further, the consultant appointed by MPL projected (November 2004) maximum dividend of 10 *per cent* upto 2008-09. Thus, the possibility of declaring dividend by MPL in excess of 10 *per cent* is remote. Further, the shares of MPL were quoted at Rs.9.11 per share as on 10 August 2007. It is pertinent to mention here that Unit Trust of India and General Insurance Corporation had sold their shareholdings in MPL to the general public, when MPL proposed reduction of its share capital in May 2005.

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

Tamil Nadu Cements Corporation Limited

4.11 Extra expenditure on electricity charges

The Company incurred extra expenditure of Rs.67.74 lakh due to non-availing of appropriate tariff for supply of power to the residential quarters in the cement unit at Alangulam.

Tamil Nadu Electricity Board (Board) introduced (March 2003), a new LT tariff IC. According to the new tariff, LT bulk supply to residential quarters within the premises of the consumers availing power at HT tariff IA, IIA and III was to be metered separately by the consumer and billed under the LT tariff IC. The consumption of energy was to be charged at the rate of Rs.3.50 per unit under this tariff and no fixed charge was payable.

Alangulam unit of the Company has residential colony consisting of 400 residential quarters and 20 commercial establishments for its employees, near its plant. The unit is availing power supply from HT Industrial connection and also supplying power from this connection to the residential colony through LT feeder having separate metering arrangement. As the commercial establishments are located in between the quarters, the Board had been levying LT commercial tariff at Rs.5.80 per unit for the entire consumption recorded in the meter connected to the LT feeder, though majority of the power consumption relates to 400 residential quarters.

The Company did not take effective steps so far (September 2007) for getting the consumption of energy by residential quarters billed under tariff LT-IC in spite of being pointed out (September 2006) by audit. The consumption of power by the residential colony was being billed by the Board at higher rates under LT commercial tariff. It is pertinent to mention here that Ariyalur unit of the Company was being billed under tariff LT-IC since introduction of this new tariff in March 2003.

Thus, failure of the Company to effectively pursue the matter for availing the LT tariff IC for the electricity consumption in the residential quarters in the Alangulam unit resulted in avoidable extra expenditure of Rs.67.74 lakh between April 2003 and September 2007. This would also result in recurring extra expenditure of Rs.95,168 per month till the change of tariff is made by the Board.

The matter was reported (April 2007) to the Management/Government; their replies are awaited (September 2007).

Tamil Nadu Adi Dravidar Housing and Development Corporation Limited

4.12 Improper implementation of a welfare scheme

Unfruitful investment of Rs.42.65 lakh in providing Garbage tipper autos to the beneficiaries without ensuring the potential employment and non-recovery of balance advance payment of Rs.49.77 lakh from tipper auto supplier.

The Company has been implementing various schemes for the economic upliftment of weaker sections of the society. The Company formulated (February 2000) one such scheme of providing loans to the dependents of sanitary workers of Tirunelveli Municipal Corporation (TMC) for purchase of garbage tipper autos, by obtaining funds from National Safai Karmacharis Finance Development Corporation (NSKFDC). Using the tipper autos, the dependents of sanitary workers were proposed to be engaged in clearing of the garbage in the TMC area so as to earn their livelihood.

As per the scheme, TMC was to deduct the instalments of loan from the charges payable to the beneficiaries on entrusting the job of garbage clearance and remit the amount so deducted to the Company.

The Company released (February 2000) a sum of Rs.1.18 crore to TMC, for the purchase of 55 numbers of tipper autos on behalf of the beneficiaries. TMC placed (March 2000) orders on Royal Auto Agency, Tirunelveli (RAA) for the supply of 55 tipper autos at a cost of Rs.1.75 lakh per tipper auto. RAA supplied (July 2000) 24 out of 55 tipper autos ordered against an advance payment of Rs.56.79 lakh.

TMC informed (July 2000) RAA not to supply the balance 31 tipper autos as TMC could not engage the beneficiaries to whom 24 tipper autos had already been provided on the job of garbage clearance. TMC refunded (July 2000) the balance amount of Rs.60.59 lakh (Rs.118.01 lakh - Rs.57.42 lakh) to the Company. With the result, the remaining beneficiaries requested the Company to buy auto rickshaws instead of garbage tipper autos. The Company approached the supplier (RAA) for supplying 9 auto rickshaws for the balance amount (Rs.14.77 lakh) of advance payment, for which the supplier did not respond.

