CHAPTER-III

3. Transaction Audit Observations

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

Uttar Pradesh Electronics Corporation Limited

3.1 Avoidable payment

The holding company did not make efforts to sell shares, though buy back of shares was due in December 2002. As a result, it could not avoid interest burden of Rs.2.71 crore in making repayment of its borrowings.

Uptron Colour Picture Tubes Limited (UCPTL), a subsidiary of U.P. Electronics Corporation Limited (UPELC), was taken over in April 1996 by BPL Limited (BPL) under the rehabilitation package (Package) approved in April 1996 by the Board for Industrial and Financial Reconstruction. After approval of the Package, UCPTL was renamed as BPL Display Devices Limited (BPLDDL). UPELC was holding 17 lakh shares in BPLDDL. Clause 3.3 of the package provided that BPL would buy back at least 8.5 lakh shares of UPELC for Rs.5.10 crore at the rate of Rs.60 per share, after four years from the date of commercial production of BPLDDL. The commercial production of BPLDDL commenced in July/December 1998. The buy back of shares, according to the approved package was due in December 2002.

Audit scrutiny (April 2005) revealed that UPELC did not make efforts (May 2005) to sell its 8.5 lakh shares to BPL though buy back of shares was due in December 2002 itself. Thus, as a result of inaction of the Management, UPELC could not utilise the sale proceeds of shares in repayment of its borrowings to the extent of Rs.5.10 crore. Resultantly, it could not avoid interest burden of Rs.2.71 crore for the period from January 2003 to May 2005 at the rate of 22 *per cent* applicable on its borrowings.

The Management stated (August 2005) that a firm offer was sent in May 2005 to BPL for purchase of the entire shareholding in BPLDDL and a reminder had also been sent in August 2005. In case a positive response is not received from BPL, legal action against them would be initiated with the permission of BIFR. The reply is not acceptable as action should have been started in December 2002 itself to realise the purchase price of shares so as to reduce its interest burden on the borrowings, especially, when the Company knew that BPLDDL was incurring losses and had not got its shares listed on any of the Stock Exchanges in India.

The matter was reported to the Government in June 2005; reply is awaited (September 2005).

Uttar Pradesh Rajkiya Nirman Nigam Limited

3.2 Avoidable cost overrun

The Company failed to deploy the required funds on the work within the scheduled time in spite of having funds in the PLA, resulting in cost overrun of Rs.41 lakh in the completion of 20 houses.

The State Government accorded (July 2000) administrative approval and financial sanction of Rs.1.16 crore for construction/extension of 26 duplex

houses for Justices of the High Court, Allahabad and directed the Company to complete the work by December 2000. The Government order, *inter alia*, stipulated that any extra expenditure on the work would not be admitted on the basis of the revised estimate.

The Allahabad Unit of the Company was entrusted (July 2000) to execute the work at an estimated cost of Rs.1.16 crore at the rate of Rs.4.46 lakh per house. The Unit, however, completed the work of only 20 houses at the actual cost of Rs.1.30 crore during 2000-01 to 2003-04. As against the sanctioned cost of Rs.4.46 lakh per house, the Company incurred an amount of Rs.6.50 lakh per house, resulting in cost overrun of Rs.41 lakh in completion of 20 houses.

It was noticed during audit (October 2004) that the Company failed to deploy the required funds on the work within the scheduled time as the funds were spent to meet the overheads of the unit. As such, construction work was held up due to shortage of funds.

The Management stated (June 2005) that the Government had sanctioned Rs.1.33 crore (construction work: Rs.1.16 crore and repair work: Rs.0.17 crore) against which Rs.1.30 crore was incurred and during construction, the constructed area was increased due to site condition. The reply is not tenable as the entire expenditure of Rs.1.30 crore was incurred on construction of 20 houses only and not on the repair work. The increased constructed area was not approved by the Government (September 2005).

The matter was reported to the Government in May 2005; reply is awaited (September 2005).

Kanpur Electricity Supply Company Limited

3.3 Irregular relief to the consumer

Irregular relief of Rs.171.15 crore was given to Duncan Industries Limited without the approval of Uttar Pradesh Electricity Regulatory Commission.

Distribution code 2002 issued by Uttar Pradesh Electricity Regulatory Commission (UPERC) vide orders dated 7 June 2002 provides that if electricity bills remain unpaid by the due date, supply of the defaulting consumer shall be disconnected temporarily, and if the cause of temporary disconnection is not removed within the period of 45 days, supply of such consumer shall be disconnected permanently. Distribution code 2002 further provides that in case of financial distress of a consumer, the licensee (Company) may frame a scheme with the approval of UPERC for payment of bills in installments.

It was noticed during audit (August 2004) that Duncan Industries Limited (DIL) had a contracted load of 81000 KVA from the Kanpur Electricity Supply Company (KESCO). The Consumer started defaulting in payment of monthly bills with effect from December 2001 but KESCO failed to disconnect the supply immediately to safeguard its revenue. The supply was temporarily disconnected only on 25 March 2002 by when the total outstanding dues had accumulated to Rs.64.23 crore against the available security of Rs.8.64 crore. The consumer could not pay the outstanding dues by 10 May 2002 (i.e. the date on which permanent disconnection should have been made as per the provisions of Distribution Code 2002); but KESCO again failed to disconnect the supply of the consumer permanently. Finally KESCO issued (June 2002) recovery notice of Rs.64.23 crore (Rs32.77 crore of energy

charges + Rs.31.46 crore of minimum consumption guarantee charges and late payment surcharge) under Section 5 of the Uttar Pradesh Government Electrical Undertaking (Dues Recovery) Act, 1958. KESCO, however, could not realise any amount from the consumer (December 2003).

The Board of Directors of KESCO, instead of taking action against DIL for realising the dues, referred (January 2004) the matter to the State Government. In their proposal to the Government for providing relief to the consumer (DIL), it was mentioned that the electricity connection of the consumer was permanently disconnected on 25 March 2002 though the electricity connection of the consumer was never disconnected permanently. The Board of Directors also proposed that the consumer be given the same benefits as are given to a sick industry under the BIFR. The dues of Rs.64.23 crore as on 23 March 2002 when the supply was temporarily disconnected had increased (January 2005) to Rs.203.92 crore (energy charges: Rs.32.77 crore *plus* minimum consumption guarantee charges: Rs.122.73 crore *plus* late payment surcharge: Rs.48.42 crore). The State Government agreed (January 2005) for the waiver of minimum consumption guarantee charges and late payment surcharge from the date of disconnection to the date (28 June 2005) of reconnection. In addition to the above the State Government allowed the deferment of energy charges on down payment of Rs.3 crore as first installment before commencement of production and payment of balance amount of Rs.29.77 crore after two years of commencement of production. This was payable in six yearly installments at the interest rate of six *per cent* per annum.

Thus, KESCO had given an irregular relief of Rs.171.15 crore to the consumer. This included the waiver of the minimum consumption guarantee charges Rs.122.73 crore and late payment surcharge Rs.48.42 crore. Additionally, the consumer was allowed undue deferment of arrears of electricity charges of Rs.29.77 crore for two years (from restart of the unit). As per the provisions of distribution code 2002, only UPERC was empowered to take a decision in the matter; hence, the relief provided by the State Government was irregular.

On this being pointed out by Audit the Management in its reply stated (August 2005) that the relief package had been sent (April 2005) to the UPERC for approval and its decision was awaited.

The matter was reported to the Government in May 2005; the reply is awaited (September 2005).

3.4 Undue favour to consumer

The Company extended undue favour amounting to Rs.5.48 crore to a consumer by not disconnecting energy supply as well as not initiating action for recovery of arrears in terms of Distribution Code 2002.

Provisions of the Distribution Code-2002 issued by Uttar Pradesh State Regulatory Commission (UPERC) vide order dated 7 June 2002, *inter-alia,* include that (i) the licensee (here Kanpur Electricity Supply Company Limited (KESCO)) shall frame a scheme, with the approval of the commission, for providing facility of payment of bills in installments for consumers who are for the time being under financial crisis, and (ii) the payment due to the licensee shall be recovered as arrears of land revenue.

Audit noticed (September 2004) that Government of Uttar Pradesh allowed (May 2004) a moratorium of three months for payment of electricity bills to Lohia Machines Limited, Kanpur (LML) on its request during its liquidity problems. KESCO, accordingly, allowed moratorium of three months for payment of bills on rolling basis for one year without obtaining the approval of

UPERC. KESCO also failed to obtain any guarantee from LML to secure the amount of electricity bills over and above the available security amount of Rs.1.25 crore. Despite the relief provided by KESCO, LML defaulted in making payment of dues which accumulated to Rs.6.33 crore by December 2004. Thus, the dues of Rs.5.08 crore, after considering the security deposit of Rs.1.25 crore became unsecured. KESCO neither disconnected the energy supply nor initiated action (February 2005) for recovery as arrears of land revenue in terms of Distribution Code 2002. As a result, the amount of Rs.6.33 crore was pending for realisation.

The Management stated (March 2005) that the facility for payment of monthly bills after three months grace period was allowed to the consumer in terms of instructions of the Government and on pursuance of the case at their level. LML, however, paid Rs.60 lakh in January 2005 and Rs.25 lakh in March 2005. The reply is not tenable as KESCO failed to take proper action in this respect which resulted in undue favour to the consumer to the extent of Rs.5.48 crore (Rs.6.33 crore *minus* Rs.0.85 crore).

The matter was reported to the Government in February 2005; reply is awaited (September 2005).

3.5 Non-realisation of dues

The Company did not levy shunt capacitor surcharge of Rs.18.23 lakh on Jal Sansthan for running 103 connections without installation of shunt capacitors.

The rate schedule LMV-7 (applicable to public water works, sewage treatment plants and sewage pumping stations functioning under Jal Sansthan, Jal Nigam or other local bodies) issued by UPERC vide notification No. 482-HC/UPPCL/v-1974-1204-2003 dated 26 August 2003, effective from 1 September 2003 onwards, provides that (i) no new connection of motive power loads above 3 BHP shall be given unless shunt capacitors of I.S.I. specifications and of appropriate ratings are installed, and (ii) in respect of the connections where shunt capacitor of appropriate ratings and specifications are not provided by consumers, a surcharge of 5 *per cent* of the amount of the bill as per the applicable rate of charge shall be levied.

Audit noticed (September 2004) that shunt capacitors were not installed by Jal Sansthan in respect of 103 connections at Kanpur. The Kanpur Electricity Supply Company Limited (KESCO) was, therefore, required to bill for surcharge from September 2003 onwards on failure of Jal Sansthan to provide shunt capacitors. KESCO, however, did not include the surcharge in the regular bills from September 2003 till the date of audit (September 2004). After this was pointed out by Audit, KESCO included the amount of surcharge of Rs.18.23 lakh for the period from September 2003 to August 2004 in the bills for the month of September 2004. The bills, however, were not verified by Jal Sansthan resulting in non-recovery of the shunt capacitor surcharge (September 2005).

The Management in their reply stated (September 2005) that the bills have not been verified by Jal Sansthan. The fact remains that the amount has not been recovered so far (September 2005).

