

CHAPTER IX : MINISTRY OF SHIPPING PORTS WING

Chennai Port Trust

9.1 Excess payment of escalation charges

Incorrect computation of cost escalation without deducting the cost of rocks supplied at fixed rate from the value of work done resulted in excess payment of Rs 8.72 crore.

As part of the major construction of Ennore Port near Chennai undertaken by Chennai Port Trust (ChPT), the work of 'construction of breakwaters' was entrusted to a contractor for a value of Rs 232.87 crore. The work involved dredging and filling of foundation trench, placing of rocks on these trenches and reinforcement with concrete structure. As per the conditions of the contract, the rock required for the work was to be supplied by ChPT at a fixed rate of Rs 250 per tonne. The cost of the rock consumed in the work was to be recovered at this rate from the periodical part payments made to the contractor on the value of work done. The contract also provided for adjustment for price variation to accommodate the charges in the basic cost of materials, labour and other inputs to the work. As the rocks were supplied at fixed rate, no price variation was payable on this item on par with similar procedure to be followed in the case of departmental supply of cement, etc. Therefore, while arriving at the price variation, the cost of rocks supplied by ChPT ought to have been deducted from the value of work done.

However, a scrutiny of the connected records revealed that the Port Trust calculated the cost escalation payable due to price variation on the value of work done without deducting the value of rocks supplied and made payments accordingly.

Incorrect computation of cost escalation resulted in excess payment of Rs 8.72 crore, on part payments made upto December 2000.

Confirming the excess payment pointed out, Ministry stated (December 2001) as follows:

“The escalation clause of the contract for construction of breakwater was finalised by the Consultant with the approval of Asian Development Bank (ADB) in which Port Authority had a limited role. No provision was made in the escalation clause to exclude cost of rock from the gross value of the work to calculate escalation amount. While releasing the running bills as per the certificate issued by the Consultant, this issue came to the notice of ChPT

which was accordingly brought to the notice of the Consultant to take corrective measure. This was not accepted by the Consultant. As any further action by Port Trust might be construed as interference in Consultant's independent working leading to stoppage of work as per the clauses of the agreement, Port Trust preferred to take further action towards end of the completion of the project. The Port Trust had encashed a bank guarantee of Rs 2.41 crore and had also withheld Rs 6.64 crore from final pending bills of the Contractor".

It is observed that as per the terms of reference between the Consultant and the Port Trust, the conditions of contract were to be finalised by the Consultant only after a review by the Port Trust for incorporation of appropriate comments/corrections. Port Trust's role in the process was therefore not "limited" as stated in the reply.

Further the escalation was payable only in respect of items involving changes in cost as expressly provided already in the contract conditions (vide sub-clause 70.3). Financial prudence would therefore require that the cost of rock supplied departmentally at fixed rate should have been automatically excluded from the value of work done before calculating the amount of escalation and as such no specific clause is necessary for exclusion of the same from the value of work done. The irregular payment of escalation ought to have been disallowed by the Port Trust while admitting payment on the running account bills. Any failure to arrest the irregular payment at the appropriate time in such cases might lead to the risk of losing the hold on the recovery at a later date.

The reply also states that " any further action by Port Trust might be construed as interference in Consultant's independent working leading to stoppage of work". The Port Trust could have very well ensured the inclusion of adequate protective clause in the contract conditions enabling immediate control on such apparent incorrect payments. The reply is therefore not tenable.

9.2 Injudicious acceptance of tender

The delay in evaluation of the lowest bid for the supply of tugs and pilot crafts and irregular acceptance of the revised higher offer of the second lowest tenderer after negotiation, resulted in extra expenditure of Rs 2.32 crore to Chennai Port Trust.

Tenders were called for (October 1997) by ChPT, for supply of three tugs and two pilot crafts for operation at the new Ennore Port under construction near Chennai with the aid of ADB. After pre-qualification, final bids were received from five firms. The bids were opened in January 1998 for evaluation by the

Consultant appointed for the construction of Ennore Port. The price quoted by the bidders was to be valid for 90 days i.e. upto 20 April 1998. The bids were evaluated by the Consultant and the evaluation report was submitted on 5 May 1998. The Consultant proposed the lowest offer of M/s 'A' for 'cycloidal propulsion system' with a qualification stating that the offer was technically questionable as the bid did not satisfy the 'dynamic stability requirement' and for the tugs with "azimuth propulsion" system, recommended the next higher offer of M/s 'B'. The Tender Committee preferred (June 1998) the cycloidal propulsion system but sought a firm opinion from the Consultant on the stability aspects of the bid of M/s 'A', a Public Sector Enterprise, after obtaining all the additional information required for the purpose. The Consultant based on further information from the firm, finally recommended (26 June 1998) that the offer of M/s 'A' at a contract price of Rs 52.32 crore (excluding taxes) could be accepted as technically suitable. Further details regarding contract price, foreign exchange fluctuations etc., sought for by the Tender Committee could be obtained from the Consultant only on 7 July 1998. Though the firm had extended the period of offer upto 20 July 1998, as more time was required to complete all the formalities before putting up the proposal to the Board for approval, further extension of validity of the bid was sought, but, M/s 'A' refused to extend the validity further.

Therefore the Port Trust decided (August 1998) to consider the offer of M/s 'B' for 'azimuth propulsion' system at the contract offer of Rs 57.03 crore. This firm had already extended the validity upto 19 August 1998. With a view to narrow down the gap with reference to the lowest offer of M/s 'A', Port Trust invited (29 July 1998) the firm for negotiation. After negotiation, the revised offer of Rs 55.14 crore (excluding taxes) was accepted. The tugs and crafts were delivered by the firm in January 2001 and payment was made to the tune of Rs 63.93 crore including sales tax.

Scrutiny of records in audit amongst other things revealed that :

- (i) The conditions of the contract between the Consultant and ChPT, inter-alia, stipulated a maximum period of four months for conducting a detailed evaluation of contract packages, covering all the aspects involved in the analysis and for furnishing the final tender evaluation report. However, the Consultant took more than five months to submit the final evaluation report. The delay in technical evaluation of the lowest tender for Rs 52.32 crore subsequently led to the award of contract to the higher tenderer for Rs 55.14 crore.
- (ii) The offer by M/s 'B', comprised Rs 309646000 + US \$ 2489640 + DM 4859380 + NLG 3140017. The Consultant arrived at the Rupee equivalent as Rs 57.03 crore based on the exchange rates prevailing on the date of tender. M/s 'B' specifically clarified in April 1998 to the Consultant that their offer included the elements of Sales Tax at five *per cent* and turnover sales tax at 2.5 *per cent*. The Consultant

accordingly arrived at the basic price after excluding this tax component, at Rs 52.75 crore in his evaluation report whereas, as worked out in audit, it would be Rs 53.05 crore.

During negotiation M/s 'B', reduced the price component in terms of NLG from 3140017 to 2140017. However, while communicating the reduced offer (July 1998), the firm indicated that the revised offer was exclusive of any tax component. The Port Trust awarded the contract to the firm (August 1998) for Rs 55.14 crore accepting the revised offer.

Audit observed that the contract price of Rs 55.14 crore after negotiation was more than the earlier basic price evaluated before negotiation. Acceptance by Port Trust of the revised offer after negotiation leading to further increase in basic price was not justified. This finally led to an unnecessary additional expenditure of Rs 2.32 crore to Port Trust (reckoned on increase in basic cost - Rs 2.09 crore + corresponding increase in sales tax Rs 0.23 crore).

The Ministry in their reply stated (January 2002) that the delay in evaluation was due to unavoidable technical complexities of the work and delay in submission of required technical details by the bidder. However, Audit observes that the specific time limit of four months for evaluation of bids by the Consultant would have been stipulated only after taking into account all the complexities in such contracts.

As regards the resultant increase in the contract price after negotiation, the Ministry stated that as per tender conditions, the taxes were to be paid extra and that only the basic price was negotiated and reduced while other terms and conditions including the payment of taxes as extra remained unaltered. This reply is not tenable as M/s 'B' had specifically stated to the Consultant that their initial offer included the elements of sales tax and accordingly the Consultant worked out the overall basic price. After negotiation, though the price in terms of one component (NLG) was reduced, the firm indicated that the final price did not include any tax component. As a result, there was an overall increase in the basic price after negotiation.

9.3 Improper evaluation of tender

Evaluation of tender offers without reckoning the cost of spares led to the award of contract to the tenderer who quoted a price that was eventually higher by Rs 0.99 crore.