Subsequently, the Company on its own made (September 2000) an advance payment of Rs.35 lakh for getting the balance 31 numbers of tipper autos from the RAA. RAA after receiving the payment, demanded (April 2001) further money and refused to supply the balance number of tipper autos. The beneficiaries were also not willing to receive these tipper autos, in the absence of employment expected to be provided by TMC to them. Consequently, the Company dropped the scheme and lodged a criminal complaint (December 2005) against the supplier for recovery of the balance amount of

Rs.49.77 lakh. The supplier, however, filed (August 2006) a civil suit against the Company for not taking delivery of the tipper autos available with them.

In this connection, it was observed that:

- the scheme was a non-starter from the beginning as there was no firm commitment from TMC for employing the tipper autos for clearance of garbage.
- there was no justification for the Company to pay further advance of Rs.35 lakh to RAA for supply of tipper autos as the beneficiaries were not interested in tipper autos.
- the Company did not take action to recover Rs.49.77 lakh or seize 31 tipper autos or file civil suit against RAA between September 2000 and December 2005.
- no action has been taken by the police to investigate the criminal case lodged by the Company so far (September 2007).

While accepting the facts, the Company stated (March 2007) that a criminal complaint had been lodged against RAA with the Police for recovery of the amount and in order to evade the criminal prosecution, the supplier had filed a civil suit against the Company. The fact, however, remains that the action of the Company was unjustified as there was no guarantee of employment by the TMC. Further, the decision to pay further advance of Rs.35 lakh for purchase of tipper autos was not justified as the Company was aware that the beneficiaries were not interested in tipper autos. Besides, the Company failed to ensure gainful employment to even those beneficiaries to whom the tipper autos were provided. This reduced the chances of recovering Rs.49.77 lakh from RAA and investment of Rs.42.65 lakh on purchase of tipper autos for beneficiaries remained unfruitful as the objective of providing employment to weaker section could not be achieved.

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

Tamil Nadu Ex-servicemen's Corporation Limited

4.13 Avoidable payment of income tax

Failure to collect certificate of income tax deducted at source from the user departments resulted in avoidable payment of income tax of Rs.25.26 lakh.

The Company has been providing services of ex-servicemen in the areas of security, clerical work, accounting work, *etc*., on contract basis to the State/Central Government departments and Public Sector Undertakings (PSUs). For this purpose, the Company had entered into contracts with the

user departments/PSUs and raised claims for payments against the services rendered.

As per the provision of Section 194 (c) of the Income Tax Act, 1961 (Act), any person responsible for paying any sum to any contractor for the work carried out has to deduct an amount equal to the amount specified in the Income Tax Rules at the time of payment and remit the same to the Income Tax Authority. The person making such deductions has to furnish a certificate of Tax Deducted at Source (TDS) to the effect that the tax has been deducted, specifying the amount so deducted, *etc*., (Section 203 of the Act). The person, from whose payments tax has been deducted has to produce the TDS certificate to the Income Tax Authority at the time of income tax assessment to get credit for the tax so deducted (Section 199 of the Act).

It was observed that there was no proper system of monitoring the timely collection of TDS certificates. As a result, the Company failed to collect TDS certificates for Rs.25.26 lakh from the user departments for the assessment years 1999-2000 to 2003-04 (financial years 1998-99 to 2002-03). The Company has obtained exemption from deduction of tax at source from assessment year 2004-05 onwards.

Non-collection of TDS certificates from the concerned user departments/PSUs and their submission to the Income Tax authorities resulted in avoidable payment of income tax of Rs.25.26 lakh. Further, the Company has not taken any action against the officials who failed to collect TDS certificates.

The matter was reported (March 2007) to the Management/Government; their replies are awaited (September 2007).

Statutory Corporation

Tamil Nadu Electricity Board

4.14 Failure to avail full benefit of securitisation of the dues

Failure to securitise the entire outstanding dues payable to the Central Public Sector Undertakings resulted in the Board losing an opportunity to liquidate its liability of Rs.129.22 crore.