The matter was reported to the Government in February 2005; reply is awaited (September 2005).

Dakshinanchal Vidyut Vitran Nigam Limited

3.6 Non revision of bills

The Company did not bill for additional charges based on the results of check meter. As a result, energy charges of Rs.1.74 crore could not be realised.

The Distribution Code 2002 issued by Uttar Pradesh Electricity Regulatory Commission (UPERC) vide order dated 7 June 2002 provides that if an energy meter is tested as defective and the test results are not disputed by the consumer, the meter shall be replaced after repairs or with a new meter within 10 days and bills of previous three months prior to the month in which the dispute has arisen shall be adjusted as per the test results. In case the meter is found to be fast, the refund shall be adjusted in the next bill. In case meter is found to be slow, additional charges shall be recovered along with the next bill.

Diamond Cement, Jhansi, which had a contracted load of 5530 KVA, complained (1 May 2002) about erratic functioning of the energy meter installed in their premises. The Electricity Distribution Division II, Jhansi (Division) installed a check meter in the premises of the Dimond Cement during the period from 14 May to 31 May 2002. The report prepared on the basis of readings recorded in the check meter revealed that the energy meter installed was running slow by 46.05 *per cent*. Therefore, Dimond Cement was required to be billed for Rs.1.74 crore for additional charges for the period of three months, that is from February to April 2002, for short reading of energy of 50,83,084 KVAh[*].

Audit noticed (September 2004) that the Division did not issue bill for additional charges based on the results of check meter. As a result, energy charges of Rs.1.74 crore could not be realised.

The matter was reported to the Management and the Government in February 2005; replies are awaited (September 2005).

3.7 Incorrect billing

The Company billed the consumer at the rate applicable for supply at 132 KV instead of 11 KV, resulted in short billing of Rs.1.12 crore.

The rate schedule for HV-4 category (Lift Irrigation) of consumers issued by Uttar Pradesh Electricity Regulatory Commission vide notification dated 10 September 2001, 2 November 2002 and 26 August 2003 provided a lower rate of charge for supply at 66 KV to 132 KV. A comparatively higher rate of charge for supply at 11 KV was to be charged from the consumers of HV-4 category under the provisions of the above tariff.

Audit noticed (November 2004) that in Electricity Distribution Division-II, Agra Chambal Dal Pariyojna (SC No. HV-4/1) was having a contracted load of 11000 KVA and was getting supply at 11 KV with effect from 30 January 1997. The consumer was erroneously billed from September 2001 to July 2004 at lower rates applicable for consumers getting supply at 132 KV instead of 11 KV which resulted in short billing of Rs.1.12 crore.

Management (unit level) stated (April 2005) that bills for the short billing amounting to Rs.1.12 crore have been issued in December 2004 but recovery was awaited (September 2005).

The matter was reported to Management and the Government in May 2005; replies are awaited (September 2005).

[*] KVAh = Kilo Volt Ampere hour

3.8 Irregular issue of stores

Materials worth Rs.42.06 lakh were issued to an unauthorised person who had not furnished any details of use of material.

According to the prescribed procedure of the Company for electrification of villages, bill of quantity is estimated and sanctioned on the basis of survey of villages and contractor is appointed for the work through invitation of tenders. Thereafter, Junior Engineers/Assistant Engineers of the executing division is to place indents on Store Division for issue of materials. The Store Division issues material according to the bill of quantity and specification given in the sanctioned estimate. The Junior Engineer of the executing division carts the issued materials to the site and hands these over to the contractor appointed for the work.

Audit noticed (September 2004) that in Electricity Distribution Division-II, Hathras (EDD-II, Hathras) the then Energy Minister had declared, as put forth on the records, for electrification of 12 villages in Hathras district. These 12 villages were not formally identified, estimates/package were not prepared and contractors were not appointed. The Store Division, Agra, however, without any indent from EDD-II, Hathras issued (July to September 2003) material valuing Rs.42.06 lakh directly to a person who was not appointed as contractor for electrification work of the12 villages.

Subsequently, the Store Division asked (September 2003) the EDD-II, Hathras to confirm the receipts of material and get the invoices verified by their Junior Engineers. The EDD-II, Hathras did not agree (July 2004) to verify the receipts of material from the Store Division against invoices signed by an unauthorised person, as indents were not placed by them. Thus, the material worth Rs.42.06 lakh were issued to an unauthorised person who had not furnished any details of use of material.

Management (unit level) stated (April 2005) that a committee consisting of two officers had been constituted in March 2005 to conduct an inquiry in the matter and to report by 30 April 2005. The Management had, however, not intimated (September 2005) the outcome of the enquiry, which was initiated at the instance of audit and was to conclude by 30 April 2005.

The matter was reported to the Management and the Government in May 2005; replies are awaited (September 2005).

Poorvanchal Vidyut Vitran Nigam Limited

3.9 Non-recovery of initial security deposit

Initial security deposit amounting to Rs.1.17 crore remained unrealised from Eastern Railways.

The Rate schedule issued by Uttar Pradesh Electricity Regulatory Commission vide notification dated 10 September 2001 provides that an initial security deposit of minimum Rs.300 per BHP or two times of monthly minimum charges shall be recovered on release of new connection to a consumer. It further provides that if security amount has not been recovered from any Government, semi-Government and other consumers before releasing connection due to any rebate/order of the Board, it shall be recovered from them after issuing 30 days notice. In case of non-receipt of security amount, supply to consumer is liable to be disconnected.

Audit noticed (September 2004) that Electricity Distribution Division–II, Ghazipur (Division) released (January 2002) new connection of 11,394 BHP (10,000 KVA) to the Eastern Railway for railway traction. While releasing the connection, the Division demanded (January 2002) the initial security deposit of Rs.34.18 lakh only from Eastern Railways, against the required initial security amount of Rs.1.17 crore. The Eastern Railway did not pay the initial security amount as demanded by the Division. The Division, however, did not disconnect the supply even after lapse of more than three and half years (as on September 2005) as required in the notification. This resulted in non-realisation of initial security of Rs.1.17 crore.

The Division stated (September 2004) that the initial security would be demanded from the consumer. The amount of initial security was yet to be realised (September 2005).

The matter was reported to the Management and the Government in April 2005; replies are awaited (September 2005).

3.10 Undue benefit to consumer

The Company suffered a loss of Rs.36.13 lakh due to irregular waiver of penalty for violation of peak hour restriction.

The Rate Schedule of November 2002 issued by Uttar Pradesh Electricity Regulatory Commission provided that the consumers of HV-2 category who had not opted for supply during peak hours/restricted hours[*] shall be allowed to use power not more than 15 *per cent* of their contracted load during restricted hours. In case of use of power in excess of 15 *per cent*, a penalty of Rs.50 per KVA of contracted load for the number of occurrences of defaults, shall be levied in addition to the higher rate of tariff applicable for consumers having unrestricted supply.

Audit noticed (September 2004) in Electricity Distribution Division-II, Fatehpur (Division) that Panum Castings Private Limited (PCPL), having a contracted load of 2,000 KVA under HV-2 category of tariff, used power in excess of 15 *per cent* of contracted load during peak/restricted hours in the months of February to April 2003. The Division levied a penalty of Rs.30 lakh but did not bill for difference of higher rate of tariff amounting to Rs.6.13 lakh on PCPL for violation of peak hours restriction during the said period. Subsequently, the Dy. General Manager of Electricity Distribution Circle, Allahabad advised (October 2003) the Division to waive off the penalty imposed on the consumer on the plea that PCPL had observed the peak hours restriction but their timings were different than the prescribed timings and for that PCPL was not given notice in writing. The Division, on the advice of the Dy. General Manager, waived off (October 2003) the penalty of Rs.30 lakh.

The waiver of the penalty by Unit Management was not correct as the prescribed time for the observance of the peak hours, which attracts higher rate of electricity charges, was not followed. Further, the DGM who advised for waiver was not the competent authority to accord the waival. Thus, an undue benefit of Rs.36.13 lakh (including Rs.6.13 lakh of higher rate of tariff) was given to the consumer.

The matter was reported to the Management and the Government in May 2005; replies are awaited (September 2005).

[*] 6.30 PM to 10.30 PM during 1 March to 30 September and 5.30 PM to 9.30 PM during 1 October to 28/29 February each year as per order of December 2002 of UPPCL.

3.11 Loss due to acceptance of outstation cheques

The Company suffered a loss of Rs.10.15 lakh due to acceptance of out station cheques in violation of provisions of the Supply Code 2002.

According to the provisions of para 19 (ix) of Electricity Supply (Consumers) Regulation 1984, also reiterated in para 6.23.1 of Uttar Pradesh Electricity Supply Code-2002 (effective from July 2002), the consumer can make payment of bill by cash (up to Rs.20,000), cheque, demand draft or money order which shall be accepted only if it has been drawn on a bank located at the place of the headquarter of the divisional office. This implies that outstation cheques of consumers were not to be accepted by the divisional office.

Audit noticed (September 2004) in Electricity Distribution Division II, Ghazipur (Division) that the Division accepted 38 outstation cheques from Divisional Engineer, East Central Railway, Patna. The cheques were drawn on State Bank of India, Varanasi in place of divisional headquarter, Ghazipur amounting to Rs.33.46 crore against energy bills for the period from January 2002 to November 2004 in violation of the above provisions of supply code. The bank, while crediting the amount of outstation cheques to the account of the Division, debited the collection charges amounting to Rs.10.15 lakh.

The Division raised a bill against East Central Railway, Patna in March 2004 for collection charges of Rs.9.48 lakh debited by bank for the period from January 2002 to March 2004. The consumer did not pay this amount. Despite pointing out by Audit acceptance of outstation cheques continued and the division had to bear further collection charges of Rs.0.67 lakh debited by bank on clearance of outstation cheques of the consumer during April 2004 to November 2004. The bill raised by the Division (March 2005) for reimbursement of Rs.0.67 lakh was also not paid by the consumer. Thus Company suffered a loss of Rs.10.15 lakh due to acceptance of outstation cheques in violation of the provisions of supply code and would continue to suffer till it stops accepting outstation cheques.

The matter was reported to the Management and the Government in May 2005; replies are awaited (September 2005).

Pashchimanchal Vidyut Vitran Nigam Limited

3.12 Undue favour to consumer

The Company extended undue benefit to the consumer of Rs.20.25 lakh by releasing the connection of Arc/induction furnace from existing feeder in place of independent feeder in violation of the provisions of the Distribution Code 2002.

The Distribution Code 2002 issued by Uttar Pradesh Electricity Regulatory Commission (UPERC) vide order dated 7 June 2002 provides that load for Arc/Induction furnace shall be released only through an independent feeder and all necessary charges shall be paid by the consumer.