ChPT invited tenders (June 1998) for supply of two tugs of 32 tonne bollard pull with telescopic fire monitors. Of the seven offers received, six were found to be valid. The Tender Committee, constituted for evaluation and finalisation

of tenders, recommended (25 November 1999) the offer of M/s 'A' whose rate was the lowest at Rs 32.52 crore. After getting the approval of the Board, ChPT placed (January 2000) the order with the M/s 'A' for supply of the tugs along with the classification spares and other spares at a cost of Rs 32.52 crore. M/s 'A' subsequently represented in February 2000 that their rate was for supply of two tugs with classification spares only and that they had indicated the cost of other spares referred to in clauses 10.1, 10.2 of tender documents separately and therefore, requested for issue of an amendment to the supply order deleting the word 'other spares'. The Port Trust accepted the contention of the supplier and issued (December 2000) an amendment deleting the word 'other spares' from the supply order. The Port Trust however, preferred to defer the procurement of 'other spares'. The construction of tugs was in progress and payment of Rs 12.78 crore has been made so far (April 2001).

A scrutiny of the connected records at ChPT revealed the following:

- (i) The tender conditions, *inter-alia*, stipulated the furnishing of the yard details, depth of water-front etc., by the tenderers and documentary evidence for having constructed a minimum five units of more than 20 tonne bollard pull tractor tugs along with their performance reports. M/s 'A' did not have the required depth of water-front for the construction of the tugs intended and had not manufactured any tugs of their own, but had manufactured only a few floating crafts like barges, launches and buoys. However, the tender committee recommended the award of the work to M/s 'A' on the grounds that (a) Ocean Engineering Centre, IIT, Madras had certified the feasibility of construction of the tugs by the firm with the help of a floating dock despite the non-availability of adequate water depth on their own and that (b) the firm had entered into an Memorandum of Understanding (MoU) with M/s 'B', Holland and this collaborator was a renowned manufacturer of tugs.

It was observed from the MoU that M/s 'B' had only agreed to provide M/s 'A' sufficient documentation consisting of design and drawings of the tugs to make the necessary bid before the Port Trust on certain specific payment (five *per cent* of contract price). Otherwise the MoU did not contain any apparent commitment or involvement by the collaborator in the construction of tugs conforming to the specification of the Port Trust. Moreover, when the tender conditions contemplated the award of the contract only to firms of proven performance background, the award of contract to M/s 'A' who were to commence the construction afresh that too under make-shift arrangement was not justified.

- (ii) As per the general rules and directions indicated for the guidance of the tenderers under the contract, the rates quoted in the tender were to include everything required to be done as per the instructions,

conditions of contract and specifications referred to in the tender document. The specifications for design and construction, delivery afloat and handing-over of tugs contained in 10 Chapters included a Chapter (Chapter 10) on supply of spares along with the tugs. As per this Chapter 10, all spares including classification spares and other spares listed therein under clauses 10.1 and 10.2 should be supplied. In the price schedule, it was required that the price of tugs with classification spares be quoted and that the item-wise cost of other spares as per the Clauses 10.1, 10.2 to be supplied indicated separately.

The cost of tugs with classification spares quoted by M/s 'A' was presumed by the Port Trust to have included the cost of other spares also. The tender evaluation was made accordingly and the Board was also informed that the price offered by M/s 'A' included the cost of other spares. Supply order was finally placed with M/s 'A' for the supply of the two tugs along with the classification spares and other spares at the quoted rate.

But M/s 'A', in February 2000, stated that their quoted offer did not include the cost of other spares but only the cost of tugs and classification spares as expressly stated in the price schedule and therefore requested for issuing amendment, deleting the word 'other spares' from the supply order. Port Trust, accepting the contention, issued the amendment. Port Trust, did not, however, place any fresh order for the supply of other spares with M/s 'A' but deferred the procurement.

It was seen that in the case of the next lowest tenderer M/s 'C', a Government of India Undertaking, who had not furnished the cost of other spares separately, Port Trust sought specific clarification, on this aspect. M/s 'C', while confirming their readiness to supply all the spares mentioned in the tender document indicated that the cost included, in addition to classification spares, the other spares as per tender specification. But no such confirmation was obtained by the Port Trust from the M/s 'A' that the cost of 'other spares' also was included in their tender offer. Port Trust merely relented when M/s 'A' later sought an amendment to the supply order to the effect that the price was only for the two tugs with "classification spares".

If the cost of 'other spares' (Rs 1.13 crore) indicated separately by M/s 'A' had also been added to the cost of tugs and the total price (Rs 33.65 crore) compared with the offer of M/s 'C' (Rs 32.66 crore) which included the cost of all spares, the offer of M/s 'C' would have become the lowest, in which case the supply order should have been placed on M/s 'C' only. This has not been done.

Thus, the improper evaluation of the tender offers by Tender Committee led to the award of contract to the higher tenderer by Rs 0.99 crore, who also had no previous experience in construction of tugs.

The Ministry in their reply (December 2001) justified the selection of M/s 'A' for the supply of tugs reiterating the same reasons as already brought out and suitably commented upon.

In regard to improper evaluation, Ministry stated in their reply as follows:

- (i) "As M/s 'C' had neither indicated cost of spares separately nor stated that their price was inclusive of other spares while submitting the bids, any reconsideration of the offer later based on the subsequent confirmation from the firm for inclusion of the cost of other spares in the quoted price, would amount to post-tender revision.
- (ii) M/s 'C' was insisting, during tender committee meeting, for opening of Letter of Credit (LoC) in favour of suppliers of major items like steel, propulsion system, etc. This indicated the financial status of the firm which also had to be taken into account while finalising the supply order. If the likely interest liability on account of this LoC opening requirement were reckoned, the total cost of tugs supplied by M/s 'C' would be much higher than that of M/s 'A' even after adding the cost of other spares".

The reply of the Ministry appears to ignore the Port's specific requirement included in the tender documents that all the other spares should be supplied along with the tugs and the rate quoted in the tender should include all these requirements. Moreover, the clarification in regard to the inclusion of the cost of other spares in the quoted offer was given by M/s 'C' only at the instance of Port Trust. Therefore, no "post-tender revision" was involved.

Regarding the requirement of opening of LoC attributed to M/s 'C' it may be recalled that the tender committee earlier recommended the offer of M/s 'C' only as lowest with sales tax at four *per cent* as against the offer of M/s 'A' with sales tax at 1.5 *per cent* (However, the offer of M/s 'A' with reduced sales tax at one *per cent* became the lowest and was accepted subsequently). While so recommending, it was indicated that the payment terms of the Port Trust had been accepted by the firm. In such circumstances, the Ministry's projecting the interest liability on the "LoC terms" of M/s 'C' is irrelevant and hypothetical. Also, no such grounds formed the basis of rejection of the offer of M/s 'C' as seen from records perused by Audit.

In view of the above, the reply of the Ministry is not tenable.

Cochin Port Trust

9.4 Imprudent investment decision

Acquisition of one transfer crane on lease for 10 years instead of its outright purchase was an imprudent financial decision that resulted in loss of Rs 7.46 crore.

In November 1997, Cochin Port Trust (CoPT) approved purchase of one 35.5 tonne Rubber Tyred Gantry (RTG) crane for Rs 7 crore to augment yard handling equipment at Rajiv Gandhi Container Terminal commissioned in September 1993. While the tenders received were being processed, CoPT decided (July 1998) to procure the RTG crane on lease from a Mumbai firm for a period of ten years paying lease charges at Rs 2.20 crore for the first year from the date of commissioning and at 3 *per cent* cumulatively increasing rates for the next nine years. The lease also envisaged transfer of the equipment to CoPT in good working condition on expiry of the ten year lease period. It was stated that the acquisition of the equipment through leasing was preferred to its outright purchase mainly on grounds of (i) inadequate plan allocation of Rs 10 crore for 1998-99, (ii) shorter delivery period of nine months compared to 18 months to purchase and (iii) guaranteed 88 *per cent* availability per quarter.

Lease agreement and work was awarded to the firm in August 1998 and the transfer crane commissioned in December 1999 involving a time overrun of 30 weeks. Even though Net Present Value (NPV) analysis disclosed that purchase option was cheaper by Rs 74 lakh than the lease option, CoPT opted for the latter on the score that guaranteed minimum availability of the equipment for 88 *per cent*.

Audit scrutiny disclosed that NPV analysis was incorrect and unbalanced for the reason that cash outflow under purchase option was arrived at including the element of cost of capital at 12 *per cent per annum* whereas it was excluded while computing NPV under the lease option. If interest at 12 *per cent per annum* was also reckoned, NPV for lease option would be Rs 21.28 crore as against Rs 13.82 crore for purchase resulting in excess cash outflow of Rs 7.46 crore.