The GOI, as a measure of power sector reform and improving the financial position of the SEBs, introduced (May 2001) a scheme of one time settlement of the outstanding dues of SEBs payable to the Central Public Sector Undertakings (CPSUs) for supply and transmission of power and supply of fuels to the SEBs.

The scheme originally contemplated securitisation of the outstanding dues of the SEBs payable to the CPSUs as on 28 February 2001 by issue of tax free bonds (at interest rate of 8.5 *per cent per annum*) to the CPSUs by the respective State Governments. The bonds were to be redeemed within a period of 15 years including a moratorium period of 5 years.

The Board submitted (September 2001) a proposal to the State Government for securitising an amount of Rs.1,524.46 crore stated to be the outstanding dues payable to the CPSUs as on 28 February 2001. Subsequently, the Board submitted (November 2001) a proposal revising the amount to be securitised as Rs.1,962.14 crore by increasing the dues payable to Coal India Limited (CIL) from Rs.45.20 crore to Rs.397.96 crore. Accordingly, the State Government decided (June 2002) to issue tax free bonds for Rs.1,962.14 crore to the CPSUs as one time securitisation of the outstanding dues of the Board payable to the CPSUs.

Meanwhile, the GOI extended (April 2002) the cut-off date for reckoning the dues to the CPSUs from 28 February 2001 to 30 September 2001 and thereby made the scheme effective from 1 October 2001. During this extended period (March 2001 to September 2001), the Board further accumulated dues of Rs.289.57 crore payable to the CPSUs against purchase of power. The Board requested (June 2002) the State Government that this additional accumulated dues may also be accommodated within the original amount of Rs.1,962.14 crore proposed for securitisation by restricting the dues payable to CIL to the undisputed amount of Rs.155.20 crore as against total dues of Rs.193.30 crore. The Board further reduced (March 2003) the dues payable to CIL to Rs.117.30 crore. It was noticed that the dues payable to CIL were not the actual dues but a derived balancing figure so as to retain the overall securitisation amount at

Rs.1,962.14 crore. The dues (including disputed amount) payable to CIL was Rs.397.96 crore as on March 2003.

The State Government notified (August 2003) the issue of bonds for Rs.1,962.14 crore to the CPSUs treating the amount as grants-in-aid to the Board. Thus, despite the dues to CIL being Rs.397.96 crore, the Board intimated the State Government an arbitrary balancing figure of Rs.117.30 crore.

Thus, by arbitrarily restricting the dues of CIL to Rs.117.30 crore with the sole purpose of limiting the securitisation to the initially approved amount of Rs.1,962.14 crore, the Board had lost an opportunity to convert its dues to CIL amounting to Rs.129.22 crore (being the payments of Rs.86.92 crore made to CIL after 30 September 2001 and the amount of Rs.42.30 crore remaining unsettled) as grants-in-aid from the State Government.

The matter was reported (June 2007) to the Board/Government; their replies are awaited (September 2007).

4.15 Avoidable liability towards penal interest

Delayed remittance of the Electricity Tax by the Board into the Government account led to liability of penal interest of Rs.89.84 crore.

As per provisions of the Tamil Nadu Electricity (Taxation on Consumption) Act, 1962 and Rules made there under, every licensee (including the Board) had to collect the electricity tax from the consumers of electricity and pay the same to the State Government within a period of 60 days from the last day of the month for which tax was levied. For the belated payments, interest at the rate not exceeding 12 *per cent per annum* for the period of delay had to be collected by the State Government. Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003 which came into effect from 16 June 2003 also provides for levy of penal interest on such belated payments.

The Board collected the electricity tax from the consumers regularly but did not remit the same to the State Government by the due dates since October 1999 to December 2005 on the ground of its poor ways and means position. The same was either adjusted by the State Government against release of subsidy/equity share capital to the Board or at times paid by the Board in cash. As there was always delay in adjustment of subsidy/equity or payment of cash against electricity tax dues, the Board was liable to pay penal interest of Rs.89.84 crore for the period from October 1999 to December 2005, which has not been paid so far (August 2007) by the Board.

The Board though requested (between July 2003 and December 2005) the State Government to waive the penal interest, the Government did not agree (December 2005) as there was no provision in the relevant Act for waiver of the penal interest.