Audit noticed (December 2004) that the Electricity Distribution Division II, Ghaziabad sanctioned (February 2002) a load of 2800 KVA to Raghu Paper Mill, Ghaziabad (RPM) for induction furnace of 4.5 MT with the condition that connection would be released by constructing a bay and independent feeder on 33 KV line at the cost of the consumer. The Division accordingly raised (April 2002) a demand of Rs.66.76 lakh for the connection. Subsequently, Management revised (June 2002) the terms of sanction,

according to which connection was to be released from an existing feeder instead of from an independent feeder as required. The Division raised (August 2002) a demand of Rs.46.51 lakh as per the revised estimates, which was deposited by RPM. The Division released connection to RPM in September 2002 from the existing feeder. The revision in the sanction resulted in reduction of cost of Rs.20.25 lakh to the consumer and the company could not add the lines and equipment in their system to avoid overloading. Thus, the Division violated the provisions of the Distribution Code resulting in undue benefit to the consumer by Rs.20.25 lakh.

The Division stated (December 2004) that the connection was released by tapping existing feeder as per the orders of the Executive Director (Distribution). The reply is not tenable as the provisions of the Distribution Code were violated for the benefit of a particular consumer.

The matter was reported to the Management and the Government in February 2005: replies are awaited (September 2005).

Madhyanchal Vidyut Vitran Nigam Limited

3.13 Loss due to non-recovery of penalty for peak hour violations

The Company did not recover penalty and additional tariff of Rs.19.32 lakh for violation of peak hour restrictions.

The rate schedule HV-2 applicable to large and heavy power consumers, issued by Uttar Pradesh Electricity Regulatory Commission (UPERC) vide notification no. 837-HC/UPPCL/V-1974/204-C/2002 dated 2 November 2002 provides that the consumers who do not opt for supply during peak/restricted hours shall be allowed to use the power not more than 15 *per cent* of their contracted load. In case of use of power in excess of 15 *per cent*, a penalty of Rs.50 per KVA of contracted load for the number of occurrences of default shall be levied. The consumer shall also be billed at the rates specified for consumers having unrestricted supply as an additional tariff in addition to above penalty.

Audit noticed (June 2004) in Electricity Distribution Division-I&II, Faizabad (Division) that 11 large and heavy power consumers who had not opted for supply during peak hours, used power in excess of 15 *per cent* of their contracted demand during peak hours in the months from December 2002 to August 2003. These consumers were, therefore, liable to be billed for penalty amounting to Rs.14.29 lakh and additional tariff of Rs.5.03 lakh. On being pointed out in Audit (June 2004), the Division belatedly raised (March 2005) the bills for penalty and additional tariff. The recovery, however, is still awaited (September 2005).

The matter was reported to the Management and the Government in February 2005; replies are awaited (September 2005).

Uttar Pradesh Power Corporation Limited

3.14 Avoidable expenditure on purchase of transformers

Failure to exercise the option to procure the increased quantity of transformers at lower rate resulted in avoidable expenditure of Rs.30 lakh.

The Electricity Store Procurement Circle-I (ESPC), of Uttar Pradesh Power Corporation Limited, Lucknow placed orders during August to September 2001 on seven firms for supply of 100 transformers of the capacity of 5 MVA

against tender specification no 1104/2001.These orders were placed on the basis of lowest computed price of Rs.10.48 lakh for each transformer (unit price plus excise duty, trade tax freight and insurance) offered by Accurate Transformers Limited, New Delhi. Conditions of the tender included a provision under which the quantity of the tender could be increased by 50 *per cent*. The supplies against the said tender were continued up to September 2004.

Audit noticed that to meet out the further requirement of transformers the Company invited (August 2002) fresh tender for procurement of 125 transformers of the capacity of 5MVA to be opened in October 2002 against tender specification no.1133/2002.The lowest computed rates for each transformer against this tender based on the prices ruling on 1 September 2002 was Rs.11.16 lakh offered by the same party (Accurate Transformers Limited, New Delhi). The Company placed orders for an additional 125 transformers of the same specification as indicated in tender specification No. 1104/2001 at the lowest rate of Rs.11.16 lakh during January to February2003.

Audit further noticed that the updated price of transformer under old tender No.1104/2001, as worked out by the Company, was Rs.10.56 lakh ruling on 1 September 2002. The Company could have procured at least 50 transformers against the old tender (No. 1104/2001) by exercising the option of increasing the quantity by 50 *per cent* at a lower price of Rs.10.56 lakh each. The Company did not exercise the option to procure 50 transformers under the old tender and opted to place order for the whole quantity at the higher rate. This resulted in avoidable expenditure of Rs.30 lakh (50 x Rs.0.60 lakh).

In reply ESPC-I (Unit Management) stated (May 2004) that the supply against previous tender was not possible as the rates in new tender were on higher side by 5 *per cent.* Unit Management further stated (September 2005) that validity of rates of purchase order remains effective till completion of supply. The reply is not tenable since the supply of tender no. 1104/2001 continued till September 2004 and Management failed to enhance the supply of previous tender specification before inviting new tender.

The matter was reported to the Management and the Government in May 2005; replies are awaited (September 2005).

Statutory corporations

Uttar Pradesh Financial Corporation

3.15 Non recovery of dues

Due to relaxation in mortgaging of land and building, failure in disposal of collateral security and delay in taking possession of the unit, dues of Rs.13.59 crore remained unrecovered.

The Corporation disbursed (September 1996 to April 1997) Lease Assistance (LA) of Rs.1.88 crore and Fixed Asset Term Loan (FATL) of Rs.1.05 crore to Beta Securities Limited, Indore (BSL) for manufacturing Beta Napthol and Bone Acid at their plant situated at Unnao (UP). The loans were to be secured by way of equitable mortgage of land and building, plant and machinery, other fixed assets and personal guarantee of the promoters.

Audit noticed (December 2004) that the condition of equitable mortgage of land and building was relaxed (June 1996) and collateral security in the form of five lakh equity shares of Rs.10 each of associate group company (Beta Nepthol Limited) was accepted. BSL defaulted in repayment of its dues since

beginning. The Corporation issued a notice (February 1997) under Section 29 of the State Financial Corporation Act, 1951 (SFC) to take over possession of the unit.

Possession of the unit could not be taken over as BSL got their case registered with BIFR in June 1998. BIFR rejected the case in September 2001, as BSL was not found sick within the meaning of Sick Industrial Companies Act. During inspection of the unit by the Corporation in March 2002, plant and machinery valuing Rs.1.64 crore was found missing. The Corporation took over the possession of the unit in April 2002 and FIR was lodged belatedly in September 2002. The outcome of the FIR was awaited (May 2005). The remaining plant and machinery were sold (December 2002) for Rs.19.50 lakh. The Personal Recovery Certificate (PRC) issued (September 2001) against the promoters did not yield any result as the promoters had already left their places. No efforts were made to dispose off the collateral security of equity shares.

Thus, relaxation in the terms of sanction regarding mortgage of land and building of the assisted unit, failure in timely disposal of collateral security taken in the form of equity shares of the group company (Beta Napthol Limited) and delay in taking possession of the unit resulted in non-recovery of dues of Rs.13.59 crore (Principal: Rs.0.87 crore, Lease Rent: Rs.3.17 crore, Interest on FATL: Rs.6.28 crore, Default Interest on LA: Rs.2.69 crore and Other Expenses: Rs.0.58 crore) up to September 2005.

The Management stated (May 2005) that the Corporation relaxed the condition of equitable mortgage of land and building up to 60 *per cent* of the loan amount with the condition that the BSL would pledge additional collateral security in the form of shares of associate concern (Beta Nepthol Limited, Indore) worth Rs.50 lakh. Later on, the land and building purchased from the Official Liquidator could not be mortgaged due to non-cooperation of the borrowers, shares of the collateral security were not worth sale due to market recession, possession of the unit could not be taken over as the unit was referred to BIFR. Reply is not tenable as land and building was the prime security for the loans and its mortgage should not have been relaxed in favour of BSL. The acceptance of collateral security of shares in lieu of prime security was not appropriate. Possession of the unit could be taken over in time as it was referred to BIFR in June 1998 whereas the notice under section 29 of SFC Act was issued in February 1997. The fact remains that dues of Rs.13.59 crore remain unrecovered so far (September 2005).

The matter was reported to the Government in February 2005; reply is awaited (September 2005).

3.16 Loss due to delay in taking over defaulting unit

Corporation suffered a loss of Rs.5.65 crore due to release of additional loan without ascertaining the order position for the products of the loanee and delayed taking over of the unit.

The Corporation sanctioned a term loan of Rs.1.21 crore to Transmission Gears Limited (TGL) during February to May 1998 for setting up of an ancillary unit with manufacturing capacity of 15,000 sets of gears per month for supply to LML. The Corporation further sanctioned and released (28 July to 30 November 1998) an additional loan of Rs.85.99 lakh to TGL to expand its manufacturing capacity up to 30,000 sets of gears per month. The loan was to be repaid in quarterly instalments (Rs.5 to Rs.8.25 lakh) commencing from

15 November 1998, failing which TGL was liable for action under the State Financial Corporation (SFC) Act, 1951.

Audit noticed (December 2004) that against the initial manufacturing capacity of 1,80,000 sets of gears per year, LML placed an advance order (February 1998) for supply of only 25,000 sets of gears. The trial production of gears started in May 1998. LML did not place order for the supply of gears thereafter due to recession in two-wheeler automobile industry. As a result, TGL could not run its plant. The Corporation, without ascertaining the order position with the TGL sanctioned (28 July to 30 November 1998) and released additional loan (Rs.85.99 lakh) to TGL for expansion of its manufacturing capacity.

The TGL defaulted in repayment of loan since beginning (November 1998). The Corporation issued (January 1999) 15 days notice under Section 29 of the State Financial Corporation (SFC) Act, 1951 for repayment of overdues, failing which it would take the possession of the unit. The Corporation, however, on the request of TGL granted (February 2000) reschedulement facility to TGL which was also not honoured by it. The Corporation, however, took possession of the unit in October 2003, that is after a lapse of more than three and half years, though the Management was aware (September 2002) that the Promoter/Directors were absconding. As a result of delayed possession, plant and machinery valuing Rs.1.52 crore were removed from the unit. The Corporation lodged FIR (December 2003) with Police Authorities against the Directors of TGL for missing plant and machinery. This was not pursued further. Due to defaults in repayment by TGL, the Corporation's dues of Rs.5.65 crore (Principal: Rs.1.08 crore and Interest: Rs.4.57 crore) remained unrecovered up to September 2005, after adjusting the sale proceeds of the available assets of the unit.

The Management stated (May 2005) that the report (April 1997) of Automotives Components Manufacturers Association of India showed that LML was the single largest manufacturer of two-wheeler and it had further planned to introduce the variety of models in two-wheeler industry. On the basis of this report, the project was assessed viable. The promoters were constantly being persuaded for clearance of its dues. Since they never responded, the unit was advertised (February and June 2002) for sale and thereafter, unit was taken over in October 2003. Reply is not acceptable as additional loan for expanding capacity was sanctioned on the basis that LML had ordered for purchase of 3.60 lakh gears per annum; whereas, the order (February 1998) was placed only for 25,000 sets which could have been ascertained from the records of TGL. The delay in taking possession of the unit is self-evident.

The matter was reported to the Government in April 2005; reply is awaited (September 2005).

3.17 Undue favour to a loanee

Waiver of interest of Rs.81.64 lakh against the revised OTS policy of the Corporation.

