CHAPTER 5: OTHER TOPICS

5.1 Leasing, Licensing and Management of Railway Land

5.1.1 Southern and North: Eastern Railways — Non-disposal of land surplus to requirement

Tardiness in disposing of surplus land in Southern Railway led to non-realisation of cost of land with a present market value of Rs.17.37 crore and retention of surplus land led to loss of sale proceeds worth Rs.3.57 crore in North Eastern Railway

The policy of the Railways is to limit holdings of land to actual requirements of the Zonal Railways; present and prospective. Where the Zonal Railways are unable to justify retention of any piece of land, it should be classified as 'eligible for disposal' and prompt disposal arranged. According to codal provisions, the Government of the State in which the land is situated will be given the option of assuming possession at the market value at the date of transfer. If the State Government is unwilling, the land should be disposed of to the best advantage possible.

Southern Railway

Salt Pan sidings at Tuticorin and Milavittan were closed for goods traffic with effect from 1 August 1989 and land measuring 7.81 acres lying in Tuticorin Town and 10.33 acres lying in Milavittan were rendered surplus. Review of the action taken by the Railway Administration to dispose of the surplus land at these two places revealed the following:

Decision to relinquish land at Tuticorin to the State Government was taken only in March 1994. The State Government was, however, willing to take over the land only if it was given free of cost (December 1998). Though the siding was closed officially only in August 1989, traffic had stopped much earlier (1986) and by 1990 there were 45 encroachments. In October 1993, eviction notices were issued to the encroachers. By July 1994, the number of encroachments increased to 282. Eleven of the encroachers had approached the Court in 1994, who directed (October 1995) for fresh disposal in accordance with law, after giving opportunity to the encroachers to put forth their contention by duly producing documents. Fresh eviction notices were issued in January 1998 to the 11 encroachers.

None of the encroachments have been vacated so far (July 2004). The Railway Administration decided to auction the land only after removing encroachments and the land is idling since August 1989. The value of the land was Rs.2.38 crore in 1991-92 and its present day cost is Rs.7.48 crore.

In this connection, the following audit comments arise:

- The Railways took inordinately long time to decide about disposing of surplus land and failed to guard the land against encroachments.

- They also failed to effectively pursue eviction proceedings even in case of 271 encroachers, who had not even approached the court. In respect of the 11 who approached court, there was undue delay in issuing fresh notices, after the Court's direction in October 1995.

When the matter was taken up (April 2004), the Railway Administration accepted (July 2004) that the area was within the heart of Tuticorin town and encroachment was always taking place and that efforts made by them were not very successful. They, however, contended that:

- Further use of the siding land could not be decided till 1994 in view of GC proposals being contemplated/ in progress in the area.
- RPF had no powers to evict under Public Premises (Eviction of unauthorized Occupants) Act and action can be taken only with the co-operation of local Revenue authorities and Police.
- All pockets of land under the Railway are not expected to yield any direct/ monetary benefit.

These contentions are not tenable because:

- The siding was closed in 1989 and Madurai Division had sought for relinquishment of the surplus land as early as in 1990.
- It was known that RPF had no powers to evict once encroachments take place. It was, therefore, all the more necessary that adequate steps should have been taken to guard against encroachments.
- The Railway Administration has accepted that the area was within the heart of Tuticorin town, which was fast developing due to the industrialisation policy, presence of an active port and that the floating population was increasing day by day. It is, therefore, not correct to state that all the areas may not yield any monetary benefit.

Land at Milavittan was rendered surplus since August 1989, though traffic had stopped since 1986 and, in this case, there are no encroachers involved. Yet, no decision has been taken to dispose of this land. The value of the land was Rs.3.15 crore in 1991-92 and is present day cost is Rs.9.89 crore.

Thus, tardiness in disposing land surplus to Railway's requirements led to non-realisation of its cost with a present market value of Rs.17.37 crore [Rs.7.48 crore in case of Tuticorin (+) Rs.9.89 crore in case of Milavittan].

The matter was brought to the notice of the Railway Board in August 2004 and their reply has not been received (December 2004).

