

3B. Statutory Corporations

Uttar Pradesh State Road Transport Corporation

3B.1 Avoidable loss due to excess contracted load

Higher contracted load of electricity than the actual demand led to loss of Rs.11 lakh.

According to the Rate Schedule HV-2 of the Uttar Pradesh State Electricity Board (UPSEB) (now Uttar Pradesh Power Corporation Limited), applicable to large and heavy power consumers, demand charges at 75 per cent of contracted load or the actual demand, whichever is higher, is leviable along with the charges for actual energy consumed at the rates applicable from time to time. The tariff also provides for payment of minimum consumption guarantee charges on contracted load in case the aggregate of demand and energy charges fall below the prescribed minimum charges.

Scrutiny of records of Regional Manager, Uttar Pradesh State Road Transport Corporation, Aligarh revealed (September 2001) that for its Rasoolpur workshop, the Corporation had taken a contracted load of 118 KVA from UPSEB during May 1993. On the basis of actual load drawn by the workshop during the period from October 1997 to December 2001, it was observed by Audit that the actual load requirement of workshop was not more than 30 KVA (maximum actual demand ranged between 18 to 28.6 KVA). As a result, the Corporation had to pay minimum demand charges on 89 KVA (75 per cent of 118 KVA).

Due to incorrect assessment of load requirement, the Corporation incurred extra expenditure of Rs.11 lakh (Rs.3.88 lakh on account of demand charges on 59 KVA and Rs.7.12 lakh on account of shortfall of actual consumption over minimum consumption guarantee charges on 118 KVA) during the period from October 1997 to December 2001.

The Government stated (August 2002) that contracted load was based on actual connected load of the premises and therefore, actual demand shown was lower than the contracted demand and it was not possible to reduce contracted load. The reply is not tenable as the large power consumers are allowed to connect higher load than contracted, with restriction that the actual load drawn should not exceed the contracted load as per clause (e) of Electricity Supply (Consumers) Regulations, 1984, and no economics of such cost worked out.

3B.2 Infructuous expenditure

Despite payment of special road tax in advance to the Government of Rajasthan, the Corporation could not operate its buses due to curtailment of trips and had to incur infructuous expenditure of Rs.12.70 lakh.

As per provisions of the Section 4 B of Rajasthan Motor Vehicle Taxation Act 1951, State Carriages of other States plying on inter-state routes within the State, were required to pay 'Special Road Tax' (SRT) in advance, to the Transport Department of Government of Rajasthan, according to scheduled daily trips/kms covered by buses to be operated in the State of Rajasthan.

It was noticed (June 2001) by Audit that Mathura depot of Agra region could not operate scheduled trips for which advance tax was deposited with the State of Rajasthan. The depot curtailed 3774 trips involving 639535 kms during the four years from 1998-99 to 2001-02. The yearly curtailment of trips ranged between 17 and 30 *per cent*. Since the SRT was paid in advance against scheduled trips, non-operation of 3774 trips had resulted in an infructuous expenditure of Rs.12.70 lakh.

The matter was reported to the Corporation and the Government (July 2002); the replies are awaited (September 2002).

3B.3 Loss due to non-recovery of additional tax

Delay in inclusion of additional road tax in the fare structure resulted in non-recovery of 37.69 lakh from passengers.

As per provisions of Section 6 (2) of the Uttar Pradesh Motor Vehicle (Karadhan) Adhiniyam, 1997 (effective from 9 November 1998), enhanced passenger tax of 21 *per cent* was payable by carriage operators. The Corporation includes such taxes in the composite fare charged from passengers.

It was noticed by Audit (August 2001) that the Regional office, Kanpur of the Corporation failed to include the enhanced tax in fare charged from the passengers for the period from 9 November 1998 to 28 February 1999. This resulted in non-recovery of differential additional tax amounting to Rs.37.69 lakh from the passengers. Thus, due to abnormal delay of 3 months and 17 days in implementation of new tax rates, the Corporation incurred loss due to non-recovery of differential additional tax to the tune of Rs.37.69 lakh, which became irrecoverable from the passengers.