One Time Settlement (OTS) policy of the Corporation, revised in October 2001, provided that OTS period be kept up to one year and if required be extended up to maximum of two years. Clause 'B' of the revised OTS policy further provided that first three months would be interest free period and thereafter, interest would be charged at the rate of 16 *per cent* for rest of the period uniformly.

The Corporation disbursed loans aggregating Rs.3.18 crore during 1994-95 to October 1998 against sanction of Rs.3.41crore to Ram Shiv Industries, Rania, Kanpur for setting up a unit for manufacturing mild steel rounds and bars, etc. The loans were secured by way of first charge on all the fixed and current assets of the unit. The unit had been regularly paying the dues up to November 1998 and thereafter, defaulted in repayments. The unit requested in November 2000 for OTS of the overdues. The Corporation approved (December 2000) the OTS for Rs.2.28 crore, including earnest money of Rs.21.40 lakh already paid with down payment of Rs.56.99 lakh and the balance amount of Rs.1.71 crore in four quarterly installments of Rs.42.74 lakh each starting from March 2001. According to the terms of the OTS, proposal was approved (December 2000) and the unit was allowed interest free period for three months up to 20 June 2001 and thereafter, interest at the rate of 18 *per cent* (decreased to 16 *per cent* in revised OTS policy of October 2001) per annum was to be paid by the unit. Besides, penal interest at the rate of 2.5 *per cent* per annum in case of delay in repayments was also payable by the unit.

Audit noticed (December 2004) that the Corporation rescheduled the balance OTS amount in October 2001 at the request of the unit but the unit did not adhere to it. The Corporation finally settled (April 2004) the overdues of OTS amounting to Rs.1.83 crore (principal: Rs.1.01 crore and interest: Rs.81.64 lakh) for Rs.1.01 crore and waived off the interest of Rs.81.64 lakh. The waiver of interest of Rs.81.64 lakh was against clause B of the revised OTS policy of the Corporation. The unit paid Rs.1.01 crore in May 2004.

The Management stated (June 2005) that the unit was not working properly due to power crisis and the unit had paid Rs.2.91 crore by arranging funds from other sources. The Corporation, therefore, looking to the problems faced by the unit in past and keeping in view the fact that OTS amount was to be realised in one month, waived off the interest. The reply is not tenable because decision for waiver of interest on defaulted amount of OTS was against the terms of OTS policy approved by the Board. Further, the financial position of the promoters was also sound as would be observed from the Management's reply that the promoters had arranged the funds from other sources. Apart from it, the Corporation was also having an opportunity to recover the dues by disposing off the mortgaged assets of the unit.

The matter was reported to the Government in May 2005; reply is awaited (September 2005).

3.18 Loss due to delay in possession of unit

Delay in taking possession of the unit facilitated the theft of the plant and machinery valuing Rs.81.34 lakh and non-recovery of balance dues of Rs.10.79 crore.

The Corporation sanctioned and disbursed (December 1996) a Working Capital Term Loan (WCTL) of Rs.1.50 crore to Shilpax Laboratories Limited, Noida (Shilpax). The Corporation disbursed loan against a prime security of Rs.1.80 crore in the form of land, building, plant and machinery and collateral security of land situated at Noida besides personal guarantee of the Director. The Corporation further sanctioned and disbursed (February 1997) Fixed Asset Term Loan (FATL) of Rs.60 lakh to Shilpax.

Shilpax defaulted in repayment of dues of the Corporation and paid only Rs.26.87 lakh against WCTL during 1996-97 and 1997-98 and Rs.0.65 lakh against FATL during 1997-98. The Corporation issued (May 1999) notice under Section 29 of the State Financial Corporation Act giving 15 days' notice

for repayment of overdues by Shilpax failing which the Corporation was to take possession of the unit. The Corporation issued (September 2001) Personal Recovery Certificate (PRC) to the owner of Shilpax for recovery of dues. The District Authorities returned (December 2004) the PRC stating that residence mentioned in the PRC was not owned by the Director.

Audit noticed (June 2004) that the Corporation delayed unreasonably in taking possession of the unit which took place only in May 2003. The delay in taking possession of the unit resulted in theft of the plant and machineries valuing Rs.81.34 lakh. Had the Company taken timely action in taking possession of the unit after expiry of notice period of 15 days, the above situation might not have arisen. Failure to take action against the loanee, resulted in non recovery of dues amounting to Rs.10.79 crore (principal: Rs.0.07 crore, interest: Rs.10.72 crore) (September 2005) after adjusting sale proceeds (Rs.2.09 crore) of the available assets of the prime and collateral security.

The Management stated ((May 2005) that the delay in taking possession of the unit had been mainly due to reference made by Shilpax before BIFR. As per policy of the Corporation, possession of the unit was to be taken only when the offers for sale were available to avoid huge expenses on security guards. The PRC and FIR were being pursued vigorously to recover the remaining dues. Reply is not convincing as possession of the unit could be taken immediately after 15 days from issue of notice (May 1999) under Section 29 as reference to BIFR was admitted in October 1999 i.e., four months after issue of the notice. The policy of the Corporation is defective in as much as it allows taking possession of the unit after receipt of good offer; as the delay in taking possession of the unit facilitated theft of the plant and machinery and the expenses on security would be far less than the value of plant and machinery lost in theft. Absence of ownership of the residence in the name of the guarantor Director indicates that title documents were also not verified properly while sanctioning the loans.

The matter was reported to the Government in April 2005; reply is awaited (September 2005).

Uttar Pradesh State Road Transport Corporation

3.19 Injudicious drawal of loan

Drawal of loan before its requirement resulted in avoidable payment of interest amounting to Rs.1.19 crore.

The Corporation decided (December 2000) to construct a bus station at Sahibabad, Ghaziabad at an estimated cost of Rs.16 crore. The project cost was to be met out by taking loan of Rs.12 crore from National Capital Region Planning Board (NCRPB) and the remaining Rs.4 crore was to be arranged by State Government/Corporation itself. The Corporation, accordingly, executed (March 2002) an agreement with NCRPB which, *inter alia*, provided (i) disbursement of loan in two instalments; Rs.9 crore in 2001-02 and Rs.3 crore in 2002-03, (ii) levy of interest at the rate of 10 *per cent* per annum, (iii) that borrower shall not invest any part of the loan in deposits, loan, share capital or otherwise in any concern without prior permission of NCRPB, and (iv) payment of deferment charges at the rate of 0.5 *per cent* of the amount of instalment deferred by the borrower.

The Management, despite knowing that finalisation of the deal for purchase of land would take long time, did not choose the option for deferment of the instalment available under the agreement. The Management, instead, drew

Rs.9 crore on 30 March 2002 and invested it in fixed deposit (April to October 2002) bearing interest at the rate of 6.5 *per cent* contrary to the terms and conditions of the loan. The Management took possession of land in October 2003 and made payment (Rs.9.11 crore) to the landowner from the loan amount.

Audit noticed (August 2004) that the Corporation earned Rs.16.50 lakh on the investment in fixed deposit during the period from April 2002 to September 2003 whereas it had to pay interest amounting to Rs.1.35 crore (April 2002 to September 2003) on the loan. This resulted in avoidable payment of interest to the extent of Rs.1.19 crore. This could have been avoided had the Management deferred the instalment by paying deferment charges of Rs.6.75 lakh only.

The Management stated (February 2005) that out of the loan of Rs.9 crore an amount of Rs.7.73 crore was utilised for purchase of 126 chassises and fabrication of bus bodies on 93 chassises due to which a large bus fleet could be made operative and thereby a profit of Rs.4.89 crore was earned. Reply is not acceptable as the Corporation made payments of Rs.4.03 crore to the chassis suppliers out of its own funds and paid only Rs.3.70 crore out of the loan funds obtained from NCRPB as further verified during audit. Besides, utilisation of the loan in making payments to chassis suppliers and fabrication of bus bodies as well as investments in FDRs was contrary to the condition of the agreement.

The matter was reported to the Government in January 2005; the reply is awaited (September 2005).

3.20 Extra expenditure on purchase of chequered plywood

The Corporation incurred an extra expenditure of Rs.48.56 lakh due to procurement of cheqered plywood at higher rate from illegible party.

The Purchase policy (June 2000 and December 2002) of the Corporation, *inter alia*, mentioned that a firm would be eligible for supply of the material, if more than 65 *per cent* samples taken from its supplies during the last three years were approved by the Central Institute of Road Transport (CIRT) and the supplies would be stopped on two consecutive failure of samples; the purchase policy further provided that 80 *per cent* material shall be procured from tried sources and 20 *per cent* from untried sources, besides, procurement was to be made on the lowest eligible rate.

The Corporation invited tender (March 2003) for procurement of 10,000 sheets of 15 mm chequered plywood on Free on Railway (FOR) destination basis for its Central Workshop and Allen Forest Workshop, Kanpur. In response, 14 parties quoted their rates. The orders were placed (August 2003) on Mysore Polymers (Private) Limited, (MPL), Banglore, considering the firm as a tried source, for supply of 8,000 sheets (revised to 9,400 sheets in May 2004) at the rate of Rs.1,823.55 per sheet and on Raini Enterprises, an untried source, for supply of 600 sheets at the rate of Rs.1,597.05 per sheet. MPL had not given consent whereas Raini Enterprises had given consent for supply at the lowest rate.

Audit noticed (February 2005) that Doors India (Private) Limited, Kanpur (DIL) offered the rate of Rs.1,324.32 per sheet which was lowest among 14 bidders. The Purchase Committee, however, rejected the lowest bid on the ground that all the three samples taken out from the supplies made by them

during 2001-02 were not approved. The MPL was held eligible source on the plea that their 100 *per cent* sample was approved.

Examination of records revealed that MPL was also not eligible firm because samples of their supplies for the last three years, that is 1999-2000 to 2002-03, were not available as no order was placed during this period. Further, their two consecutive orders of 1995-96 were rejected due to inferior supplies and only one sample taken out against order of January 1998 was approved. The placement of order on MPL on the basis of only one sample (considering it as 100 *per cent*) and without considering failure of their supplies against two consecutive orders of 1995-96 was in contravention to the laid down purchase policy.

The firm (DIL) whose three samples were rejected earlier had supplied 15 mm chequered plywood to the Central Workshop of the Corporation during 2002-03 which was accepted by the Corporation. Finalisation of the tender without considering the supply made by DIL was not in order.

Thus, award of order at higher rate in favour of MPL, who was not an eligible party under the purchase policy of the Corporation as well as in favour of Raini Enterprises who had consented to supply at lowest rate i.e Rs.1,324.32 per sheet, resulted in extra expenditure of Rs.48.56 lakh in procurement of 10,000 sheets.

The Management stated (July 2005) that MPL had not agreed to supply at the lowest rate; orders were, therefore, placed on MPL and Raini Enterprises at their quoted rates. Reply is not tenable as the condition of the tender documents was binding on all the parties to supply the material at the lowest rate only. The fact remains that purchase of chequered plywood at higher rates resulted in extra avoidable expenditure of Rs.48.56 lakh.

The matter was reported to the Government in May 2005; reply is awaited (September 2005).

3.21 Avoidable payment of penalty

The Corporation had to pay penalty of Rs.18.54 lakh due to peak hour violations.