CoPT stated (August 2000) that cash outflow in the case of lease option consisted of only lease rentals and being a revenue expenditure, interest thereon need not be reckoned. Ministry endorsed (September 2001) the views of CoPT. The contention is not acceptable as in a rational and equitable comparison of cash outflows under both the options, for taking an investment decision, the crucial factors having financial implications should be applied uniformly. Either the actual cash flow arising out of the two options or cash flow plus the opportunity cost in respect of both the options should be taken

into consideration. Further, the Board of Directors was apprised in June 1998 that purchase option was indeed cheaper though lease option was preferable due to guaranteed availability, penal provisions and squeeze on plan funds. Evidently, lease option was adopted on supposed operational considerations ignoring the financial implications.

9.5 Unfruitful expenditure on purchase of diesel generator set

Because of Cochin Port Trust's failure to ensure the operational feasibility before effecting the purchase, Rs 4.54 crore invested on a diesel generator is rendered wasteful.

With a view to augment power supply during peak load hours and to supply at times of power interruptions, CoPT procured (April 1998) one 2.5 MW Diesel Generator (DG) set at a cost of Rs 5.24 crore from an Indian firm and installed it in May 1999. During trial runs, it was noticed (July 1999) that the generator was not compatible with the quay side gantry cranes, as tripping of the crane controls recurred.

As suggested by the supplier of the DG Set, CoPT installed (August 2000) a ballast system (cost: Rs 20.50 lakh) in one crane for making it operational. It also did not help in avoidance of the tripping of the crane controls. In view of the problems of non-adaptability of the DG set, CoPT engaged (November 2000) Central Power Research Institute (CPRI) for conducting preliminary investigation (cost: Rs 0.75 lakh) to find a way out of the recurring problems of tripping. Though CPRI recommended installation of LC Filter Bank to reduce trippings in February 2001. CoPT had not taken steps for installation of a Filter Bank as of June 2001 and the DG set had remained idle for the last three years. Till February 2001, Rs 4.54 crore had been spent on the DG set. The following points were noticed in audit.

- i) CoPT did not conduct any study regarding smooth operation of the sophisticated imported gantry cranes with the power supplied by the DG set. Had the suitability/adaptability of DG set been ascertained from the crane manufacturers before-hand, the huge unproductive investment of Rs 4.54 crore on the DG set could have been avoided.
- ii) The cranes were operated feeding power drawn from the general pool and non-availability of electricity for container handling led to complaints from trade during power shortages. As the main objective for the acquisition of the costly DG set was not met, expenditure of Rs 4.54 crore did not serve any purpose and CoPT did not derive any benefit from the huge investment.

Ministry stated in December 2001 that the DG set has not been taken over by CoPT since it was not compatible with the gantry crane and that as advised by the crane manufacturers, CoPT was considering upgradation of the cranes to make them compatible for working with the power fed from the DG set. Thus, failure to sort out the problems beset in working the gantry cranes along with DG set led not only to idle investment of Rs 4.54 crore for nearly four years but also the necessity of early upgradation of the cranes themselves.

9.6 Infertuous expenditure on repairs of an indigenous transfer crane

Defective agreement resulted in investment of Rs 3.38 crore on repairs of the crane infertuous.

One Braithwaite Krupp transfer crane (cost: Rs 1.68 crore) commissioned in April 1986 went out of order in October 1990 due to failure of its various electric and electronic control systems. CoPT decided to revamp the control system and the work of supply and installation of a new programmable logic control system was entrusted in March 1994 to the single tenderer viz., M/s 'A', Bangalore, on a turn-key basis, for Rs 1.70 crore (including sales tax), stipulating the date of completion of revamping and re-commissioning as March 1995. Due to delays in import of components and material for the hydraulic system, problems with sub-contractors, etc. M/s 'A' could not commission the crane by the due date and extension of time was granted up to December 1997. Though the crane was taken over in December 1997 after repairs, its commercial operation on a regular basis was blocked due to frequent breakdowns. CoPT issued show cause notices in April 1998/August 1998/February 1999. After completing the revamping works, the firm finally handed over the crane to CoPT in August 1999.

Even after revamping at a cost of Rs 1.70 crore, the crane was not performing satisfactorily and the revamping also did not yield the desired result. As against the norm for utilisation viz. 40 *per cent*, the revamped crane's utilisation ranged between 1 *per cent* and 13 *per cent* during 2000-01.

As the crane was sick and not performing satisfactorily from the very beginning, suitable provisions guaranteeing trouble-free and smooth commercial operations for a reasonable period should have been incorporated in the revamping agreement with the lone bidder to safeguard the financial interest of CoPT. This was not done.

Ministry stated (December 2001) that CoPT has been advised to be cautious while dealing with M/s 'A' in future and also to explore the scope for any further action against the firm, notwithstanding realisation of the maximum liquidated damages of Rs 25.51 lakh.

9.7 Loss of revenue due to non-acceptance of highest premium offer

Negotiated leasing out of property led to revenue loss of Rs 80 lakh.

CoPT invited tenders (July 2000) for leasing out three plots for storage of dry bulk cargo. Out of seven offers received, three were called for negotiation. After negotiation, Board of Trustees (BoT) allotted (December 2000) one plot each to the three firms at a total premium amount of Rs 14.21 crore.

Firm 'A' had occupied the allotted plot in March 2001 and the other two firms have not yet occupied the plots (July 2001). Due to non-takeover of the two allotted plots by firms 'B' and 'C', CoPT had lost revenue of Rs 8.20 crore. It was further noticed in audit that while the combined allotment of the plots to the three firms fetched income of Rs 14.21 crore only, firm 'A' had quoted in its individual offer a higher premium of Rs 15.01 crore for all the three plots. As such, CoPT had incurred a loss of Rs 80 lakh by not allotting all the three plots to firm 'A'.

The following irregularities were also noticed :

- (i) Post-tender negotiations have been banned (November 1998) by Government of India except in the case of highest bidder in the case of lease. As firm 'A' was the highest bidder, negotiations with the other two firms 'B' and 'C' were unwarranted and unjustified.
- (ii) The contention that negotiations were confined to the three firms which quoted the highest premia for the individual plots 'A' to 'C' was untenable in as much as premium (Rs 3.28 crore) quoted by firm 'B' was not the highest for plot 'B'. Original offers from firms 'A' and 'C' for plot 'B' were for Rs 4.50 crore and Rs 4.05 crore respectively. Thus inviting the firms for negotiations was irregular.
- (iii) Ministry had stipulated (February 2000) that premium rental offered should not be less than the commercial value of land either obtained through the tender in the vicinity or rates notified by Port. As such, the premium offered by firm 'A' being the highest should have been considered
- (iv) According to tender conditions and allotment order premia had to be paid by the allottees within 30 days or else the allotment would stand cancelled. Though more than four months had already elapsed, neither the allotments to the firms 'B' and 'C' had been cancelled nor earnest money deposited (Rs 5 lakh) by them forfeited.

Thus, leasing out of prime property at a lesser rate caused financial loss to the port to the extent of Rs 80 lakh. CoPT stated (April 2001) that the highest offer of firm 'A' for all the three plots was not accepted because it was not possible to get higher Minimum Throughput Guarantee (MTG) from the firm. This is not tenable as the aforementioned orders of February 2000 precluded Port Trusts from insisting on MTG.

The matter was referred to the Ministry in August 2001; their reply was awaited as of January 2002.

Jawaharlal Nehru Port Trust

9.8 Imprudent decision to lease out buffer yard

Jawaharlal Nehru Port Trust leased out buffer yard to an outside agency inspite of having sufficient infrastructure to operate and maintain it with idle manpower and equipment, this has led to loss of revenue of Rs 19.79 crore (approx).

With a view to develop a buffer yard the Jawaharlal Nehru Port Trust (JNPT) constructed a paved area of 40000 sq.mts. adjacent to the existing container freight station at a cost of Rs 4.66 crore in 1996. The purpose was to ensure that fully documented and customs cleared containers enter the Port premises to facilitate exports and ease congestion in the Port. The main activities carried out in the buffer yard included lift on/lift off by crane and transportation of the containers by tractor-trailer and managing the yard.

The BoT of the Port decided in March 1996 to engage Contractor 'A' to operate and manage the newly constructed buffer yard for handling undocumented factory stuffed containers. No tenders were called from the prospective bidders to conduct such operations, which was in contravention of the Ministry's guidelines. The area developed by the Port Trust was leased out to the contractor for a rent @ Rs 16 per sq. mt. with Rs 2.6 per sq.mt. per month towards maintenance charges in addition to a royalty of Rs 120 per Twenty Foot Equivalent Unit (TEU) on containers handled in the buffer yard. The basis for the royalty being 10 *per cent* of the amount collected by the contractor in respect of the containers handled in the buffer yard. Since the contractor was allowed to charge an amount of Rs 1300 per TEU, the actual royalty chargeable by the Port was Rs 130 instead of Rs 120 per TEU. In addition to this, the contractor was empowered to charge ground rent charges for loaded containers beyond free period and empty containers stored in the buffer yard as per the tariff approved by the Port. The contractor started the operation in August 1997. In June 1999 the work was again tendered and awarded to the same contractor for a period of five years along with the

contract for management of container freight station despite having received complaints from the users in respect of poor quality of services rendered by the contractor.