The Government stated (October 2002) that the recovery at increased rates of tax was deferred in terms of Transport Commissioner's order dated 5.12.1998 which suspended operation of the amended Act and was imposed after the issue of revocation order by the Transport Commissioner on 22.1.1999. However, the Government accepted that apart from above reason, there was delay in levy of increased passenger tax leading to short recovery of Rs.15.08 lakh. It is worth mentioning that the remaining amount of short recovery amounting to Rs.22.61 lakh was also attributable to the Corporation as the order of Transport Commissioner, suspending the recovery of tax under amended provisions, was applicable to Enforcement Officer for suspending recovery from operators. In the absence of any subsequent Government notification suspending the recovery of enhanced passenger tax, the Corporation can not take the shelter of Transport Commissioner's order dated 05.12.1998 which was a departmental order and was not issued to the Corporation.

Uttar Pradesh Financial Corporation

3B.4 Loss due to non-observance of prescribed procedures

Delay in acquisition and failure to nominate its director on the Board of assisted units resulted in loss of hypothecated assets valuing Rs.1.56 crore.

The Corporation sanctioned (March 1997) a term loan of Rs.0.97 crore to Vital Communication Limited (VCL), Noida for manufacturing of voice mail systems,

interactive voice response systems and internet solutions. It further sanctioned (October 1997) a term loan of Rs.0.82 crore to Vital Infotech Limited (VIL), Noida (a sister concern of VCL) for development of software. Against these sanctions, the Corporation disbursed term loan of Rs.0.90 crore (March 1997 to August 1997) to VCL and Rs.0.46 crore (December 1997 to July 1998) to VIL against prime security of the land and building, plant and machinery and personal guarantee of main promoter (Mr. Vinay Talwar) having movable property (Rs.0.57 crore) and immovable property (Rs.0.45 crore). Apart from it, the Corporation was also entitled in terms of conditions of sanction of loan, to appoint a nominee director on the Board of each of the unit to safeguard its interest.

The Corporation did not nominate its director in any of the two assisted units. As both the units made defaults in repayments since beginning, the Corporation issued notices (September 1998) under Section 29 of SFC Act, 1951 to take over both the units. Despite potential risk of removal of such property after the Corporation made its intentions known to acquire the units, the physical possession was taken over only between December 2000 and January 2001 (after a lapse of more than two years). On taking over, it was noticed that plant and machinery of both the units aggregating Rs.1.56 crore were missing. The depleted assets could fetch (March 2001) only Rs.0.43 crore as against overdues of Rs.1.61 crore due up to January 2001.

In respect of delay in acquisition of units, it is worth mentioning that the units had committed breach by shifting (January 2000) plant and machinery of both the units to their Corporate Office at New Delhi on the ground of renovation without Corporation's permission. These plant and machinery were not re-installed at work site till acquisition and sale of the units. The abnormal delay in acquisition of pledged assets and failure to nominate its director on the Board, facilitated loss of pledged assets valuing Rs.1.56 crore. The overdues against the units amounted to Rs.2.66 crore as on 15 July 2002. To realise the balance dues, the Corporation issued (March-July 2002) recovery certificate (RC) against the units and personal recovery certificate (PRC) against the personal guarantee of ex-promoter. However, no recovery has been made so far (September 2002).

The Government stated (September 2002) that the acquisition of units was delayed till receipt of reasonable offer from buyers. The reply is not tenable as the delayed action of acquisition without taking any safeguard to protect the pledged properties, led to potential risk of removal that ultimately led to substantial loss.

3B.5 Disbursement of loan against fake documents of collateral security

Faulty appraisal procedure caused acceptance of false and fabricated securities not having marketable title resulting in non-recovery of Rs.0.72 crore.