The Corporation had two power connections from Kanpur Electricity Supply Company Limited (KESCO) under Rate Schedule HV-2 for its Central Workshop (300 KVA), Kanpur and Allen Forest Workshop (300 KVA), Kanpur respectively.

The Rate Schedule HV-2 for power supply, provides that the consumers who do not opt for supply during peak hours/restricted hours shall be allowed to use the power not more than 15 *per cent* of their contracted demand. In case of use of power in excess of 15 *per cent*, a penalty of Rs.50 per KVA of contracted load shall be levied. The consumer was also to be billed at the rates specified for consumers having unrestricted supply as an additional tariff besides above penalty.

Audit noticed (August 2004) that Allen Forest Workshop used power in excess of 15 *per cent* of the contracted load during peak hours in the months of February to May 2003 and Central Workshop in the months of March to July 2003. As a result, the Corporation had to pay penalty of Rs.17.97 lakh (Allen Forest Workshop: Rs.3.45 lakh and Central Workshop: Rs.14.52 lakh). The Corporation also paid energy charges at the higher rate of tariff for using power in excess of permissible load during peak hours. This also resulted in

additional payment of tariff of Rs.0.57 lakh for the months of February to July 2003.

The Management stated (April 2005) that KESCO had not given any notice of peak hours timings and for not running the Workshops during peak hours and that a writ petition had been in the High Court and the case is subjudice. The High Court in its judgment (April 2005) asked the Corporation to refer the matter to the Reconciliation Committee to settle the case in one month. The reply is not tenable as the KESCO had notified (October 2002 and March 2003) in newspapers, the timings of peak hours and applicability of rate schedules effective from 9 November 2002. The case had, however, been referred (May 2005) to the Uttar Pradesh Power Corporation Limited instead to the Reconciliation Committee which was not a party in the case. The fact remains that due to using power in excess of permissible load during peak hours, the Corporation had to make payment of Rs.18.54 lakh which could have been avoided.

The matter was reported to the Government in February 2005; reply is awaited (September 2005).

3.22 Extra expenditure in procurement of materials

The Corporation incurred extra expenditure of Rs.10.33 lakh due to placement of order at higher rates.

The Corporation decided (December 2002) to procure the materials at the lowest tendered rate in accordance with the purchase procedure prevailing in U.P. Power Corporation Limited (UPPCL). The tenders were invited (October 2004) for supply of Electrical Resistance Welding Steel Tubes and Cold Rolled Mild Tubular Sections of various sizes on Free on Railway (FOR) destination basis. Vide clause no. 6 of General Terms and Conditions (GTC) of the tender documents, the Corporation reserved the right to place purchase orders on more than one source but the tenderer was to give his acceptance for supply on the lowest rate or else was to specifically mention on the separate sheet alongwith tender. The purchase procedure as per clause 6 of GTC and UPPCL did not distinguish lowest rates for tried and untried firms. In tender evaluation, four firms were found eligible for supply of the material and all of them had given consent to supply at the lowest rates.

Audit noticed (March 2005) that lowest rates were to be compared among all the four eligible firms in accordance with intent and spirit of clause 6 of GTC. The lowest rates of tried firms were significantly higher than the lowest rates of untried firms. The Corporation, however, compared the lowest rates for tried firms amongst the tried firms and for untried firms amongst the untried firms separately and placed orders (January and February 2005) accordingly for the supply of 80 *per cent* materials on tried firms at their lowest rates and 20 *per cent* orders on untried firms at their lowest rates. The supply of the material is yet to be completed (August 2005).

The Management stated (July 2005) that the purchase policy of the Corporation permitted procurement of materials from tried and untried firms in 80:20 ratio, and that lowest rates were compared accordingly. The reply is not tenable as the purchase policy for procurement in 80:20 ratio was for deciding the quantity of materials to be procured from two sources of tried and untried firms and not the rates as the tenders were to give their acceptance for supply at the lowest rates or else were to mention on the separate sheet along with tenders as per clause 6 of GTC. Thus, misconstruing the intent and spirit of the purchase procedure of clause no. 6 resulted in extra expenditure of

Rs.10.33 lakh on the actual supply up to 13 September 2005 which would increase to Rs.38.30 lakh on supply of the whole quantity.

The matter was reported to the Government in May 2005; reply is awaited (September 2005).

Uttar Pradesh Jal Nigam

3.23 Blockage of fund

Failure of the Department to resolve the controversy over the name of Community Health Centre, its construction involving an expenditure of Rs.74.64 lakh remained incomplete for nine years, depriving the benefit of the scheme to the beneficiaries.

Construction of Community Health Centre (CHC), Nautanwa, district Maharajganj was allocated (March 1994) to U.P. Jal Nigam, Gorakhpur for which administrative approval and financial sanction for Rs.69.44 lakh[*] was accorded (March 1994) by the Government. The site for the construction work was made available in January 1995 and Rs.74.64 lakh were released (February 1995 to December 1998) to the unit. The construction which was commenced in May 1995, was to be completed within one year of its commencement i.e. by April 1996.

Audit noticed (January 2004) that since its start, construction of the main building only had been completed up to ceiling level in December 1995. In January 1996, a strong controversy arose on the name of the CHC and work remained stopped from 1996 to 1999. Progress of work was at a low ebb during 1999-2001 and work was stopped from July 2001. Besides expenditure on construction work, a sum of Rs.4,000 per month was being spent on the wages of two chowkidars engaged at the site for watch and ward duties.

A revised estimate of Rs.1.29 crore increasing the cost by Rs.60 lakh (86 *per cent*) was sent (November 2003) to the Client/Government, sanction of which was awaited (August 2005). The status report (August 2005) of the work revealed that the Corporation utilised the whole amount of Rs.74.64 lakh on construction work, but only 90 *per cent* of the main building, 40 *per cent* of boundary wall and 15 *per cent* of site development could be completed.

The Management stated (September 2005) that the work could not be completed within the stipulated period due to frequent disturbance created by local people raising controversy regarding the name of the CHC.

Thus, the failure to sort out the controversy over the name of the CHC resulted in the construction of the CHC remaining incomplete for nine years and deprived the public of the benefits of the scheme.

The matter was reported to the Government in August 2004; reply is awaited (September 2005).

3.24 Loss in execution of work

Uttar Pradesh Jal Nigam suffered a loss of Rs.52.13 lakh in construction of sports complex due to non-obtaining approval of the Sate Government.

The Government of India (GOI) Ministry of Youth Welfare and Sports launched the project for establishment of State Level Sports Complex in the State Capital with financial grant of Rs.2 crore or 50 *per cent* of the estimated

[*] Main Building-1, Medical Officer Residence-4, Type I-6, Type II-6, Boundary Wall and site Development Work.

cost whichever is less, the remaining cost was to be borne by the State Government. Accordingly, the State Government decided (1991-92) to construct Dr. Bhim Rao Ambedkar State level Sports Complex at Gomti Nagar through U.P. Jal Nigam, as a Deposit work. The State Government sanctioned (1991-92) Rs.4.97 crore, subsequently revised to Rs.5.70 crore in July 1997 with the condition that the work should be completed within its limits. The construction work was started in October 1992 by U.P. Jal Nigam. While the work was under execution, the Director Construction and Design Services of U.P. Jal Nigam submitted a revised estimate to the State Government for completion of the work at a cost of Rs.6.15 crore. The State Government accorded administrative approval and sanctioned (June 2002) the revised estimate for Rs.5.93 crore and released the balance amount up to September 2002.

Scrutiny of records, Construction and Design Services of U.P. Jal Nigam, Lucknow (Agency) revealed (December 2004) that the agency completed the work in June 2004 and incurred an expenditure of Rs.6.67 crore against the sanctioned cost of Rs.5.93 crore. Thus, the agency incurred an inadmissible excess expenditure of Rs.73.70 lakh without obtaining the approval of the concerned department and against the sanction of Sate Government.

On this being pointed out in audit (December 2004) the unit stated that an amount of Rs.33.86 lakh was adjusted from the centage and an amount of Rs.21.57 lakh was recovered from erring officials. The reply is not tenable as there was laxity in performance; adjusting excess expenditure from centage was a loss to the agency. Thus, there was a loss of Rs.52.13 lakh (Rs.73.70 lakh – Rs.21.57 lakh) to U.P. Jal Nigam on this work.

The matter was reported to the Management and the Government in April 2005; replies are awaited (September 2005).

General

3.25 Avoidable administrative and staff cost

Incorporation of too many companies with similar objectives resulted in avoidable administrative and staff cost of Rs.65.98 crore.

As on 31 March 2004, there were 89 Government companies in the State out of which 48 companies were working. An analysis of the objectives of these companies by Audit, as laid down in the their respective Memorandum and Articles of Association, revealed that two to three companies were functioning in the same sector with similar objectives. Particulars of five companies functioning in two different sectors are detailed in **Annexure-38**. Details in the Annexure reveal the following:

- In the construction sector, three companies viz., U.P. Rajkiya Nirman Nigam Limited, U.P. Samaj Kalyan Nirman Nigam Limited and U.P. Police Avas Nigam Limited were undertaking construction of buildings and roads etc.
- In the textile sector two companies viz. U.P. State Spinning Mills Company Limited and U.P. State Yarn Company Limited were engaged in production of yarn.

The proliferation of companies with similar objectives involves very huge avoidable expenditure towards salaries wages and remuneration of Chairman, Managing Director and other executives as well as administrative staff besides

expenditure on infrastructure for separate office buildings etc. The details of actual expenditure incurred on administration of these companies based on the latest finalised accounts were as given in **Annexure-38.**

Excluding the administrative expenditure pertaining to each of the major companies in the two sectors at (Sl. no. 1 and 4 in the Annexure), the avoidable expenditure on three companies worked out to Rs.65.98 crore.

Thus, incorporation of several companies with similar objectives resulted in avoidable expenditure of Rs.65.98 crore on administrative, staff and support cost, separate office buildings etc.

It is, therefore, recommended that the Government may examine the nature of activities of all Government companies and explore the possibility of merging the companies with similar objectives so as to reduce the administrative cost as well as to have better co-ordination in the implementation of various schemes.

The matter was reported to the Government in June 2005; reply is awaited (September 2005).

3.26 Environmental Management System in State Public Sector Undertakings

Introduction

3.26.1 Development process is an essential constituent for economic growth, employment generation and betterment in the quality of life. On the other hand, developmental activities are known to cause pollution and associated problems, if carried out without proper precautionary measures for environmental protection. The increasing trend of industrialisation, urbanisation, exploitation of natural resources and pollution growth have created enormous stress on the environment and damaged the basic elements of environment such as water, air and land. The damages caused to these essential elements have, in fact, adversely affected the ecological balance and resulted in an unquantifiable loss to the natural resources.

Environment protection policy and its follow up

3.26.2 The Government of India has enacted various Acts to enforce effective environmental protection and established regulatory bodies to monitor and enforce the provisions of the Acts. Among the various legislations, following enactments have greater importance in environmental management in India:

- Water (Prevention and Control of Pollution) Act, 1974 and Rules, 1975.
- Air (Prevention and Control of Pollution) Act, 1981 and Rules, 1982.
- Environment Protection Act, 1986 and Rules, 1986.
- Hazardous Waste (Management and Handling) Rules, 1989.
- Water (Prevention and Control of Pollution) Cess Act, 1977.