The Board stated (July 2007) that it has requested (December 2005) the State Government to re-examine the issue regarding waiver of penal interest of Rs.89.84 crore as per Section 16[∝] of the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003. The Government had not responded so far (September 2007).

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

4.16 Non-recovery of Current Consumption charges

The Board failed to recover the subsidy of Rs.47.28 crore towards Current Consumption charges of beneficiaries directly from the Government.

Tamil Nadu Electricity Regulatory Commission (TNERC) *inter alia* fixed (March 2003) the tariff for supply of electricity to agriculture at Rs.250 per horse power *per annum* for unmetered consumer. As small and marginal farmers were getting free supply prior to this Tariff Order, the State Government decided (June 2003) to give cash subsidy to them to enable them to pay the Current Consumption charges (CC charges) to the Board. For this purpose, the State Government announced (June 2003) a scheme called 'cash support scheme', which provided for disbursement of cash subsidy to the farmers, twice a year at the rate of Rs.500 or Rs.625 per half year depending upon the horse power of the motor used for pumping water by the farmers. The amount was to be sent to the beneficiary farmers through money orders (MOs) based on the address and data of electricity dues furnished by the Board. The farmers in turn were to pay the CC charges to the Board by due dates. This scheme was discontinued (March 2004), as TNERC had subsequently agreed to the proposal of the State Government to make the entire supply of electricity to the agriculture and hut services free of cost and directed the State Government to provide the subsidy directly to the Board to compensate the shortfall in revenue collections.

Audit scrutiny of the cash support scheme revealed the followings:

- The Board collected Rs.87.72 crore for the first half year ending 15 September 2003 as against the demand of Rs.93.90 crore leaving a balance of Rs.6.18 crore uncollected.
- For the second half of the year ending 15 March 2004, the Board collected only Rs.52.14 crore against the demand of Rs.93.24 crore and Rs.41.10 crore remained uncollected.

∝ Section 16 provides that if any difficulty arises giving effect to the provisions of this Act, the Government may by an order published in the Tamil Nadu Government Gazette make such provisions not inconsistent with the provisions of this Act, as appears to them necessary or expedient for removing the difficulty.

- MOs of Rs.23.16 crore relating to the second half year of 2003-04 were returned undelivered and the amount was remitted back to the State Government due to the failure of the Board to furnish correct addresses of the beneficiary farmers. Against this, the Board could subsequently, furnish correct addresses for Rs.7.92 crore for which sanction of the subsidy sought by the Board is pending with the State Government (September 2007).
- The Board also claimed (November 2005) special subsidy of Rs.33.18 crore towards the balance uncollected amount pertaining to the second half year of 2003-04. The Board, however, did not claim any subsidy for the uncollected amount of Rs.6.18 crore pertaining to the first half year of 2003-04. Moreover, the Board did not follow up with the State Government for payment of the balance amount of subsidy after November 2006.

It was noticed that at the time of discussing the modalities for the payment of cash subsidy to the small and marginal farmers with the State Government to enable them to pay CC charges as per the tariff fixed by the TNERC, representatives of the Board were also present. At that time, the Board could have very well requested the State Government to pay the subsidy directly to the Board instead of routing through the beneficiaries. This would also have helped the State Government to save MO commission of Rs.3.18 crore, besides recovery of full dues by the Board.

Thus, failure of the Board to give correct address of the beneficiaries and to pursue with the State Government for directly reimbursing the CC charges by way of subsidy instead of routing through the consumers had resulted in non recovery of the CC charges of Rs. 47.28 crore (Rs.6.18 crore plus Rs.41.10 crore).

The matter was reported (May 2007) to the Board/Government; their replies are awaited (September 2007).

4.17 Loss of incentive

Failure to comply with the conditions regarding prompt payment of dues to the Central Public Sector Undertakings led to loss of incentive of Rs.24.63 crore.

In order to restore the financial viability of the SEBs and to enable them to undertake reforms, the GOI announced (April 2002) a scheme called "Securitisation of outstanding dues of SEBs to the Central Public Sector Undertakings" (CPSUs). As per this scheme, all dues of the SEBs payable to the CPSUs outstanding as on 30 September 2001 were to be converted into long term loans by issue of tax free bonds by the respective State Governments which were to be repaid in 20 equal six monthly instalments from 1 October 2006.