North Eastern Railway

While examining the proposal for restoration of Duraundha – Maharajganj section, the Railway Board had directed (December 1996) disposal of surplus land at Maharajganj Railway station. North Eastern Railway assessed 18.72 acres as surplus and valued it at Rs.3.57 crore. They brought the position to the notice of the Railway Board while sending the revised proposal.

Audit review (January 2004) revealed that the said piece of land was yet to be disposed of. Non-disposal of this land even after lapse of more than seven years resulted in loss of sale proceeds of Rs.3.57 crore. Further retention of surplus land is fraught with the risk of encroachment and inconvenience to the Railways associated with protecting surplus land from encroachers.

When the matter was taken up (March 2004), the Railway Administration stated (in their reply in June 2004 and during discussion in July 2004) that this piece of land was retained keeping in view the requirement for extending Duraundha – Maharajganj section beyond Maharajganj to connect it to Mashrakh.

This contention is not tenable. The said piece of land was assessed as surplus after taking into account the requirement for the likely extension of Duraundha –Maharajganj section to Mashrakh. This fact was also duly mentioned in the Railway Administration's letter of February 1997 to the Railway Board.

The matter was brought to the notice of the Railway Board in September 2004 and they reiterated (October 2004) the reply of Railway Administration which is not tenable as explained above.

5.1.2 Eastern Railway: Indecisiveness in regard to leasing of surplus Railway land

Indecisiveness in leasing Railway land deprived the Railways of revenue of Rs.9.57 crore. Further, avoidable expenditure of Rs.2.24 crore is proposed for recommissioning a technically flawed flyover in the surplus land

Eastern Railway had acquired about 207 acres of land near Dankuni Station area in 1968 for construction of Andul-Calcutta-Chord Link (ACCL) Project. For movement of goods trains between South Eastern Railway and Sealdah Division without going through the Tikiapara avoiding line, a flyover line and another link line on surface between ACCL East cabin and Bhattanagar were constructed as a part of ACCL project. Benefit of flyover could, however, not be achieved due to steep gradient and curvature and the line could not be used from the very inception. The link between ACCL East cabin and Bhattanagar is being used for unidirectional movement of goods trains from Sealdah division to South Eastern Railway. The available land measuring 155 acres remains unutilised till date.

In July 1998, CONCOR requested for leasing out 135 acres of the Railway land for a container depot at Dankuni. CONCOR subsequently reduced the demand to 30 hectares (74.13 acres) in February 2001 and were willing to pay lease charges as per extant rules. They also proposed to take over the UP ACCL line at its book value. The Railway Administration had estimated lease charges of about Rs.47 lakh annually and book value of the assets to be taken over by CONCOR was Rs.6.06 crore as of 1977-78. As the flyover was neither in use nor likely to be used in future, the Railway Board was approached (February 2001) for allotment of land including ACCL flyover line at Dankuni to CONCOR. However, the Railway Board not being in favour of dismantling of the flyover, instructed Eastern Railway (August

2001) to use it immediately for running trains by employing powerful WAG 7 or multiple WAG 5 locos.

Detailed analysis revealed that the flyover had become superfluous and redundant. The Railway Administration, therefore, in September 2001 again sought approval of the Railway Board for licensing of the Railway land at Dankuni and handing over of ACCL flyover to CONCOR. The Railway Board, however, insisted (October 2001) that Eastern Railway first run freight trains on the flyover and then send a reply to have a final view on the issue.

In July 2002, the Railway Administration intimated the Railway Board that an additional investment of Rs.1.6 crore was required to make the flyover line fit for trial run and after repair double head locos would be required to run trains. The Railway Board decided (April 2003) to conduct a joint enquiry with Eastern Railway to ascertain reasons for non-utilisation of the flyover at Dankuni, which is yet to be conducted (April 2004). The Railway has now initiated (February 2004) a proposal for recommissioning the flyover through necessary track renewal works.