For monitoring and implementation of the pollution control policy, rules and regulations, Central Pollution Control Board (CPCB) and State Pollution Control Boards have been established in the country.

In the State, Uttar Pradesh Pollution Control Board (UPPCB) is looking after the implementation of pollution control policy. It is responsible to ensure that specified standards of pollutant emissions and effluents are complied with in

various types of industries in the State. The Board is empowered to take necessary preventive action for controlling the pollution including imposition of penalty and even closure of the industrial unit. Ministry of Environment and Forests, Government of India and CPCB are also vested with powers under different statutes to issue directions to the pollution causing industries/bodies directly.

Audit findings and its impact on environment

3.26.3 The units of auditee organisation in various sectors were selected for audit:

- In the Power sector, three thermal power stations (TPSs-Anpara, Obra and Panki) out of five TPSs of U.P. Rajya Vidyut Utpadan Nigam Limited (UPRVUNL) were selected;
- In the Sugar sector, five sugar mills (Amroha, Bijnor, BulandShahar, Chandpur, and Chhata) of U.P. State Sugar Corporation (UPSSC) were selected for audit and records of Baitalpur, Pipraich and Bhatni mills were also test checked to ascertain the pollution from storage of molasses.
- In the Textile sector, Jaunpur mill of U.P. State Yarn Company Limited (UPSYC) and two mills (Barabanki and Raibarely) of U.P. State Spinning Company Limited (UPSSCL) were selected.
- In the Transport sector, U.P. State Road Transport Corporation (UPSRTC) was selected for audit.

It was noticed during audit that appropriate and adequate policies and procedures for protection of environment were in place. Monitoring and follow up mechanism was also sufficiently existing in the system at the Governments' level. As regards implementation of pollution control programmes and measures the approach of the Management was not very satisfactory, particularly with respect to corporate responsibility as discussed in the succeeding paragraphs:

Emission of excessive air pollutants

Power Sector

Emission of SPM exceeded the norm in power sector

3.26.4 The UPPCB prescribed emission norm of Suspended Particulate Matter (SPM) at 150 mg per normal cum for thermal power projects. Audit examination revealed that, despite having Electrostatic Precipitators (ESP) installed in all the three TPSs, the actual emission of SPM far exceeded the prescribed norm during the period from April 2000 to November 2004 as given in the table below:

Name of TPS	Period of tests conducted	Emission range (mg/nm3)
Anpara A&B	11/2003 to 9/2004	159.12 to 2336.5
Obra A&B	4/2000 to 3/2004	680 to 10650
Panki	5/2002 to 11/2004	161.20 to 345

Audit noticed that ESPs were not installed in eight Units of Obra TPS to control emission level of the SPM and two TPSs had not installed flue gas monitoring system/ capacity meter required for checking the emission levels of air pollutants. This indicated an unsatisfactory approach of the Management towards implementation of the environmental protection and control measures.

3.26.5 Dust Extraction System was not installed in Obra TPS and eight out of 10 systems were not functional in Panki TPS. This contributed towards

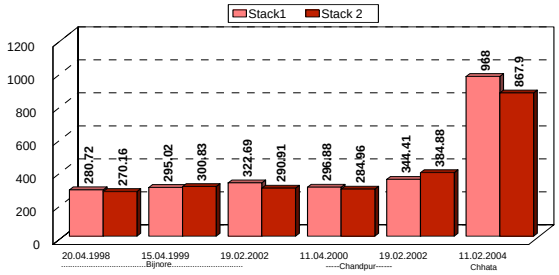
environmental pollution inside the Power Houses causing health hazards to the workers.

Sugar Sector

3.26.6 UPPCB prescribed norms for emission of SPM at 250 mg per normal cum where Fly Ash Arrestors were installed in sugar mills. Audit examination revealed that the UPPCB, during their inspection, found the emission level of SPM in excess over the prescribed norm of 250 mg per normal cum in Bijnore, Chandpur and Chhata Mills as depicted in the table given below:

Name of Mill	Date of inspection by UPPCB	Test Results	
		Stack-I	Stack-II
Bijnore	20.04.1998	280.72	270.16
	15.04.1999	295.02	300.83
	19.02.2002	322.69	290.91
Chandpur	11.04.2000	296.88	284.96
	19.02.2002	344.41	384.88
Chhata	11.02.2004	968	867.9

Emission of SPM exceeded the norm in sugar sector



Audit further noticed that Fly Ash Arrestors installed during 1995-96 at Bijnor mill were not running regularly and were found closed during various inspections carried out by UPPCB. Emission of excessive SPM in surroundings had been leading to public protests as the fly ash had been affecting the crops adversely. The Management did not take effective steps to control massive spreading of fly ash in the adjacent habitat in spite of frequent reporting regarding its adversities by the District Administration of Bijnore.

The Management stated (July 2005) that efforts were made to operate the Fly Ash Arrestors regularly and it was also stated by the Management that sometimes during crushing season, the UPPCB officers found the Fly Ash Arrestors in-operative due to unexpected mechanical/electrical faults. The reply is not acceptable as proper maintenance of the equipment to make it operative is a statutory responsibility of the Management.

Transport Sector

3.26.7 The Motor Vehicles Act, 1939 prescribes the following emission norms for motor vehicles:

Pollutants	Norms
Smoke density	65 Hartridge unit
Mass of Carbon mono oxide	14 Gram per kwh
Mass of Hydrocarbons	3.5 Gram per kwh
Mass of Nitrogen oxides	18 Gram per kwh

Pollution under Control Certificate not obtained

The State Government issued (August 2004) directions for strict compliance to obtain Pollution under Control Certificate (PUC certificate). As the validity of PUC certificate is for six months, it was necessary that vehicles are checked twice in a year for achieving the norm prescribed under the Motor Vehicles Act.

Audit examination revealed that the UPSRTC had not got its vehicles checked for pollution control in accordance with the provisions of the Motor Vehicles Act, 1939 and the Government instructions.

Thus, the UPSRTC, disregarding the provision of Motor Vehicles Act and Government's instructions, continued to operate its vehicles without ensuring that the emission of pollutants from their vehicles is within the prescribed limits and contributed thereby to air pollution which was more concentrated and harmful, at least, in urban areas.

The Management stated (February 2005) that instructions had been issued to the Regional Offices for obtaining PUC certificates from the authorised testing centers. As already mentioned the instructions were issued belatedly which was not justified in a matter relating to environmental protection.

Effluence of excessive water pollutants

3.26.8 Norms for effluence of water pollutants: pH (alkalinity, acidity), temperature, chlorine, suspended solids, oil and grease, copper, iron, zinc, chromium and phosphate were fixed under Rule-3 (Schedule-F) of the Environment Protection Rules, 1986.

Power Sector

Audit examination of the TPSs revealed that these were not carrying out test of all pollutants required under the above mentioned Rules. The tests for pH and temperature revealed that these pollutants slightly exceeded the prescribed norms. The suspended solids, however, far exceeded the prescribed norm of 100 mg/l. The range of actual discharge levels of suspended solids during the period from 2001-02 to 2004-05 is given in the table below:

Name of TPS	Test period	No. of test conducted	Range (mg/l)
Anpara (A and B)	2001-02 to 2002-03	11	106-256
Obra (A and B)	2001-02 to 2003-04	36	1260-6832
Panki	2003-04 to August 2004	4	232-2886

Excessive water pollution due to inadequate capacity of ETPs

Audit noticed that reasons for excessive water pollutants were that the Obra TPS had not installed ETPs and ETPs installed in Anpara and Panki TPSs were not effective enough to control the water pollutants due to their inadequate capacity despite maintenance expenses of Rs.24.84 lakh incurred during 1999-2000 to 2004-05. As such, these Power Houses contributed towards health hazards through discharge of polluted water.

Untreated sewage drained out

3.26.9 The residential colonies of Obra and Panki TPSs were constructed in phases. The Management had, however, not installed Sewage Treatment Plants for treatment of sewage of these colonies and continued to drain out untreated sewage.

Sugar Sector

3.26.10 Audit examination revealed that ETPs were installed in all the five mills at a cost of Rs.1.13 crore and had been incurring an average expenditure of Rs.10.13 lakh per annum on maintenance. Despite incurring of this much of expenditure presence of water pollutants in effluents, like Biological Oxygen Demand (BOD), Chemical Oxygen Demand (COD), Suspended Solids (SS) and Oil and Grease could not be controlled. Average discharge levels of these pollutants during the last five years up to 2004 were as below:

Pollutants	Norms of UPPCB (Mg/l)	Amroha	Bijnore	Buland Shahar	Chandpur	Chhata
BOD	30	83	93	150	80	104
COD	250	717	712	417	686	338
SS	30	93	142	1030	118	157
Oil and Grease	10	11	13	7	10	4

Source: Testing Reports of the recognised laboratories

It is clear from the above that all the ingredients of water pollutants except oil and grease far exceeded the prescribed norms. These excessive water pollutants affect the physical, chemical and biological characteristics of the water, thereby causing health hazards to human beings besides adverse effects on the lives of animals and plants.

The Management stated (July 2005) that the UPPCB had fixed norms for BOD and SS as 100 mg/l in 1993. The required equipments were accordingly installed up to 1997 to achieve this norm. Later on, the norms were revised to 30 mg/l by the UPPCB which could not be achieved with the operation of old equipment. The Government is yet (July 2005) to provide a sum of Rs.2.28 crore for modification of the old equipment. The reply is not acceptable as the norm of even 100 mg/l in respect of BOD and SS could not be achieved during the entire period of five years (except for Amroha). Efforts for getting the funds from the Government were also not made sincerely.

3.26.11 Molasses, one of the by-products of sugarcane is sold to distilleries and other industries for making alcohol and ethanol etc. As a standard practice, molasses should be stored in steel tanks and covered masonry tanks. Storage of molasses in open *kuchha* pits not only leads to environmental pollution by way of decay of organic solids and clogging of soil pores but also results in degradation in its quality.

Prolonged storage of molasses in kuchha pit being harmful for human and animal life

Examination of records relating to storage of molasses in Baitalpur, Piparaich and Bhatni mills revealed that these mills had dumped 18,064 quintal molasses in open *kuchha* pits during 1999-2000 and 2002-2003 seasons out of which 9,069 quintal of molasses was lying undisposed of (March 2005). Such prolonged storage of molasses was unsafe for environment. Due to natural evaporation of its harmful ingredients in the air and physical absorption in the earth and water; apart from the adverse effects of alcoholic and polluted water on animals who consume the same as would be seen from the photograph given below:

(Molasses dumped in open pit at Baitalpur unit)

The Management stated (July 2005) that molasses was stored in *kuchcha* pits only, as the steel tanks and *pucca* pits were full and molasses was not lifted and construction of steel tanks/*pucca* pits was not practically possible for these sick units which were being run only in the interest of the farmers. The reply is not convincing as disposal of molasses should have been made during the crushing season so as to store the fresh molasses or otherwise, proper arrangement should have been made to comply with the statutory requirement for pollution control.