The scheme further provided that after the securitisation of the past dues as above, for payment of dues for the period after 30 September 2001, the SEBs should:

- make payment against the bills of CPSUs within 60 days from the date of billing or within 45 days of receipt of bills, whichever was later;
- open on or before 30 June 2002 an irrevocable letter of credit (LC) equal to 105 *per cent* of the average monthly bills of CPSUs for supply of coal/power, *etc*;
- establish any other mutually acceptable security mechanism for timely payment of current dues.

The scheme further provided that the SEBs, which complied with the security mechanism and made prompt payment of dues without committing any default during a block of six months in the years 2002-03 to 2005-06 shall be eligible for financial incentive. The bi-annual incentive was two *per cent* of nominal value of bonds for the period upto 31 December 2002 and three *per cent* in 2002-03, two and half *percent* in 2003-04 and two *per cent* in 2004-05 and 2005-06.

The State Government issued (August 2003) bonds of Rs.117.30 crore in favour of Mahanadhi Coal Fields Limited (MCL) in pursuance of this scheme. The Board, in respect of dues for the period subsequent to 30 September 2001 neither opened LCs nor established any other mutually acceptable security mechanism for payments of dues to MCL towards supply of coal. It settled most of the bills of MCL for the actual quantity of coal lifted belatedly *i.e.,* after 60 days from the date of billing or 45 days of the receipt of the bills.

Failure of the Board to comply with the conditions relating to prompt payment of dues led to loss of incentive of Rs.24.63 crore.

The Government stated (July 2007) that the coal companies raised their bills on day-to-day basis and the Board settled these bills on monthly basis after receipt of test results from the referee regarding the grade of coal. It was further stated that opening of letter of credit was not advantageous to the Board in view of exposure limit with banks. The Board was making only advance payment to MCL equal to 95 *per cent* of coal value and 100 *per cent* of statutory levies. MCL was not considering this form of advance payment as mutually agreed one. In the above circumstances, the Board could not adhere to the stipulated conditions of tripartite agreement on payment terms and mutually acceptable security mechanism.

The reply is not tenable in view of the fact that as per securitisation scheme, payment of bills had to be made not later than 60 days from the date of billing or within 45 days of their receipt whichever was later. The Board need not have waited for the test results on grade slippages, *etc*. as the recovery on account of this was lesser compared to the incentive that the Board would have received for prompt payment. By paying the balance five *per cent* amount of the bills (as the Board was making 95 *per cent* advance payment),

the amount of incentive earned by the Board would have been more than the cost of borrowing.

4.18 Avoidable expenditure

Procurement of costlier high quality meters instead of low cost static meters resulted in avoidable expenditure of Rs.14.18 crore.

The Board approved (May 2005) the procurement of five lakh single phase static meters initially against the proposal to procure 10 lakh meters. It was decided to procure the balance quantity of five lakh meters only after ascertaining the performance for one year of the similar meters procured during October 2004 to January 2005. Accordingly, purchase orders were placed (May 2005) on five firms for supply of five lakh single phase static meters at rates of Rs.277.19 to Rs.279.21 per meter (all inclusive) as approved by the Director General of Supplies and Disposal.

A three member committee formed (July 2005) to assess the performance of high quality meters *vis-a-vis* static meters visited (August 2005) the power utilities in Karnataka and Gujarat. The Committee recommended (September 2005) procurement of high quality meters instead of the static meters on the ground that warranty period for high quality meters was 10 years compared to five years for static meters and generally the performance of high quality meters was better than that of static meters.

After inviting tenders (December 2005), the Board placed orders (April 2006) on 12 suppliers for procurement of five lakh high quality single phase meters at an all inclusive price of Rs.574.91 to Rs.576.19 per meter. Against which 4,79,621 of high quality meters were received during June to November 2006.