As the Port had sufficient infrastructure facilities viz. equipment and manpower (124 technical and non-technical surplus staff as per report of Staff Inspection Unit of Ministry of Finance) to carry out operational activities the rationale behind engagement of a contractor for the management of the buffer yard is not justified. While Port incurred huge expenditure of Rs 4.66 crore on developing "buffer yard", letting out of the yard on a paltry rental resulted in an approximate loss of revenue of Rs 19.79 crore to the Port up to March 2001.

The matter was referred to the Ministry in August 2001; their reply was awaited as of January 2002.

9.9 Unproductive expenditure

The Port procured equipment worth Rs 8.93 crore merely on the recommendations of the consultant without analysing the actual need. The equipment/machinery could not be put to use/worked satisfactorily right from the beginning which resulted in unproductive expenditure.

(a) JNPT procured two bag stacker re-claimers with associated conveyors at a cost of Rs 809.44 lakh in 1989 on the recommendations of the Consultant M/s 'A'. The equipment installed were to handle fertilizer raw materials, food grains, through grab, continuous unloaders and associated conveyers system. These equipments were meant to receive fertilizer/food grains bags and stack them in a systematic manner in storage shed and also to reclaim them for loading purpose to the wagon loading platform.

The entire system did not work satisfactorily since installation due to design deficiency. As the system was abinitio defective, it could not be commissioned successfully. It was also found that for regular operations, such equipment was not considered necessary. The Port did not take any action to make the system functional nor did it fix any responsibility on the consultant. However in 1997, the Port formed a committee to study the status of the equipment. It was recommended by the committee that all the major ports would be asked to take over the assets on the basis of reserve price within one month's time, or else to dispose of them following tender procedure.

In January 2001, Port disposed of the system for Rs 39.85 lakh incurring huge loss of Rs 769.59 lakh.

(b) The Port also acquired automobile machineries worth Rs 83.92 lakh during the project stage in 1989 on the basis of the recommendations of the project consultants M/s 'A'. These machineries included brake drum lathe, brake shoe grinder, crankshaft grinder, cylinder boring machine etc. which were meant for repairs/testing of diesel engines, cylinder heads, piston cylinders etc. in the auto garage.

The above automobile machineries were not used by JNPT right from the date of procurement for the purpose for which they were procured due to lack of expertise in such specialised field. Moreover with the nature of work to be performed in the auto garage, such special type of machineries were not considered necessary. Neither did the Port take up the matter with the Consultants nor did it explore any alternate venue/party to use the equipments. Finally, port disposed of the machinery during the period January to July 2001.

The port procured these items merely on the basis of recommendations of the Consultant without analysing the actual need for such items and without proper technical assessment of equipment. Procurement of defective system/equipments of high cost and inadequate follow up at the initial stage thus resulted in unproductive expenditure of Rs 8.93 crore. The Port Trust has not fixed any responsibility for such gross negligence.

The matter was referred to the Ministry in June 2001; their reply was awaited as of January 2002.

9.10 Avoidable expenditure on construction of electrical substation and loss on account of lease rent of land handed over to NSICT.

Jawaharlal Nehru Port Trust showed an undue favour to a Contractor and thus incurred an avoidable net expenditure of Rs 1.16 crore in construction of a new electrical substation. It further handed over a strip of land to the Contractor free of cost causing another loss of Rs 28.22 lakh to the Port.

(a) JNPT constructed an electrical substation E6 during the project stage in 1989 at a cost of Rs 2.57 crore. The substation was intended to feed 156 reefer sockets in the container terminal of the Port. Due to increased refrigerated container traffic in 1994-95, the Port developed another 88 reefer sockets to meet the additional traffic. In order to meet the power requirement

for these 88 reefer sockets, another electrical substation E5 was modified at a cost of Rs 36 lakh. Again, in April 1996, the Port approved construction of a new electrical substation along with 192 reefer sockets at a cost of Rs 3.6 crore anticipating growth in refrigerated container traffic.

In July 1997, JNPT entered into a license agreement with NSICT to build, operate and transfer a container terminal for a period of 30 years. Although, the license agreement had specified that the licensee should install their own substation, the Port handed over the existing E6 substation to NSICT at cost of Rs 2 crore in January 1999.

Due to declining trend in the refrigerated container traffic, the projected traffic did not materialise during 1996-2001. Audit scrutiny revealed that container traffic in the Port had decreased from 6.69 lakh TEUs in 1998-99 to 5.45 lakh TEUs in 1999-2000. During 2001, the container traffic was only 4.95 lakh TEUs. In view of this, the new substation constructed at a cost of Rs 3.6 crore was not optimally utilised. If the Port had not handed over the E6 substation to NSICT, expenditure of Rs 3.6 crore on the construction of new substation could have been avoided.

The Ministry in their reply (September 2001) stated that the substation was constructed to feed the newly constructed yard of 192 reefer sockets and was in anticipation of increase in traffic in the future, gradually 88 sockets behind E5 would be disconnected and the area would be made available for the steady growing ICD traffic to ensure faster turn round of railway racks and the decline in the reefer traffic is purely a temporary phenomenon due to diversion of traffic to NSICT. The reply of the Ministry is not tenable as the reefer container traffic in the Port was at the peak during 1998-99, which could have been easily met with existing facilities. The container traffic in the Port declined steadily from the year 1998-99 to 2000-01 and the number of reefer containers connected in the new yard constructed in September 1999 had never reached its installed capacity of 192 reefer sockets but had crossed 100 only on one day (5.1.2000) during the period from September 1999 to March 2001. Moreover, when the license period of NSICT is 30 years, the decline in traffic cannot be considered as temporary but a defective assessment of traffic level by not anticipating the diversion of traffic from the Port. The logical conclusion is that the Port had shown undue favours to NSICT and incurred an avoidable net expenditure of Rs 1.6 crore in constructing new substation.

(b) While finalising the cost of substation NSICT proposed to JNPT that it should hand over a strip of developed land admeasuring 6000 sq.mts. along with the substation. JNPT acceded to the proposal without analysing the cost of land and its prospective use by NSICT and handed over the substation along with a strip of developed land of 6000 sq.mts. in January 1999 on the express condition that the subject land would be developed by the licensee as a green belt latest by end of 1999. Since NSICT had sought the land for some specific purpose, the rationale behind handing over land by the Port for some

other purpose was not clear. However, verification by Audit on 10.5.2000 alongwith the officers of electrical maintenance section (Deputy Manager and Assistant Manager) revealed that the licensee had not fulfilled the above conditions, instead the area was being used for other purposes.

The rate of lease rent prevailing for undeveloped land inside the port during January 1999 was Rs 16 per sq.mt. per month with 10 *per cent* escalation every two years. Port should have included specific conditions in the allotment order for charging lease rent as the land was allotted to them at their specific request. Hence the action to hand over the land to NSICT free of cost resulted in extension of undue benefit to a private operator. The loss to the Port in this account worked out to Rs 28.22 lakh from January 1999 to March 2001.

The Ministry in their reply stated that the area was reserved for greening, hence it cannot be considered for revenue generation. Reply of the Ministry is not tenable due to the fact that when NSICT had requested the land for some specific purpose to facilitate for their operation, handing over the land for greening purpose was not in order and it amounted to showing undue favour to a private operator who was also a competitor of the Port in the field.

9.11 Avoidable expenditure

Improper technical planning and lack of coordination led to incorrect decision which resulted in an avoidable expenditure of Rs 1.27 crore.

JNPT introduced computerisation during the project stage in 1989 with 5 DEC VAX 6210 systems which were supplied by Digital Equipment Corporation USA. The systems were installed, commissioned and maintained by Computer Maintenance Corporation Ltd. till March 1993 and there after, the operation and maintenance was entrusted to M/s 'A' at an annual cost of Rs 65 lakh with effect from April 1993 onwards. Since the system was not deriving the maximum efficiency, an agency M/s 'B' was engaged to conduct a technical audit of the system to evaluate the adequacy of the software and hardware configuration of the system at a fee of Rs 4 lakh in 1993. The main objective of the technical audit was to identify the problem areas in the applications causing poor performance of the system with reference to the configuration. The findings and the suggestions made by the technical audit clearly mentioned that the prime reasons for poor performance of the system was sub-optimal design strategies of the software, database and lack of co-ordination in implementation of computerisation. The users were also reluctant to use the system. The report concluded that 'the computerisation was not effective in the Port' and the poor performance of the system was not

at all attributable to the hardware configuration, but due to inadequacies in the software system.