From the above, the following audit points arise:

- Though the Railway Administration was aware that nearly 155 acres of land was lying unutilised due to their inability to utilise part of ACCL line and the flyover constructed in the early 70s, no action was taken to declare land surplus to their requirement and offer it to the State Government at market rate or lease it out as per existing rules.
- Even after the request from CONCOR (1998) to lease out the land for developing a depot, the Railway failed to take a decision, depriving the Railways of revenue of Rs.3.51 crore for the period 1 April 2001 to 31 March 2004 plus Rs.6.06 crore (book value of UP ACCL line).
- Though it was known that the flyover is technically flawed and present traffic patterns made the flyover superfluous/ redundant, the Railways are recommissioning the flyover, incurring an amount of Rs.2.24 crore.

The matter was brought to the notice of the Railway Administration and the Railway Board in June 2004 and August 2004 respectively and their reply has not been received (December 2004).

5.1.3 Northern Railway: Non-realisation of licence fee from State Government

Failure to pursue recovery of licence fee, resulted in accumulation of arrears of Rs.14.55 crore based on revised orders of March 2004

Railway land measuring approximately 86 acres at Phillaur, Firozepur Division was licensed to Government of Punjab for use by the Police Department. The agreement executed in November 1942 was renewed in August 1959. Licence fee fixed from time to time was paid by the State Government up to March 1994.

In August 1995, the Railway Board issued revised guidelines for revision of licence fees with retrospective effect from 1 April 1986. The Railway Administration, however, preferred (July 1997) a revised arrear bill of

Rs.20.21 crore inadvertently for the period April 1977 to 31 March 1997, instead of for the period April 1986 to March 1997. The State Government did not make payment of licence fee for the period April 1994 to March 1997.

After four years, in a meeting held (June 2001) between Member, Engineering (Railway Board) and the Chief Minister of Punjab, the State Government agreed to pay licence fees at the revised rates (current licence fee) for the period April 1994 onwards only. Accordingly, the Railway Administration preferred (April 2002) arrear bills for Rs.11.14 crore for the period April 1994 to March 2002, pending issue of arrears of licence fees for the period April 1986 to March 1994. The State Government of Punjab did not, however, make any payment of licence fees (March 2004) for the said period, which worked out to Rs.20.72 crore. Reminders for payment were issued only at the Divisional Railway Administration's level.

When the matter was taken up (April 2004), the Railway Administration stated (July 2004) that:

- In pursuance of a meeting between Member Engineering (Railway Board) and Chief Minister, Government of Punjab held in June 2001, efforts are being made to effect recovery of outstanding dues.
- In March 2004, the Railway Board had issued revised orders changing date of arrears from 1 April 1986 to 1 April 1995. Arrears would have to be worked out afresh and revised bills raised accordingly.

The reply is not tenable because

- Meeting was held more than 3 years back and nothing has been recovered since then. During the meeting, it was decided that the question of arrears should be the matter of further discussion. Further discussions were, however, not held. This is indicative of ineffective pursuance for recovery of huge Railway dues.
- Even the arrears as per the Railway Board's revised orders of March 2004 have not been worked out by the Railway Administration. Audit has, however, assessed the arrears at Rs.14.55 crore. Moreover, the Railway Administration cannot take shelter under the revised orders for their earlier lapses to realise licence fees under the then prevalent orders.

The matter was brought to the notice of the Railway Board in September 2004 and their reply has not been received (December 2004).

5.1.4 East Coast Railway: Non-realisation of lease charges

Delay in executing an agreement with Visakhapatnam Municipal Corporation led to non-realisation of lease charges of Rs.5.12 crore

Visakhapatnam Municipal Corporation (VMC) approached the Railways in March 1996 to hand over 18,000 sqm of Railway land (720m X 25m) for construction of an eighty feet ring road connecting Akkayyapalem (Public Area) and Thatichetlapalem (Railway area). In a meeting with Commissioner, VMC (6 June 1996), difficulties involved in the layout of the site for the road, such as disturbance to staff residing in the colony, pipeline laid from Well Nos.12 and 16 that were to be effected etc. were discussed. Thereafter, the

Railway Administration engaged in prolonged correspondence/ discussions with VMC and Railway Board. They kept vacillating in their stand as to the terms and conditions for handing over land to VMC and whether provisions for raising 'way leave charges' or 'lease charges' should be applied.