The decision of the Board to procure five lakh high quality meters in preference to the static meters lacked justification as:

- The cost of the static meters was very less compared to the high quality meters. The three member committee did not point out any inferior or poor performance of the static meters. There was no complaint about performance of single phase static meters already installed.
- Further, no efforts were made to assess the performance of single phase static meters purchased during October 2004 to January 2005 as directed (May 2005) by the Board, although these meters had completed one year by the time orders for high quality meters were finalised (April 2006).
- The Board had placed (February 2006) orders for procurement of three lakh single phase static meters indicating that the performance of these meters was satisfactory.

Thus, the decision (April 2006) to procure five lakh costlier high quality meters lacked justification resulting in avoidable expenditure of Rs.14.18 crore[°] on procurement of 4,79,621 high quality meters.

The matter was reported (March 2007) to the Board/Government; their replies are awaited (September 2007).

4.19 Loss of revenue

Non-extension of additional load to an extra high tension consumer due to failure of the Board to replace a failed transformer led to revenue loss of Rs.2.23 crore.

As per Section 43(1) of the Electricity Act, 2003 read with Regulation 4 of the "Tamil Nadu Electricity Regulatory Commission – Tamil Nadu Electricity Distribution Standards of Performance Regulations 2004", the Board should provide the additional load within a period of 90 days from the date of registration of the application, where extension and improvement of transformers is involved. It further provides that if the Board fails to supply the electricity within the specified period, it shall be liable to pay the consumer a penalty, which may extend up to Rs.1,000 for each day of delay in extending the supply beyond the stipulated time schedule.

Chemplast Sanmar Limited (CSL), an extra high tension consumer under Mettur Electricity Distribution Circle having a sanctioned load of 9,500 KVA applied (July 2006) for an additional load of 16,500 KVA and deposited earnest money of Rs.1.32 crore. His application was registered (18 July 2006) with the Board for sanction of additional load.

The Board sanctioned (October 2006) the additional load of 16,500 KVA to CSL with a condition that the supply would be effected after erection and commissioning of a 50 MVA auto transformer at Mettur sub-station (SS) in place of the old one, which had failed. As the planned erection and commissioning of auto transformer at Mettur sub-station could not materialise, the additional load requested by CLS could not be effected so far (August 2007).

Non extension of the additional load resulted in loss of revenue of Rs.2.23 crore on account of demand charges[♣] besides having a liability to pay penalty to the consumer. In addition, the Board would continue to suffer a recurring loss of Rs.44.85 lakh per month on account of demand charges till the additional load was provided.

° Calculated by taking the difference between the lowest price (Rs.574.91) of high quality meter and highest price (Rs.279.21) of single phase static meters.

♣ Being the minimum charges receivable even if there is no consumption.

The Government stated (August 2007) that an interim demand of 4,000 KVA to CSL was effected (9 April 2007) and after commissioning of 100 MVA auto transformer at Mettur SS, the balance demand of 12, 500 KVA would be effected at the earliest. The fact, however, remains that even after a lapse of 15 months from the date of application by the consumer, the Board is yet to effect the full demand of 16,500 KVA as demanded by the CSL. As such, the Board would continue to suffer a recurring revenue loss of Rs.33.75 lakh per month till the full demand of CSL is met.

4.20 Avoidable expenditure

Payment of Rs.2.10 crore as income tax on the incentive paid to the employees by the Board on behalf of its employees resulted in avoidable expenditure.

The Board introduced (April 1983) a scheme for payment of Monthly Thermal Incentive Allowance (Allowance) and Annual Thermal Incentive Bonus (Bonus) linked to the generation of power achieved by Tuticorin Thermal Power Station (TTPS).

Section 192(1) of the Income Tax Act, 1961 requires that any person responsible for paying any income chargeable under the head “Salaries”, shall at the time of payment, deduct income tax on such amount. Since the allowance and bonus were akin to profit in lieu of salary, income tax was to be deducted by the Board on the amount of allowance/bonus at source (TDS) and deposited with the Income Tax authorities.

The Board, however, did not deduct the income tax at source from the payments of allowance and bonus made to its employees of TTPS and remit it to the Income Tax Department (Department), since introduction of the incentive schemes.

The Department raised (December 2004) a demand of Rs.1.25 crore towards income tax and interest for non-deduction of TDS on the allowance and bonus paid to the employees of TTPS for the financial years 2000-01 to 2003-04. The amount was subsequently collected (August 2005) by the Department by freezing the bank account of the Board.