Textile Sector

3.26.12 For protecting and improving the quality of the environment, Section 3 (1) of the Environment (Protection) Rules 1986 prescribes the following standards for discharge of environmental pollutants in the case of textile industries:

Pollutants	Standards
PH	5.5 to 9.0
Suspended solids	100 mg/litre
Bio-chemical oxygen demand (BOD)	30 mg/litre
Oil & grease	10 mg/litre
Zinc	5 mg/litre

Discharge of untreated water causing health hazards

Audit noticed that the Jaunpur mill had not maintained operational records of the ETPs installed therein. Examination of operational records of Raibareily and Barabanki mills revealed that ETPs of the capacity of 120 KL and 60 KL per day respectively installed in these mills were not sufficient for treatment of the waste water generated therefrom. These ETPs were not functioning properly due to poor maintenance. As a result, 25,688 KL of waste water could not be treated and was discharged during three years from 2001-02 to 2003-04 having high concentration of pollutants (BOD: 664.70 mg/l, SS: 343 mg/l and Oil and Grease: 23.63). Discharge of untreated water is a health hazards to living beings apart from damaging and scaling down the agricultural productivity due to saline water.

The Management in its reply (August 2005) did not furnish justification for discharge of untreated 25,688 KL of waste water while the local Management of these Mills had accepted (December 2004) the deficiencies of the existing ETPs and committed to enhance its capacities so as to make them compatible with the requirement.

Soil pollution-Pollution from ash

Power Sector

3.26.13 All the TPSs have conventional ash disposal system where ash slurry is being carried through pipelines to ash ponds where it is stored. In the ponds, ash settles down and water is siphoned out through inbuilt filter system.

Hazardous pollution from ash storage

Audit noticed that none of the TPSs had installed sprinkling system so that the blown ash is settled down in the ponds. As a result, immeasurable hazardous air pollution continued in the adjacent habitat and in the atmosphere. Ash slurry was generally discharged into river due to overflow of the ash pond of Obra TPS. Ash slurry outflow into sewage system in Panki TPS had been causing water pollution thereby contributing towards health hazards besides public outcry and demand of compensation from civil authorities.

As an effective control measure for prevention of pollution from ash ponds, even plantation of green tree belts around the ash ponds was not considered (March 2005) indicating lack of initiatives towards pollution control.

Ash not disposed to control the pollution

3.26.14 According to the Government of India Notification (No.563 dated 14.9.1999), 20 *per cent* of total ash produced was to be utilised within 3 years in agricultural activities, road construction, cement and bricks manufacturing etc. Audit noticed that the actual disposal of ash in these TPSs ranged up to 5 *per cent* per annum of the ash produced during the period of last five years up to 2003-04.

Operation of power houses and industrial units without consent of UPPCB

Power Sector

3.26.15 All the three TPSs could not obtain consent from UPPCB for operating the power plants under sections 25 and 26 of Water (Prevention and Control of Pollution) Act and section 21 of Air (Prevention and Control of Pollution) Act, as these TPSs failed to keep the effluents and emissions of pollutants within the prescribed norms. These were, however, operated without consent of UPPCB during the years from 1999 to 2004.

The Management stated that consent was not granted as prescribed norms were not achieved by the TPSs.

Sugar Sector

All the five sugar mills had been applying every year to obtain consent from UPPCB. The UPPCB did not give consent to these mills, as these mills were

not able to control the pollution within prescribed norms. The Management, however, continued to operate all these five mills without the consent of UPPCB.

The Management stated (September 2005) that the norms have been revised and for achieving the revised norms modification in the old equipment is required. The reply is evasive as the Company was not able to achieve the earlier norms.

Corporate social responsibility

Power Sector

3.26.16 Section 10 of Water (Prevention and Control of Pollution) Cess Act 1977 provides for levy of interest at the rate of two *per cent* per month if the amount of cess is not paid within the stipulated period. Audit noticed that the Management failed to make payment of cess within the stipulated period, which resulted in levy of interest amounting to Rs.10.41 crore up to March 2004.

The Management stated (July 2005) that payment could not be made due to shortage of funds and request for waiver is pending at Government level. The reply is not acceptable as the payment of statutory dues can not be avoided in any case.

Non-adherence to the Charter of CPCB

3.26.17 The CPCB issued (March 2003) Charter on corporate responsibility for environment protection. The charter, *inter alia*, prescribed time bound action plan and control measures for Thermal Power Houses and Sugar Industry. Audit noticed that action plan and control measures as prescribed in the Charter were not followed in the power and sugar sectors as discussed below:

Power Sector

Pollution control measures not implemented in power sector

3.26.18 U.P. Rajya Vidyut Utpadan Nigam Limited had accorded (March 2003) approval to implement the action plan at an estimated cost of Rs.532 crore. As per action plan, materials were to be procured by September 2003 and works were to be completed by December 2005. The scheduled programme could, however, not get a required momentum due to reasons not intimated by the Management. This indicated slackness in implementing the pollution control measures.

Sugar Sector

Pollution control measures not implemented in sugar sector

3.26.19 The Charter prescribed the following pollution control measures for the sugar industry:

- To start ETP one month before commencement of crushing season to meet prescribed standards from the first day of operation.
- To reduce generation of waste water to 100 liters per tonne of cane crushed by April 2004.
- To achieve zero discharge in inland surface water bodies, by December 2004
- To provide 15 days storage capacity for treated effluent in case of no demand for irrigation, by April 2004.
- Installation of ESP, Bag filters, Venture Scrubbers to achieve less than 150 mg per normal cum emission norm of SPM.

Scrutiny of records of all the five mills revealed that these mills had not taken steps to implement the pollution control measures prescribed in the charter.

The Management stated (July 2005) that the UPPCB had the norms for air and water pollution which could not be achieved with operation of the old equipment. A sum of Rs.2.28 crore was asked from the Government for modification in the old equipment which had not been given so far (July 2005). The Company, however, neither made further efforts to obtain fund from the Government nor executed the work by investing its own fund to discharge its social responsibility. Thus, non-adherence in this respect indicated an unsatisfactory approach towards corporate responsibility for environmental protection.

Transport Sector

Initiative for adopting alternate pollution control measures

Switching over the diesel vehicle to CNG operated vehicles is stronger effective measure for control of pollution in transport sector this needs developing infrastructure at State level and attracts huge investments as well as suitability of fuel resource provider. This effective measure can be implemented with the assistance of Central and State Governments.

Audit noticed that the Corporation has drawn up action plan with respect to 'State Policy for Environment 2001' for uses' of CNG as an alternative fuel in phased manner.

Non-submission of Environment Audit Statement

3.26.20 All the three TPSs and five sugar mills test checked in audit had not submitted Environment Audit Statement to UPPCB during the period from 1999-2000 to 2004-2005 as required under Rule-14 of Environment Protection Rules, 1986 to obtain consent under Air and Water Acts on or before 30 September every year.

The Management of U.P. State Sugar Corporation stated (July 2005) that instructions were being issued to the Management of the mills to send Environment Audit Statement regularly to UPPCB.

However, UPPCB had not taken any action on the defaulting industries/power houses.

To sum up

Environment Management System did not exist in any public sector undertakings (PSUs). PSUs failed to comply with many of the statutory provisions on air, water and solid waste management and handling of hazardous waste. Environment Audit Reports were not being submitted.

The matter was reported to the Companies/Government in May 2005; their replies had not been received (September 2005).

3.27 Corporate Governance in State Government Companies

Introduction

3.27.1 Corporate Governance is the system by which companies are directed and controlled by the Management in the best interest of the shareholders and others ensuring greater transparency and better and timely financial reporting. The Board of Directors are responsible for governance of their companies.

3.27.2 The Companies Act, 1956 was amended in December 2000 by providing, *inter alia*, Directors' Responsibility Statement (Section 217) to be attached to the Director's Report to the shareholders. According to Section 217(2AA) of the Act, the Board of Directors has to report to the shareholders that they have taken proper and sufficient care for the maintenance of

accounting records; for safeguarding the assets of the company and for preventing and detecting fraud and other irregularities.

Further, according to Section 292A of the Companies Act, 1956, notified in December 2000 every public limited company having paid up capital of not less than rupees five crore shall constitute an Audit Committee, at the Board level. The Act also provides that the Statutory Auditors, Internal Auditors, if any, and the Director-in-charge of Finance should attend and participate in the meetings of the Audit Committee.

3.27.3 The main components of the Corporate Governance are:

- matters relating to the Board of Directors;
- Director's Report; and
- constitution of the Audit Committee.

3.27.4 Out of 48 working State Government Companies, Audit reviewed 24 Companies (all unlisted) as detailed in **Annexure-39**.

Board of Directors

3.27.5 The responsibility for good governance rests on the Corporate Board who has primary duty of ensuring that principles of Corporate Governance both as imbibed in law and regulation in those expected by stakeholders are religiously and voluntarily complied with and the stakeholders' interest are kept at utmost high level. For this purpose, every company should hold the meetings of the Board of Directors at regular intervals. Every Director should attend these Board meetings to share the expertise and knowledge and to guide the affairs of the company.

Meeting of the Board of Directors

3.27.6 Section 285 of the Companies Act, 1956 provides that, "in the case of every company, a meeting of its Board of Directors shall be held at least once in every three months and atleast four such meetings shall be held in every year".

Board meetings were not held regularly

Audit revealed that 18 out of 24 companies (as detailed in **Annexure-40**) violated the provisions of this Section. During the period from April 2000 to January 2005 these companies had violated the provisions of Section 285 for one to eight times and there was a maximum gap of up to 14 months between two meetings in the case of UPLC. This indicated that management of the companies failed to comply with the legal provisions.

Attendance of Directors in the meetings of the Board

Directors' participation in Board meetings was absent

3.27.7 During the period April 2000 to January 2005 the Directors had not been attending the Board's meeting regularly. In the case of UPSIDC 36 meetings were held during the above period, the number of Directors who did not attend the meeting was generally more than the number of Directors attending the meeting and similar position was there in the case of LAMCO. In the case of six companies 35 meetings had to be adjourned for want of quorum. This indicated that the Directors did not actively participate in the management of affairs of the companies and in the decision making processes to safeguard the interests of the company.

Vacation of office by Directors

3.27.8 Section 283 (g) of the Companies Act provides that the office of a Director shall become vacant if he absents himself from three consecutive meetings of the Board of Directors, or from all meetings of the Board for a

continuous period of three months, whichever is longer, without obtaining leave of absence from the Board.

Audit noticed that four Directors of UPPCL and nine Directors of UPRVUNL remained absent consecutively from three and more meetings. These Directors, however, did not vacate their offices.