The Corporation sanctioned (September 1995) and disbursed (December 1995) a Working Capital Term Loan (WCTL) of Rs.1 crore to Arihant Suedes Limited, Sahibabad for manufacturing P.U. Foam. The loan was to be secured by way of first charge on current assets and collateral security by way of equitable mortgage of properties. Loan Agreement cum hypothecation deed was executed in December 1995. Against collateral security, equitable mortgage of three properties (valued at Rs.1.49 crore) viz. five commercial shops and a hall located at Ghaziabad and six shops at Delhi was accepted (December 1995) by the Corporation.

The unit could not repay the dues within the repayment period (April 1996 to September 1999) with a gestation period of 3 months. The Corporation issued (August 2000) notice u/s 29 of the State Financial Corporation's Act 1951 to take over physical possession of mortgaged properties, offered as security. During the process of sale of mortgaged properties, the Corporation discovered that sale deeds of properties were false and fabricated. An inquiry conducted (July 2001) by the Corporation regarding mortgaged properties revealed that area of two mortgaged properties (Shops and hall at Ghaziabad) were inflated by the guarantor intentionally with malafide motives from 48 sq. ft. to 480 sq. ft. for shops and from 200 sq. ft to 5000 sq. ft for the hall. The third mortgaged property (shops at Delhi), which was accepted as security, was found already sold (October 1989) to a third party by the guarantor and the guarantor did not have any ownership rights. The original sale deeds of shops of August 1966, deposited on affidavit in December 1995, had already been sold by him in October 1989. However, the Corporation, issued (August 2001) Personal Recovery Certificate against the guarantors for recovery of Rs.0.93 crore due up to April 2001 from their personal properties but no recovery could be made till November 2001.

The Corporation could not recover over dues from the collateral security in the absence of a marketable title to the property. It was forced to reach an agreement (December 2001) to settle the over dues at Rs.0.87 crore (after waiver of interest amounting to Rs.0.14 crore) under one time settlement scheme (OTS). Against this, it could recover only Rs.0.29 crore as of September 2002 and the balance amount of Rs.0.72 crore was yet to be recovered. The Corporation did not obtain post dated cheques or any other instruments to ensure recovery and safeguard its interest.

The facts regarding false and fabricated sale deeds of mortgaged properties, inflating the area of the properties etc. which surfaced during the acquisition process and subsequent inquiry, clearly establish that the appraisal procedure was faulty as the documents of properties that were mortgaged were not properly verified (option of verifying title to the properties from the Revenue Authorities was not exercised) and the premises/properties that were mortgaged were not inspected at the time of appraisal of the loan which forced the Corporation to accept OTS after waiver of interest of Rs.14 lakh.

The Government in its reply (September 2002) did not state reasons for failure to fix responsibility for the lapse in verification of securities.

3B.6 Loss due to inadmissible waiver of dues

Contrary to its own norms for one time settlement (OTS), the Corporation accepted lower OTS that resulted in loss of Rs.16.57 lakh.

The Corporation sanctioned (May 1992) a term loan of Rs.25 lakh to Nitu Electronics Private Limited, Muzaffarnagar for setting-up a unit for manufacturing iron powder and a sum of Rs.16.54 lakh was disbursed against it. The unit defaulted in repayment of dues since beginning (March 1994). The Corporation issued (November 1995) recovery notice under Section 29 of SFC Act followed by release of advertisement for sale of unit, which could not mature. Corporation issued Recovery Certificate (RC) in February 1998, which also could not mature and the dues accumulated to Rs.63.16 lakh as on 20 March 2000.

It was observed (February 2002) in audit that the Personal Recovery Certificate (PRC) was not issued against the Directors though the movable and immovable assets of the Directors were shown worth Rs.0.58 crore at the time of appraisal of loan application. The Board approved One Time Settlement (OTS) for Rs.17.50 lakh contrary to its own norms under which the recoverable amount worked out to Rs.34.07 lakh thereby causing further loss to the Corporation to the extent of Rs.16.57 lakh.