It was observed that even after this, the Board did not start deducting TDS from the amount of allowance and bonus paid to the employees. The Board, instead, decided (April 2006) to bear the burden of income tax on the amount of allowance and bonus paid to the employees. Accordingly, the Board paid income tax amounting to Rs.23.63 lakh on the payments of allowance and bonus for the years 2004-05 and 2005-06.

It was observed that the Board introduced (April 2003) similar incentive scheme in North Chennai Thermal Power Station (NCTPS). The Board has neither deducted the tax of Rs.60.59 lakh at source on these payments nor remitted the same to the Department up to March 2006.

The Board stated (March 2007) that the Chief Minister of the State had announced (December 2004) that the tax on the thermal allowance and annual thermal incentive bonus paid to the officers and staff of TTPS would be borne by the Board. The reply is contradictory to the facts recorded in the note submitted (24 April 2006) to the Board that the Chief Minister had announced (December 2004) that the Government of Tamil Nadu was taking up the matter of getting exemption from assessment of tax on the said allowances and in the event of non-exemption, the Government of Tamil Nadu would reimburse the tax. While complying with the public announcement of the Chief Minister, the Board did not try to obtain the formal approval of the State Government.

Thus, payment of income tax on behalf of the employees resulted in unwarranted liability of Rs.2.10 crore in respect of TTPS employees. In respect of NCTPS, no TDS has been deducted and deposited with the authorities for which the Board may be liable to pay income tax along with interest and penalty.

The Government stated (July 2007) that the Board had not paid any amount so far towards income tax from its funds on behalf of the employees of North Chennai Thermal Power Station. The payments of allowance and bonus were being made to motivate the employees of thermal power stations in order to maintain the availability of quality and reliable power in the State. Considering the earnest efforts being put forth by these employees round the clock in difficult environmental conditions, it was felt that deduction of income tax on this meagre benefit would dissuade them in bringing out their best achievements. The reply is not tenable as the payments made by the Board were on the basis of the assurance given by the State Government to reimburse the same. Further, as per Income Tax Act[•], any amount paid by the employer on behalf of employees needs to be added to the income of the employees for payment of income tax.

4.21 Extra expenditure on sales tax

Failure to include the appropriate rate of sale tax in the purchase orders for the procurement of transformers resulted in extra expenditure of Rs.53.28 lakh on sales tax.

Section 3(5) of the Tamil Nadu General Sales Tax Act (Act), introduced with effect from 17 July 1996 stipulates that the tax payable by a dealer in respect of sale of any of the goods mentioned in the Eighth Schedule of the Act to any

• Section 17(2)(iv) states that any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee would be included in the salary as 'Perquisite'.

other dealer for installation of and use in his factory site situated within the State for the manufacture of any goods shall be at three *per cent* on the turnover relating to such sale.

The Board is a registered dealer engaged in the business of generation, transmission and sale of electric energy. Transmission power transformers and distribution transformers have been included in the Eighth Schedule of the said Act. As such, the Board was entitled to procure the transformers by paying sales tax at three *per cent* after furnishing the Form-XVII to the suppliers.

As there was some confusion over the applicability of concessional sales tax (three *percent*) to the Board, the Board took up (February 2004) the matter with the Commissioner of Commercial Taxes about the applicability of sales tax rate on the procurement of transformers by the Board. The Commissioner of Commercial Taxes clarified (March 2004) and issued instructions (October 2005) to all the Deputy Commissioners, Commercial Taxes that the Board was eligible to procure transformers by paying sales tax at three *per cent* on production of the Form-XVII.

It was observed that even after having received the above clarification and order from the Commercial Taxes Department, the Board failed to include the appropriate rate of sales tax in the purchase orders placed during November 2005 to July 2006 leading to payment of sales tax at four *per cent* instead of three *per cent*. This resulted in incurring of extra payment of sales tax of Rs.53.28 lakh.

The matter was reported (March 2007) to the Board/Government; their replies are awaited (September 2007).