Instead of taking steps to remove the anomalies in the software system, the Port procured two new DEC Alpha Systems, one in 1995 and another in 1997 at a total cost of Rs 110 lakh for augmenting the systems in both Container Terminal Computer Centre (CTCC) and Port Management Computer Centre (PMCC). In PMCC the new system was introduced with a view to reduce the processing time of payroll of all the employees of JNPT from 16 hours to 8 hours by “Porting in” the existing payroll and financial software to the new system. It was also stated that the migration of data into the new system could be achieved without affecting the existing software and running applications. However, it was revealed from the records that the Port could not migrate the data into the new system due to some technical reasons thereby defeating the main purpose for which the system was procured in PMCC. The Port engaged in 1999 another contractor M/s ‘C’, to develop a new Application Software at a cost of Rs 16.50 lakh, as the earlier supplier could not migrate the data. As the contractor was already engaged for software and hardware maintenance at a fee of Rs 65 lakh per annum, the Port should have got the inadequacies rectified in the software by the contractor as suggested by the Consultants.

The Ministry in their reply (November 2001) stated that the Port has purchased two Alpha 1000 servers in 1995 and 1997 for CTCC and PMCC as suggested by Tata Consultancy Services (TCS) in the long term plan for improving the performance of the system and the entire PMCC applications could not be ported in directly to the new system as the old applications were not Y2K compliant. The Ministry’s reply is not tenable as the TCS report clearly indicated that sub-optimal design strategies of the software and data base and lack of co-ordination towards implementation of computerised system as prime reasons for the situation prevails in the Port and also in the long term plan Port has to replace the old systems as the same was not Y2K compliant. Since the port had replaced the old systems with new hardware and software at a cost of Rs 8.25 crore, an investment on purchase of hardware and software at that stage could have been avoided had the port been planned properly anticipating the huge investment in revamping the entire system due to Y2K problem.

Thus improper technical planning, lack of co-ordination led to incorrect decision of the port which resulted in an avoidable expenditure of Rs 1.27 crore on augmentation of new systems and development of software packages.

9.12 Irregular expenditure

Jawaharlal Nehru Port Trust incurred an irregular expenditure of Rs 38.50 lakh on encashment of Casual Leave.

As per the Central Civil Service (Leave Rules) encashment of casual leave is not permissible. In JNPT, a proposal for encashment of 50 *per cent* of casual leave subject to maximum of 10 days per year to the employees was submitted to the BoT on 31st January 1992. The proposal was withdrawn being not in tune with the practice followed in other Government departments. However, in December 1998, the Chairman exercising powers beyond his jurisdiction approved the proposal allowing encashment to all employees upto 10 days out of 20 days of casual leave admissible to them. The practice was continued in 1999 and 2000 also.

During the period 1998-2000 the Port had allowed encashment of casual leave to various categories of employees involving an irregular and avoidable expenditure of Rs 38.50 lakh.

The matter was referred to the Ministry in August 2001; their reply was awaited as of January 2002.

9.13 Loss on hiring of pilot launches

Failure in obtaining the launches for pilotage operations resulted in loss of Rs 18.40 lakh.

JNPT commenced its operations in the year 1989. In order to conduct pilotage operations, Port acquired three pilot launches in 1989 during the project stage and one in 1998. The manning, operation and maintenance of all these launches were entrusted to various private parties by the Port since inception. As per the conditions of the contract, it was the prime responsibility of the contractor to keep the launches in commission at all times so as to ensure that the launches with crew were made available round the clock. In case of non availability of the launches, the Port reserved the right to engage substitute launches on hire as required by the Port operations and deduct the entire cost from the bills payable under the contract or from any other bills payable to the contractor. Monthly manning and maintenance charges were paid to the contractors as per the conditions of the contract.

The contractor failed to perform as per the provision of the contract conditions and he did not provide the launches during August 1998 to January 2001 and the Port had to hire launches incurring an expenditure of Rs 21 lakh.

Failure of the Marine department of the Port in obtaining the launches for pilotage operations had resulted in loss of Rs 21 lakh on hiring of launches which had not been recovered from the contractor as per terms and conditions of contract. The penalty for downtime period as per contract provisions was recovered by the Port.

Ministry stated (September 2001) that an amount of Rs 22.31 lakh has been recovered towards non-availability of launches and hence double penalty need not be considered towards hiring of launches.

The reply cannot be accepted in audit due to the fact that recovery towards penalty and recovery towards hiring charges are two separate stipulations in the contract. The recovery of Rs 22.31 lakh included only Rs 2.6 lakh towards hiring charges. Thus, non-recovery of hiring charges resulted in loss of revenue of Rs 18.40 lakh.

Kolkata Port Trust

9.14 Avoidable expenditure

Without ensuring guaranteed supply of thermal coal, Haldia Dock Complex procured three bulldozers against two as recommended by the consultant and thereby incurred an avoidable and wasteful expenditure of Rs 1.58 crore on procurement of the third bulldozer.

To prevent, control and fight spontaneous fire in the coal stack yard, Haldia Dock Complex (HDC) engaged Central Mine Planning and Design Institute Limited (CMPDIL) in July 1998 to undertake a study and to suggest remedial measures. CMPDIL in their study report recommended (August 1998) the services of minimum two BD355 (heavy duty) bulldozers for fire fighting purposes. The proposal of CMPDIL was based on the fact that HDC was handling around four million tonne of thermal coal in a year. This was projected to increase to five million tonne by 1999-2000 and to 7.5 million tonne from April 2002 due to routing of thermal coal traffic of Tamil Nadu Electricity Board (TNEB).

Therefore, HDC, in September 1998 proposed to procure one heavy duty bulldozer to meet its immediate requirement. It was decided that after final assessment, further procurement of such bulldozers could be made if required. TNEB was to confirm their projections of increased coal handling by November 1998. However, in October 1998 without ensuring the supply of projected quantity, HDC revised and finalised the proposal for procuring three heavy duty bulldozers as the existing fleet of bulldozers was considered

inadequate for fire fighting purposes in view of the anticipated augmentation of thermal coal handling at HDC. Accordingly, in October 1998 HDC placed an order with Bharat Earth Movers Ltd. (BEML) for manufacture and supply of three BD355 bulldozers at an estimated cost of Rs 4.65 crore including taxes and duties. The bulldozers were to be delivered within June 1999.

Two bulldozers were delivered in January and February 1999 respectively and commissioned in February 1999. Meanwhile (during January to March 1999) handling of thermal coal of TNEB at HDC sharply decreased to 2.5 lakh tonne per month (three million tonne per year). In January 1999, HDC in their plan review meeting, therefore, decided to keep the procurement of the third bulldozer in abeyance. In March 1999, HDC, in view of reduction in the ground stock of TNEB coal, decided to drop the procurement of the third bulldozer and intimated BEML accordingly.

As BEML had already manufactured the bulldozer for HDC by January 1999 and there was no scope for diverting it to any other customer, HDC accepted the third bulldozer. The despatch clearance for the same was given in November 1999 and it was delivered in January/February 2000. HDC paid a total amount of Rs 4.67 crore for three bulldozers between March 1999 and December 2000. Out of Rs 4.67 crore, Rs 1.58 crore had been incurred against the third bulldozer. Till June 2000 the bulldozer was working in locations other than the coal berth. Records also revealed that during February 1999 to September 2001 utilisation of the three BD355 type bulldozers was only 33 *per cent*. Of this, deployment of the bulldozers under fire division was only five *per cent*. Moreover, the quantity of thermal coal handled during 2000-01 had also come down to 3.67 million tonne *per annum* as against anticipated augmentation to five million tonne.

HDC stated in September 2001 that TNEB was indicating movement of thermal coal through HDC upto a level of five lakh tonne per month and in March 1999 Chairman, TNEB also indicated that in any case movement of thermal coal through HDC would not be less than four lakh tonne per month and hence HDC procured three bulldozers, however, HDC had no formal confirmation from TNEB. Though the bulldozers were also being used at iron ore stack yard, total utilisation remained only 33 *per cent*.

The matter was referred to the Ministry in July 2001; their reply was awaited as of January 2002.

Mormugao Port Trust

9.15 Avoidable expenditure on construction of road

Avoidable expenditure of Rs 1.35 crore was incurred to construct a road of 0.748 kms to a destination already connected by an existing road.