The Government stated (August 2002) that the Board approved OTS at Rs.17.50 lakh considering the nominal value of security of Rs.10.97 lakh available with the Corporation. The reply was not tenable as the minimum amount recoverable was Rs.34.07 lakh as per guidelines of the Corporation, to accept lower amount, was not in its best financial interest.

3B.7 Irregular sanction of Working Capital Term Loan

Failure to obtain details of three years operation, authenticated accounts and delay in taking physical possession resulted in non-recovery of Rs.1.02 crore.

The Corporation sanctioned (August 1997) a Working Capital Term Loan (WCTL) of Rs.0.60 crore to Hamirpur Alloys Private Limited, Hamirpur for manufacturing of steel ingots and castings. The loan was secured by way of first charge on current assets and pari passu charge with PICUP on land and building, plant and machinery and other fixed assets (valued at Rs.1.27 crore) mortgaged with PICUP. Loan agreement cum hypothecation deed was executed in August 1997 and loan of Rs.0.60 crore was disbursed to the unit between September 1997 and November 1997.

It was noticed (March 2002) by Audit that as per policy (April 1996) of the Corporation, in order to be eligible to obtain WCTL, the units should be in operation preferably for a minimum period of 3 years and should have earned profit in last financial year. To avail the loan, the unit had submitted a provisional Balance Sheet and Profit and Loss account as on 31-03-1997 showing provisional net profit of Rs.42.72 lakh. On the basis of unaudited provisional accounts, the Corporation irregularly sanctioned and disbursed WCTL of Rs.0.60 crore to the unit whereas final audited accounts disclosed net loss of Rs.19.12 lakh as on 31-03-1997. In this regard the Corporation also failed to evaluate past track record of the unit in operation since 1991-92 although it had eroded its paid-up-capital by 69 per cent up to 31.3.1995.

On account of default in repayment of dues amounting to Rs.36.03 lakh (over due principal: Rs.15.66 lakh and over due interest: Rs.20.37 lakh), the Corporation on 25.6.1999 issued notice u/s 29 of State Financial Corporation Act, 1951 to take over the unit but it did not acquire the unit after expiry of notice period (by 10.7.1999). Absence of any safeguard to protect the movable property from unauthorised removal by loanee facilitated removal of assets valuing Rs.0.81 crore for which FIR was lodged (September 1999) against the loanee. The acquisition of the unit remained pending till January 2000. In the meanwhile the unit approached BIFR for rehabilitation as it had heavy accumulated loss. The reference was rejected (November 2000) by BIFR on the ground that the unit had come with unclean hands just to take protection and to misuse the Act. Physical possession of the unit was

taken over on 01-12-2001 when it was found that few more machines (valued at Rs.17.83 lakh) were removed. The remaining assets of the unit were sold (December 2001) for Rs.45 lakh. The over dues against the unit after adjustment of sale consideration work out to Rs.1.02 crore (principal: Rs.23 lakh and interest: Rs.79.14 lakh).

Thus, the Corporation's failure at the time of appraisal, accepting unaudited provisional accounts of the unit and further delay in taking physical possession of the unit, facilitated removal of mortgaged assets valued at Rs.0.99 crore and ultimately led to non-recovery of Rs.1.02 crore. The Corporation has not yet initiated any inquiry to fix responsibility for irregular sanction of loan and delay in acquisition of the unit (September 2002).

The Government stated (August 2002) that prior to 1997, the unit was in profit and running well and as per practice the provisional accounts for 1996-97 were accepted for financing. The reply is not tenable, as the acceptance of unauthenticated provisional accounts and failure to evaluate past track record of the unit led to sanction of inadmissible loan to the unit. Further, the Corporation also did not take physical possession after expiry of notice period, which facilitated removal of assets amounting to Rs.0.99 crore.

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