GENERAL

4.22 Follow-up action on Audit Reports

Explanatory notes outstanding

4.22.1 The Comptroller and Auditor General of India's Audit Reports represent the culmination of the process of scrutiny starting with initial inspection of accounts and records maintained in the various offices of Public Sector Undertakings and Departments of Government. It is, therefore, necessary that they elicit appropriate and timely response from the Executive. Finance Department, Government of Tamil Nadu had issued instructions (January 1991) to all Administrative Departments to submit explanatory notes indicating corrective/remedial action taken or proposed to be taken on the paragraphs and reviews included in the Audit Reports within six weeks of their presentation to the Legislature, without waiting for any notice or call from the Committee on Public Undertakings (COPU).

The Audit Reports for the years 1997-98, 1998-99, 1999-2000, 2000-01, 2001-02, 2002-03, 2003-04, 2004-05 and 2005-06 were presented to the State Legislature in April 1999, May 2000, September 2001, May 2002, May 2003, July 2004, September 2005, August 2006 and May 2007 respectively. Eleven out of 18 departments, which were commented upon, had not submitted explanatory notes on 98, out of 247 paragraphs/reviews, as on September 2007, as indicated below:

Year of Audit Report (Commercial)	Total number of paragraphs/reviews in the Audit Report	Number of paragraphs/reviews for which explanatory notes were not received
1997-98	25	1
1998-99	29	1
1999-2000	28	13
2000-01	25	10
2001-02	32	12
2002-03	29	8
2003-04	24	7
2004-05	25	16
2005-06	30	30
TOTAL	**247**	**98**

Department-wise analysis is given in the **Annexure-22.** The departments largely responsible for non submission of explanatory notes were Industries and Small Industries.

Compliance to the Reports of Committee on Public Undertakings (COPU)

4.22.2 The replies to recommendations of the Committee on Public Undertakings (COPU) as contained in its Reports are required to be furnished within six weeks from the date of presentation of the Report by the COPU to the State Legislature. Replies to recommendations pertaining to 19 paragraphs included in 15 Reports of COPU presented to the State Legislature between March 2000 and March 2007 had not been furnished by the concerned departments of the State Government as on September 2007 as indicated below:

Year of COPU Report	Total number of Reports involved	Number of paragraphs in respect of which replies were not received
2002-03	2	2
2003-04	8	11
2004-05	5	6
TOTAL	**15**	**19**

Action taken on persistent irregularities pointed out in the Audit Reports

4.22.3 Government companies

Sanction of loans in violation of guidelines by Tamil Nadu Industrial Investment Corporation Limited was included in the Reports of the Comptroller and Auditor General of India for the years 1997-98, 1999-2000 and 2004-05 (Commercial) – Government of Tamil Nadu (as detailed in **Annexure-23**). Audit scrutiny revealed that the irregularities continued to persist for more than seven years as the action taken by the Company/the Government was inadequate.

Statutory corporations

Extension of undue benefit to Independent Power Producers, noticed in Tamil Nadu Electricity Board was included in Audit Reports of the Comptroller and Auditor General of India for the years 2001-02, 2003-04, 2004-05 and 2005-06 (Commercial) - Government of Tamil Nadu (as detailed in **Annexure-24**). Audit scrutiny revealed that these irregularities continued to persist as the action taken by the Board/State Government was inadequate.

4.23 Response to inspection reports, draft paragraphs and reviews

Audit observations noticed during audit and not settled on the spot are communicated to the heads of the Public Sector Undertakings (PSUs) and departments of the State Government through inspection reports. The heads of PSUs are required to furnish replies to the inspection reports through the respective heads of departments within a period of six weeks. Inspection reports issued up to March 2007 pertaining to 58 PSUs disclosed that 3,191 paragraphs relating to 777 inspection reports remained outstanding at the end of September 2007; of these, 356 inspection reports containing 1,047 paragraphs had not been replied to for more than two years. Department-wise break-up of inspection reports and audit observations outstanding as on 30 September 2007 is given in **Annexure-25.**

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 21 draft paragraphs and four reviews forwarded to the various departments during the period from March to August 2007, as detailed in **Annexure-26**, had not been replied so far (September 2007).

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

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

Chennai **(S.MURUGIAH)**
The **Accountant General**
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Tamil Nadu

Countersigned

New Delhi **(VINOD RAI)**
The **Comptroller and Auditor General of India**