A proposal to construct a new road, 0.748 kms. in length, leading from the new administrative building of Mormugao Port Trust (MPT), Goa to the signal station was approved by the Chairman on 28 August 2000. Even before the approval, without preparing an estimate of its own or inviting open tenders, the Port Trust awarded the work on 31 July 2000 to Border Roads Organisation (BRO) who were already executing other works for the MPT at their estimated cost of Rs 1.26 crore. The completion cost of the work was Rs 96.12 lakh. However, Completion Certificate is yet to be issued by BRO.

Further, contracts for providing illumination for the road providing parapet wall all along the road and provision for storm water drainage were also awarded to three private firms at their tendered cost of Rs 4.57 lakh, Rs 4.29 lakh and Rs 29.69 lakh respectively.

The total estimated expenditure on the work therefore worked out to Rs 1.35 crore.

It was observed in audit that the signal station was already connected to the new administrative office by a well maintained road. The work of upgrading this road to National highway specification by providing hotmix bitumen carpeting was also seen awarded and completed by the BRO in November 2000 at a cost of Rs 36.28 lakh. Therefore, construction of another road to the same destination at a cost of Rs 1.35 crore was unnecessary.

The MPT stated in February 2001 that it had taken up this work to improve internal communication with a view to develop the 'westerly slopes' for future development of the Port colony since there was shortage of space.

The reply of the Port is not tenable as the Port colony already has a well laid road network and the existing road could well be extended if and when the 'westerly slopes' are taken up for development. Moreover, most of the land on the western side of the Port colony belonged to the Navy and hence there was no scope for the MPT to develop land on that side.

The matter was referred to the Ministry in June 2001; their reply was awaited as of January 2002.

Mumbai Port Trust

9.16 Avoidable expenditure

Non-initiation of timely action to procure tugs resulted in hiring of tugs and incurring avoidable expenditure of Rs 31.38 crore.

Mumbai Port Trust (MbPT) was in possession of nine tugs with a life span of 30 years. As per the Trustees Resolution of November 1991, life span of tugs were reduced from 30 years to 20 years. By this downward revision, seven tugs had exhausted the economic life span by 1988. All the nine tugs were however laid up during 1997-2000 and awaiting final disposal. Utilisation of MbPT tugs for the last three years was below 35 per cent.

Despite knowing that the economic life of seven tugs had been exhausted in the year 1988, MbPT did not initiate any action for replacement. Board's approval was obtained in September 1997 for replacement of two tugs. Though the approval was obtained in September 1997, the contract was awarded in August 1998, to M/s 'A' for design, construction and delivery of two tugs at a cost of Rs 2682 lakh and the delivery date was fixed as December 1999 and February 2000 respectively.

In January 1999, the contractor submitted revised drawings with fresh specifications in order to avoid recurring maintenance as port failed to specify the thickness of hull plates in tender specification and the revised proposal was approved in March 1999. The revised delivery date was fixed as February 2000 and April 2000 and but the actual delivery was made in October and November 2000 only.

In the mean time MbPT hired two tugs from July 1998 till June 2001 and one thereafter incurring an expenditure of Rs 31.38 crore.

Thus, the delay in initiating action for procurement of tugs despite the downward revision of economic life in the year 1991, necessitated alternate arrangement by the Port to hire two tugs from private parties. The incorrect technical evaluation of the requirement and inadvertent tender specification and corresponding change in delivery schedule also necessitated the extension of the hiring of the tugs, incurring an avoidable expenditure of Rs 31.38 crore.

Ministry stated (November 2001) that Port had to hire the tugs to meet the requirement of berthing operations at Jawahar Deep and Pir Pau. Initial period of one year for hiring was extended by one more year prior to date of delivery schedule of the tug. Hence it is not correct to say that due to delay in delivery schedule, MbPT had to make alternate arrangement for hiring of tugs.

The reply is not tenable due to the fact that MbPT delayed in taking action for procurement of new tugs for about six to seven years despite knowing that

economic life of seven out of nine tugs had exhausted. Moreover, though approval was taken in 1997, the contract was awarded after one year which itself forced the Port to hire the tugs. Also there was delay in delivery schedule due to change in thickness of hull plates, midway through the contract period.

Thus due to defective technical evaluation of the requirement and inadvertent tender specification resulted in avoidable expenditure of Rs 31.38 crore on hiring of tugs.

9.17 Irregular inclusion of House Rent Allowance

Loss of revenue due to irregular inclusion of element of House Rent Allowance in calculation of Over Time Allowance resulting in extra/avoidable expenditure of Rs 30.14 crore.

Ministry constituted a Bipartite Wage Negotiations Committee on 31.12.1992 on wage revision and liberalization of terms and conditions of employment of Port and Dock Workers at the Major Ports of India. On arriving at the settlement over the demands of wage revision, wages of Class III and IV employees of port trust were revised from January 1993. Implementing the revision, MbPT issued a circular in December 1994, wherein it was specified that for the purpose of computation of Over Time (OT), element of House Rent Allowance (HRA) was to be included for employees who were covered under Minimum Wages Act (MWA) and not to be included for those who covered under Major Port Trusts (MPT) Act. However for the purpose of overtime under MWA, the element of HRA notionally is to be computed even in the case of employees in occupation of Port Trust Quarters (PTQ).

Though under MWA, covering manual workers, wages include HRA, for the computation of Over Time Allowance (OTA), the element of HRA should not have been included. Staff members like Senior Clerks, Stenographers of different grades, Inspectors, Assistant Superintendent etc. are not covered under MWA. Hence the inclusion of HRA in computation of OT for their emoluments was irregular.

As the pay revision of Class III and IV employees was made under MPT Act, the inclusion of HRA for calculation of OTA was irregular and erroneous which resulted in extra/avoidable expenditure of Rs 30.14 crore to the port during 1996-97 to 2000-2001.

On being pointed out, Port excluded HRA element in OTA in respect of employees residing in PTQ from 1.1.1998. However, Port continued to include HRA in OT in respect of staff who were not in occupation of PTQ.

Port authorities stated in July 2000 that the Board decided to include the element of HRA for computation of OTA being a benefit enjoyed by the staff for long period. It was also counted for OT payment being the requirement of MWA, as the same is unavoidable unless the MbPT staff is excluded from the ambit of that Act.

The reply is not tenable as the Port had adopted this practice despite clear orders of Government to the contrary. Moreover, none of the other ports are including HRA while calculating OTA.

The matter was referred to the Ministry in June 2001; their reply was awaited as of January 2002.

9.18 Blocking of funds

Inordinate delay in completion of civil work resulted in blocking of funds amounting to Rs 16.36 crore.
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MbPT awarded contract of electrical work to M/s 'A' for Rs 13.43 crore in five parts in February 1996 for providing main/distribution transformers and substation equipments in MbPT docks and estates with a completion period of twelve months i.e. February 1997. A contract for civil work i.e. construction of substation was awarded to another contractor, M/s 'B' in April 1996 at a cost of Rs 2.93 crore also with the same stipulated period i.e. April 1997.

Though the civil work was awarded in April 1996, MbPT applied for permission from Municipal Corporation only in May 1996 and the permission was obtained in May 1997. Thus Port had failed in making application for permission before award of work which was a statutory requirement.

The civil work was mainly delayed due to non receipt of approval from Municipal Corporation of Greater Mumbai and also due to some soil investigation and pile foundation work. The delay of two years in completion of civil work resulted in delay in releasing the site for electrical work and hence the contractor could not complete the work in time. A total of Rs 13.24 crore was paid for the electrical work during the period April 1996 to December 1999 and Rs 3.12 crore was paid for civil work. The electrical contract work had been completed on 31 July 1999 though the scheduled date was February 1997. The system has been commissioned between August 1999 and March 2000, though as per the original time table it was to be completed by February 1997.

The port awarded civil work as well as electrical work simultaneously without taking the necessary approval from Municipal Corporation. This resulted in inordinate delay in completion of civil work and consequently delay in

completion of electric work. Hence award of civil and electrical contract without proper assessment of required time has resulted in delay in commissioning of the entire system by two years and blocking of funds to the tune of Rs 16.36 crore for three years.

Ministry stated (October 2001) that the delay was due to non receipt of approval from Municipal Corporation in time and also due to poor soil conditions encountered during construction work. The electrical work was awarded simultaneously due to the fact that procurement of equipments requires about 8 to 10 months time. Ministry also stated that Port Trust has been requested to take appropriate action to fix responsibilities as to why there was no clearances taken/no soil investigations done prior to the award of contract.

Ministry's reply is not tenable because it was a failure on the part of MbPT to award civil work without obtaining statutory permission from Municipal Corporation and also due to non conducting of soil investigation of the site. Moreover, electrical work was awarded even prior to civil work.