Frequent changes of Managing Directors and vacancies of Directors

Cases of frequent changes in incumbency of Chairman and Managing Directors were noticed

3.27.9 Frequent changes of the top executives always adversely affect smooth functioning of the company. Audit examination revealed that during the period of nearly five years from January 2000 to March 2005, 16 companies had three to eight Chairmen (tenures ranging from one day to 30 months) and one to 10 Managing Directors (tenures ranging from one to 36 months). The details are given in **Annexure-41.**

Directors' Report to Shareholders

Directors' responsibility statement not included in the Annual Report

3.27.10 The Companies Act, 1956, {Section 217 (2AA)}, requires that a report of the Board of Directors including Directors' Responsibility Statement is to be attached to every Balance Sheet laid before a Company in Annual General Meeting. Audit scrutiny revealed that the accounts of UP Projects Corporation and UPTDC did not attach the Director's Responsibility Statement with their annual accounts in any year.

Audit Committee

Role and functions

3.27.11 The main functions of the Audit Committee are to assess and review the financial reporting system, to ensure that the financial statements are correct, sufficient and credible. It follows up on all issues and interacts with the Statutory Auditors before finalisation of annual accounts. The Committee also reviews the adequacy of Internal Control System and holds discussion with Internal Auditors on any significant finding and follow-up action thereon. It also reviews the financial and risk management and evaluates the findings of internal investigation where there is any suspected fraud or irregularity or failure of Internal Control System of material nature and reports to the Board.

Composition of Audit Committee

Constitution of Audit Committee delayed in many cases

3.27.12 According to Sub-section (1) of Section 292-A, every company having paid up capital of rupees five crore or above was required to constitute an Audit Committee which shall consist of at least three Directors and such number of other Directors as the Board may determine of which two thirds of the total number of members of the committee shall be Directors other than Managing Director or Whole Time Directors. Following deficiencies were observed in the composition of Audit Committees:

- Out of 24 companies test checked in audit, 23 companies had constituted Audit Committees after a delay ranging from two to 27 months as would be seen from **Annexure-42**. In LAMCO, the Audit Committee had not been constituted so far (March 2005) even after expiry of 51 months from the date of insertion (13 December 2000) of mandatory provisions in the Companies Act.
- In UPSYC, the Audit Committee comprised of two Directors and one Accounts Officer of the Company (an employee who is not a director). Inclusion of an employee of the Company in the Audit Committee was not in accordance with the provisions of the Companies Act. This was against the principles of sound corporate governance.

Terms of Reference

3.27.13 Sub-section (2) of Section 292-A of the Companies Act provides that every Audit Committee shall act in accordance with Terms of Reference (ToR) to be specified in writing by the Board of Directors.

Specific Terms of Reference not laid down

Audit examination revealed that in 10 companies (UPSIDC, UPSSpC, UPEC, NSC, UPRVUNL, UPJVNL, MVVNL, DVVNL, PuVVNL and PaVVNL), the ToRs for the Audit Committees were not laid down by the Board of Directors. In other 13 companies, ToRs did not include examination of frauds and fraud related risks by the Audit Committees. As a result, these companies were not specifically mandated to look into fraud and fraud related risks.

Non-disclosure of composition of Audit Committee

Constitution of Audit Committee not disclosed

3.27.14 Sub-section (4) of Section 292-A provides that the Annual Report of the company shall disclose the composition of Audit Committee. It was noticed that the UPSSpC, UP Projects Corpn, UPTDC, UPSSuC and UPLC did not disclose the composition of Audit Committee in their Annual reports of any year.

Meetings of the Audit Committee

3.27.15 Sub-section (5) of Section 292-A provides that the Auditors, the Internal Auditor, if, any, and the Director-in-Charge of Finance shall attend and participate at meetings of the Audit Committee. Audit noticed that:

Meetings of Audit Committee not held regularly

- The Audit Committee is to meet regularly. It was, however, observed that in UPSIC, UPSTDC, UPEC, MVVNL, DVVNL, PuVVNL and PaVVNL, Audit Committees had not been holding any meetings **(Annexure-42)**. In UPPCL, terms of reference specified that at least four meetings of the Audit Committee must be held in a year. However, only seven meetings had been held in past 46 months. In the other 15 companies, shortfall in holding of meetings in a year could not be ascertained in the absence of specific mandate for holding certain number of meetings in ToR**.**
- The Statutory Auditors, Internal Auditors and Directors- in-charge of Finance had not been attending the meetings of Audit Committees regularly as would be seen from **Annexure-42**.

Discussion with Auditors and review of financial statement

Audit Committee did not discuss the internal control system

3.27.16 Sub-section (6) of Section 292-A provides that the Audit Committee should have discussions with Auditors periodically about the internal control system, the scope of audit including the observations of the Auditors and review the half-yearly and annual financial statements before submission to the Board and also ensure compliance of internal control system. Audit scrutiny revealed that:

- The Audit Committee of 13 Companies did not discuss and review the adequacy of internal control system in any of the meetings except in UP Projects Corpn, UPSBC, UPSSuC, CSC, UPRVUNL and UPPCL.
- In UPSBC and UPSIDC, the Statutory Auditors had been making comments that the internal audit system was not commensurate with the size and nature of the business and most of the units were not audited. These observations of Statutory Auditors were not discussed in the Audit Committees of these companies.

Accounts not reviewed by the Audit Committee before submission to Board

- In UPSSuC and UPLC, the Audit Committee did not discuss audit paragraphs.
- UPRVUNL, UPJVN and KESCO have not established Internal Audit wings so far (March 2005). Among these, UPRVUNL had been managing internal auditing by engaging outside agencies and UPJVN and KESCO had no arrangement for internal auditing. The Audit

Committee of these companies, however, did not discuss the weakness in the Internal Auditing System.

- The Audit Committee in UPSIDC did not review the annual financial statements of any year before its submission to the Board.
- The Audit Committees of all the companies did not review half yearly financial statements.
- Out of four years' annual accounts (1999-2000 to 2002-03) passed by Audit Committee in UPPCL, accounts of only two years (1999-2000 and 2002-03) were discussed with Statutory Auditors.

Non-implementation of recommendations of Audit Committees

3.27.17 According to sub-section (8) of Section 292-A the recommendations of the Audit Committee on any matter relating to financial management, including the audit report, shall be binding on the Board. Sub-section (9), *inter alia*, provides that if the Board does not accept the recommendations of the Audit Committee, it shall record the reasons therefore and communicate such reasons to the shareholders. Deficient compliance in this regard is discussed below:

Recommendations of Audit Committee were not considered by the Board

- In PICUP, the Statutory Auditors had been regularly pointing out inadequacy of the Internal Audit System. Although the Audit Committee discussed the internal audit report and recommended that it should be submitted on quarterly basis instead of annual basis, the Board made no efforts in this regard.
- Despite repeated recommendations (April 2003, August 2003 and March 2004) of the Audit Committee of UPPCL for reconciliation of balances transferred by the State Government under the 'Transfer Scheme', the recommendations have not been complied with and during this period, annual accounts of consecutive four years (1999-2000 to 2002-03) were approved.
- The Audit Committee of UPRVUNL repeatedly recommended (February 2003, July 2003, January 2004 and June 2004) for carrying out physical verification and valuation of inventory and fixed assets and, putting identification marks on fixed assets. The recommendations were not complied with, though annual accounts of five years (1999-2000 to 2003-04) were approved during this period.

To sum up

- Board meetings were not held regularly in most of the Companies in violation of the provisions of the Companies Act, 1956.
- Attendance of Directors in the Board meeting was not regular in many of the companies.
- Directors' Responsibility Statements were not annexed to the Annual Reports of the Companies in several cases.
- Delays were noticed in constitution of Audit Committees. In several cases where Audit Committees were constituted, the aspects relating to Internal Control System were not discussed and even Annual Accounts were not reviewed before submission to the Board. The Committees either did not make any recommendation or wherever recommendations were made, the same were not implemented.

The matter was reported to the Management and Government in May 2005; their replies are awaited (September 2005).

Follow up action on Audit Reports

3.28 Audit Reports of the Comptroller and Auditor General of India represent the culmination of the process of scrutiny starting with initial inspection of accounts and records maintained in the various offices and departments of

Government. It is, therefore, necessary that they elicit appropriate and timely response from the Executive.

Audit Reports for the year 1999-2000, 2000-01, 2001-02, 2002-03 and 2003-04 were placed in the State Legislature in May 2001, August 2002, September 2003, July 2004 and July 2005 respectively. 194 paras/reviews involving 18 departments featured in the Audit Reports (Commercial) for the years from 1999-2000 to 2003-04. No replies in respect of 93 paras/reviews were received up to 30 September 2005 as indicated below:

Year of Audit Report	Total Paragraphs/reviews in Audit Report	No. of departments involved	No. of Paragraphs/reviews for which replies were not received
1999-2000	45	10	7
2000-01	39	12	8
2001-02	38	8	21
2002-03	42	10	27
2003-04	30	9	30
Total	**194**		**93**

Department wise analysis is given in **Annexure-43**. The Power, and Industries and Industrial Development Department were largely responsible for non-submission of replies.

Outstanding compliance to Reports of Committee on Public Undertakings (COPU)

3.28.1 The purpose of placing Comptroller and Auditor General of India's Audit Report each year before the State Legislature could be best served if COPU examines these reports within a time bound programme and issue recommendations to the departments/PSUs for effecting corrective measures. This would not only ensure timely accountability of the concerned departmental authorities to the Legislature but would also set in motion much needed remedial action on the various points brought out in the Reports.

In the Audit Reports (Commercial) for the years 1994-95 to 2003-04, 381 paras and 51 reviews were featured; out of these, 137 paragraphs and 19 reviews were discussed by COPU up to 30 September 2005. Recommendations of COPU in respect of 35 paragraphs in the Audit Reports for the years 1994-1995 to 1998-99 have been received.

Replies of the departments/follow up action on these recommendations are awaited (September 2005).

Action taken on the cases of persistent irregularities featured in the Audit Reports

3.28.2 With a view to assist and facilitate discussion of the paras of persistent nature by the State COPU an exercise has been carried out to verify the extent of corrective action taken by the concerned auditee organisation. The results thereof in respect of Government companies are given in **Annexure-44** and in respect of Statutory corporations the same are given in **Annexure-45.**

Response to inspection reports, draft paragraphs and reviews

3.29 Audit observations noticed during audit and not settled on the spot are communicated to the heads of PSUs and concerned administrative 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 2005 pertaining to 60 PSUs disclosed that 10,061 paragraphs relating to 2,784 inspection reports remained outstanding at the end of September 2005; of these, 1,350 inspection reports containing 4,195 paragraphs had not been replied to for more than five years. Department-wise break-up of inspection reports and audit observations outstanding at the end of 30 September 2005 is given in **Annexure-46**.

Similarly, draft paragraphs and reviews on the working of PSUs are forwarded to the Principal Secretary, Finance and 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 out of 27 draft paragraphs and four draft reviews forwarded to the various departments between August 2004 and June 2005, the Government had not replied to 27 draft paragraphs and four draft reviews (part reply to a review has been received from the Government) so far (September 2005), as detailed in **Annexure-47**.

It is recommended that the Government should ensure that (a) procedure exists for action against the officials who failed to send replies to inspection reports/draft paragraphs/reviews and Action Taken Notes for recommendations of COPU as per the prescribed time schedule, (b) action to recover loss/outstanding advances/overpayment in a time bound schedule, and (c) system of responding to the audit observations is revamped.

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