9.19 Loss due to incorrect levy of dues

Mumbai Port Trust suffered a loss of Rs 3.27 crore due to incorrect application of Trustees resolution for levying pier dues.

By a Trustees Resolution (TR) in May 1996, effective from 1 November 1996, MbPT revised the rates of pier dues for vessels berthed at or using the bulk oil piers, at Jawahar Dweep and Pir-Pau, at Rs 3.50 for coastal vessels and 24 cents for foreign going vessels per Gross Registered Tonnage (GRT), per day or part thereof. This meant that any vessel remaining berthed for even a part of the day i.e. less than 24 hours, should be charged at full rate.

Scrutiny of records revealed that during the period November 1996 to December 1999, MbPT had levied pier dues to a vessel remaining berthed, by computing each 24 hours as a day and ignoring part of a day. In respect of 148 vessels, MbPT levied pier dues on the basis of 24 hours instead of per day or part thereof as specified in the notification. This resulted in short levy of pier dues to the extent of Rs 3.27 crore.

In reply, Ministry stated (January 2001) that the levy of pier dues was made on the pattern of "berth hire charges" as specified in the dock scale of rates, which states that "berth hire charges shall be leviable from the time a vessel takes berth till the time it leaves berth". The term "day" was not specifically defined either in the TR or in the respective section of scale of rates. The term

“per day or part thereof” had been provided in the scale of rates that was effective prior to revision under TR NO. 154 of 1996.

Ministry's reply is not tenable and acceptable as the notification of November 1996, clearly indicates the charges leviable “per day or part thereof”, and not on the basis of 24 hours resulting in incorrect levy and loss of revenue of Rs 3.27 crore.

9.20 Avoidable loss due to negligence

Mumbai Port Trust suffered a loss of Rs 1.41 crore due to negligence of Port to communicate the navigational warning resulting in sunken of dredger procured at the cost of Rs 1.67 crore.

(a) MbPT procured, dredger ‘Vishal’ in 1971 at a cost of Rs 166.88 lakh. The dredger sank on 5 December 1987 while proceeding to the dumping ground. The salvage work was initially entrusted in 1988 to M/s ‘A’ for Rs 1 lakh being the lowest tenderer while second lowest tenderer was M/s ‘B’ (Rs 64.90 lakh). The reasons for approving the unusually low and unviable tender was not on record. Being only a trading firm M/s ‘A’ were inexperienced and ill equipped for the said work and could not complete the task. The contractor was discharged and fresh tenders were invited in 1992 and the work was awarded to M/s ‘B’ at a cost of Rs 83 lakh. Had MbPT awarded the work after investigation of the capability and technical competency at the initial stage itself, it could have saved an amount of Rs 18.10 lakh (Rs 83lakh minus Rs 64.90 lakh).

(b) The work, although, awarded in 1992, was completed in 1998 and Port had as per the terms of the contract recovered liquidated damages amounting to Rs 15.22 lakh from the contractor. The contractor applied for extension of time on various occasions attributing the delay to extraneous reasons like modification of barge, emergency salvage work at JNPT and awaiting a heavy crane from a foreign firm. The port granted extension and refunded the amount of Rs 15.22 lakh.

As the reasons were extraneous to the contract the extension and refund of Rs 15.22 lakh was irregular.

(c) The actual loss worked out by the Port on the sunken dredger was Rs 57.60 lakh. The dredger had completed only 17 years of its useful life of 30 years and the depreciated value was Rs 72.60 lakh. The write off was proposed on the basis that the accident had been caused by factors beyond

human control. The BoT approved the write off in September 2000 subject to Government's approval.

It was seen that there was a navigational warning on the notice board on the day of the accident. Due to non-communication of this warning to the dredger, the accident took place and hence the Government did not approve the write off, and instead directed Port to fix responsibility on the officials concerned.

Thus, the negligence of the Port resulted in loss of dredger procured at a cost of Rs 166.88 lakh, with a depreciated value of Rs 72.60 lakh. With an additional unproductive expenditure of Rs 83 lakh on salvage operation, the port was able to realize only Rs 15 lakh on salvaged material incurring a net loss of over 140.60 lakh. Further the incorrect award of the contract to the inexperienced and incompetent contractor also resulted in further avoidable expenditure of Rs 18.10 lakh.

The matter was referred to the Ministry in August 2001; their reply was awaited as of January 2002.

9.21 Irregular expenditure

Mumbai Port Trust incurred an expenditure of Rs 1.13 crore on reimbursement of medical expenses of retired employees on specified private hospitals without the approval of the Ministry.

The medical facilities to the employees of MbPT were governed by Bombay Port Trust Rules 1956 as amended in 1967 which had no provision for giving benefits to retired employees. Subsequently in 1983 a resolution was passed by BoT extending contributory outdoor medical benefit scheme for retired employees and their spouses and in 1985 in-patient treatment facility was also made available to them.

In the year 1993, based on recommendations of a committee, Chairman approved, subject to Government sanction, certain liberalisations in the medical facilities to the employees entitling them for full reimbursement of expenses incurred in specified hospitals for special treatment in connection with heart surgery, kidney transplant etc. The expenditure on reimbursement of medical facilities from private/specified hospitals approved in 1993 was to be met from Employees Welfare Fund. Since this fund was meant for serving employees, it was not to be extended for retired employees.

Even though there was no specific indication about the benefits to retired employees in the decision of 1993, MbPT extended the same benefits to the

retired employees also in respect of treatment availed in the specified hospitals. During September 1993 to March 2000, the Port incurred an unauthorised expenditure of Rs 1.13 crore on retired employees for treatment in these specified hospitals. Normally the retired employees are authorised to avail the medical facility in the Port's well-equipped hospital with 255 beds with modern equipments like nuclear scan, endoscopy etc. This was ratified by the Board later on. However the decision was not sent to Government for ratification as per rules.

The matter was referred to the Ministry in August 2001; their reply was awaited as of January 2002.

9.22 Loss of revenue due to inordinate delay in getting the goods cleared

Non-clearance of goods for a period of four years resulted in loss of revenue of Rs 19.77 lakh together with interest of Rs 7.41 lakh.

As per Section 61 and 62 MPT Act, 1963, the Port Trust's Board may, after the expiry of two months from the time any goods have passed into its custody, sell it by public auction, if any rates or rent payable to the Board in respect of such goods have not been paid.

Scrutiny of records revealed that a consignment of 1600 bags of Sodium Naphthionate were brought in July 1995 in the MbPT premises at Wadala. The shipping agent obtained customs permission for re-shipment of goods to Hong Kong in March 1996 but due to non-receipt of permission from Hong Kong Port authorities to discharge the cargo in Hong Kong, the transaction did not materialise and thus the goods were lying in docks/yard till July 1999.

The goods were sold and cleared in July 1999. After allocation of sale proceeds towards Port dues the deficit amounted to Rs 19.77 lakh.

The Port accepted the facts as "generally correct" and stated (May 2000) that in view of the fact that no computerised system of monitoring of containers was available in the Port in 1996-97, there was delay in tracking of goods. Port also stated that action would be taken to recover the balance amount of Rs 19.77 lakh. Demand notice was issued to the consignee in November 2000. He has not paid. So far no suit for recovery has been filed by the Port.

Thus, delay in clearing the goods resulted in loss of revenue of Rs 19.77 lakh together with interest of Rs 7.41 lakh from August 1999 to August 2000.

In September 2001 Ministry repeated the reply of the Port and also stated that the papers have been sent to Chief Law Officer and Advocate for filing suit.

New Mangalore Port Trust

9.23 Loss of Revenue due to delay in revision of water rates

Due to delay by the Secretary of the Board and Civil Engineering Department of New Mangalore Port Trust to follow up action on the resolution in subsequent meeting of the Board, New Mangalore Port Trust suffered a loss of Rs 44.80 lakh as revision of water charges approved by Board in its meeting of May 1998 could not be implemented till October 1999.

Karnataka Water Supply and Drainage Board (KWSDB) with effect from 15.10.1996 and the Mangalore City Corporation (MCC) with effect from 5.4.1997 and 1.12.1997 increased the water charges for the water supplied to New Mangalore Port Trust (NMPT) from Rs 1.86/KL to Rs 7.60/KL, Rs 8.00/KL and Rs 12/KL respectively. As a sequel to these increases, the BoT of NMPT also decided (May 1998) to revise the Port water tariff for coastal ship from Rs 38/KL to Rs 100/KL and for overseas ships from US \$ 2.38 to \$ 3.50/KL, subject to the approval of Tariff Authority for Major Ports (TAMP) in terms of Section 48 read with Section 49B (2) of MPT Act, 1963. Though the revised rates were approved by the Board in its meeting during May 1998, these were however sent to TAMP for their approval only during June 1999, after delay of over a year. It was observed in audit that though in normal course the Board reviews the action taken on its resolutions of the previous meeting in the subsequent meeting, but it failed to review the action taken on this particular resolution. The revised rates were approved by TAMP (September 1999) and became effective from October 1999. Thus the inordinate delay to get the revised rates approved by TAMP had resulted in a loss of revenue of Rs 44.80 lakh, due to levy of water charges at old rates during the period from October 1998 to September 1999.

Ministry replied (June 2001) that the main reason for the delay was misunderstanding about the interdepartmental procedure in forwarding such proposals to TAMP and due care will be taken in future to avoid such mistakes.

Paradip Port Trust

9.24 Unauthorised payment of advance

Unauthorised payment of interest free advance amounting to Rs 15 crore beyond the powers of Paradip Port Trust and non-adherence to payment schedule.
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For fulfilling the needs of Paradip Port Trust (PPT), the existing 132 KV line from Jajpur to Paradip, which was loaded to its full capacity was not considered sufficient and the construction of 220 KV line from Duburi to Paradip and 220/132 KV substation at Paradip by Orissa State Electricity Board (OSEB), now GRIDCO, was contemplated. The investment on infrastructure development for such power supply to the users, of which the PPT was one, was the responsibility of the OSEB.

Scrutiny of the records (September 1999) of the PPT revealed that an interest free advance of Rs 15 crore was paid to OSEB/GRIDCO in five instalments between February 1996 and June 2000 for construction of 220 KV double circuit transmission line from Duburi to Paradip. An agreement to that effect was entered into in March 1996 with the erstwhile OSEB, now called GRIDCO wherein it was stated that the project would be completed by September 1998 and the advance was to be paid, depending upon the progress of work. The advance paid by PPT would be adjusted by GRIDCO from the energy bills raised against PPT from the month of September 1998 and onwards. Accordingly, the advance was adjusted between September 1998 and September 2000. Audit scrutiny revealed that the project which was to be completed by September 1998 as per the agreement had not been completed as of October 2001 even after a lapse of a period of three years.

The purpose for which the payment of Rs 15 crore interest free advance was made stood defeated. The powers of the PPT did not allow for such advances and constituted undue financial aid to GRIDCO, while burdening finances of PPT itself. Such an arrangement was beyond the brief of PPT to adopt. No such powers have been delegated either to the BoT or to the Chairman, PPT by the Ministry under the MPT Act, 1963. In this regard PPT's reply of October 2001 that sections 88 and 90 read with the section 35 of the MPT Act, 1963 provide for such payment was not borne out to be true. Scrutiny further revealed that the agreement entered into was devoid of punitive clause for safeguarding the interest of the PPT in situations of delay in completion of the project. In violation of the agreement which stipulated payments in instalments depending upon the progress of work, the entire payment of Rs 15 crore had been made eventhough the work was incomplete as of October 2001.

On this being pointed out in audit (September 1999) the PPT stated (October 1999) that the payment of interest free advance was approved by the BoT with

a view to meeting the increasing power demand and ensuring stable power supply to the PPT. The reply is not tenable since there had been violation of the agreement by PPT and payment made was beyond the scope of the Board. Besides, excess advances amounting to Rs 4 crore led to loss of interest of Rs 28 lakh.

The matter was referred to the Ministry in August 2001; their reply was awaited as of January 2002.

9.25 Diversion of super cyclone damage repair grants

<p>Paradip Port Trust had diverted Rs 1.80 crore from the super cyclone damage repair grants received from the Ministry.</p>

A super cyclone occurred on 29 and 30 October 1999 and hit Paradip Port causing loss to port properties. An assessment of damage was made for Rs 68.50 crore and sent to Ministry in November 1999. The Government sanctioned Rs 68.50 crore grants-in-aid for relief and reconstruction in November 2000.

Scrutiny of the records regarding utilisation of these funds revealed that there had been diversion of Cyclone Damage Repair (CDR) funds as evident from the following :

1. Expenditure on procurement of new machinery and materials

As per conditions attendant on Ministry sanction order of November 2000, the grants should be utilised only to repair/ reconstruct the damage to the PPT properties/assets, which have suffered damages due to super cyclone in 1999.

It was noticed that as many as nine purchases of machineries/materials involving cost of Rs 73.28 lakh were made by the Port in violation of the terms and conditions of the grant. The machinery purchased had not been identified as damaged by PPT. This was, therefore, a case of using the grants for normal expenditure of the Port.

On this being pointed out, the Port furnished no reply.

2. Expenditure on dry docking of tug not affected by cyclone

Scrutiny of dry docking file of tug 'Vimala' revealed that before the cyclone, the Port had already finalised the seventh dry docking and its repair. Tender Committee meeting held on 14.8.1999 had pre-qualified three firms for participation in tender of dry docking of the tug and decided upon awarding the work to a firm. The work order was issued on 26 October 1999 and finally

the tug sailed for dry docking on 5 December, 1999 i.e. after cyclone. No damage report of the tug was found in the file. After the tug reached for dry docking and during the course of dry docking the Port added some items to the original defect list. The tug returned on 11 March 2000 and the port spent a sum of Rs 46.44 lakh towards dry docking.

Since the dry docking decision of the tug was taken up even before cyclone and work order for Rs 34.97 lakh was initially issued to the firm, the entire expenditure should have been debited to normal expenditure of port account instead of CDR grants being debited.

3. Expenditure on execution of new works

Scrutiny of the CDR files of Port Electrical Division and IOHP Division showed that an amount of Rs 60.25 lakh was diverted from CDR grants for execution of 17 new works, like fabrication, workmanship for structural change, replacement of cross conveyer, electrical installation of existing residential quarters, construction of approach road, fixing of MS grill, construction of compound wall, site development etc.. These works did not find place in the report of damage caused by super cyclone 1999.

Thus, PPT had diverted Rs 1.18 crore from CDR grants despite Ministry directives.

The matter was referred to the Ministry in July 2001; their reply was awaited as of January 2001.

Visakhapatnam Port Trust

9.26 Non-recovery of outstanding dues from payments made to a company

Visakhapatnam Port Trust failed to recover the advances paid to a supplier company and other dues aggregating to Rs 93 lakh from the payments made to it.

Visakhapatnam Port Trust (VPT) placed a work order on West Bengal Government owned company M/s 'A', Kolkata in April 1992 for design, manufacture and supply of 30 tonne bollard pull tractor tug-Vazra, for a basic value of Rs 8.27 crore, reduced to Rs 7.77 crore in October 1992. The tug was to be delivered within 18 months. The contract price was payable in seven stages, on certification by Indian Register of Shipping, of each stage of completion of work. The work order provided *inter alia*, for levy of liquidated

damages at one *per cent* of the contract value for every month of delay in completion of the work , subject to a maximum of five *per cent*.

As the tug was not delivered by the due date. VPT released, based on a request of the Company, Rs 2 crore in May 1994 as special advance, against an indemnity bond for speeding up the work. Though the advance was recoverable from V, VI and VII stage payments to be made, VPT recovered only Rs 1.78 crore out of the gross payments of Rs 3.50 core made in these bills, leaving a balance of Rs 0.22 crore unrecovered. Further, though the balance contract price payable after VI stage (Rs 0.39 crore) in June 1995 was itself not adequate to recover the outstanding advance of Rs 0.61 crore, VPT compounded the matters further, by releasing in December 1995 another advance of Rs 25 lakh. VPT thus ended up with unrecovered advances of Rs 0.47 crore from the company. In addition it also did not levy the liquidated damages of Rs 38.84 lakh for belated delivery of the tug in May 2000 as also the penal interest of Rs 92.30 lakh (as per the terms of advance) on the portion of advance of Rs 2 crore outstanding from time to time up to June 2000. The total amount remaining unrecovered by the time the final bill was settled, thus worked out to Rs 1.78 crore, of which VPT could realize only Rs 85.45 lakh by encashing a bank guarantee in July 2001 at the instance of audit.

VPT sought to justify (July 2001) the part recovery on grounds of allowing liquidity to the company and to motivate it for early delivery. This assessment of the VPT does not lend itself to any credibility because VPT was fully aware that it would not have adequate assets for enforcing recovery after release of all the stage payments and as far as motivating the company for early delivery, that also was a failed mission since the delivery materialised only after a delay of over six years.

The Ministry stated in October 2001 that amount would be recovered through legal proceedings initiated in August 2001. The contention is not acceptable since VPT lost the opportunity available to it to effect recovery from the Company's bill and later started a belated and time consuming effort through legal proceedings.