While the Railway was still deliberating the modus operandi for allotting the land, VMC occupied the land between May 1999 and August 1999, without waiting for any formal handing over. Though fully aware of this development, the Railway Administration failed to expedite with VMC a final agreement on the payment terms. In July 2003, the Railway Administration requested VMC for payment of 99 per cent of land value and nominal license fee of Rs.1,000 per annum towards leasing of Railway land but remained silent till May 2004, when they requested VMC to deposit an amount of Rs.5.12 crore (99 per cent of land value) towards lease charges.

When the matter was taken up (April 2004), the Railway Administration maintained (July 2004) that the matter is under active pursuance with VMC for the payment of lease charges and that recoveries would be made. They further stated that the Railway Board has been approached seeking post-facto approval to regularise leasing out of Railway land to VMC.

The reply is not tenable as VMC has already occupied the Railway land and executed their plan of widening the road between May 1999 and August 1999. Lease charges of Rs.5.12 crore became due since then and the Railway is yet to realise the amount (October 2004).

The matter was brought to the notice of the Railway Board in August 2004 and their reply has not been received (December 2004).

5.1.5 Northern Railway: Non-recovery of licence fee

Failure of the Railway Administration to recover licence fee from three private parties led to accumulation of recoverable Railway dues of Rs.3.73 crore

Three plots of land of Delhi Division were licensed to M/s.Rajdhani Industries (now M/s.United Warehousing Private Limited), Super Roofers and Capital Warehousing Corporation in August 1973, December 1982 and April 1985 respectively. Agreements were also executed. The licence fees for these plots were Rs.9,000 from April 1980, Rs.77,495 from December 1982 and Rs.36,330 from April 1985 respectively.

In September 1985, the Railway Board issued instructions to the Zonal Railways to raise the rates of licence fees from 1 April 1986. In August 1995, the Railway Board issued fresh instructions superseding earlier instructions (but retaining the date of effect as 1 April 1986). The revised instructions prescribed the method of determining the value of land on 1 January 1985 based on notification of Revenue Authorities and/ or information from Town Planners, Central Public works Department etc. for fixing licence fee.

Delhi Division accordingly revised the licence fee based on land rates as notified by Land and Development Office (L&DO) which owns and controls large areas of land and preferred arrear bills in November 1997, April 1998 and November 1998. Simultaneously, the GM informed the Railway Board

that land rates as published by L&DO had been taken for fixing licence fee for these three plots. The licensees, however, disputed (December 1998, January 1999 and February 1999) these revised rates and requested for re-fixing the same on the basis of land rates received from Revenue Authorities.

In February 2003, the Railway Administration preferred arrear bills for the period April 1986 to March 2003 and asked the parties to pay within 30 days of demand. In September 2003, notices were served and the parties were advised that in the event of failing to pay the dues, their licences would be terminated. Thereafter, the matter was not pursued either for recovery of arrears along with current licence fee (Rs.6.47crore for the period April 1986 to March 2003) or terminating the licences.

When the matter was taken up (February 2004), the Railway Administration stated (July 2004) that:

- Due to non-payment of the Railway dues, licences of the parties had been terminated in February 2004 and action was being initiated for recovering Railway dues/ evicting the parties from the Railway land.
- According to the revised Railway Board guidelines of March 2004, arrears are due from 1 April 1995 instead of 1 April 1986. Amount due from the parties would be worked out and bills raised accordingly.

The reply is not tenable because:

- Action initiated in February 2004 is belated. It was evident that licensees were not convinced in 1998-99 itself about the assessment of licence fee based on land rates notified by L&DO. The Railway Administration failed to address the objection raised by the licensees or to take a firm action to terminate the agreement and no application for recovery of Railway dues and evicting parties from Railway land has been filed so far (October 2004).
- The Railway Board's order of March 2004 revising the date of effect for recovery of arrears to April 1995 does not address the specific issue raised by the licensees. Now that the Railway Board has revised the orders, the dues will get reduced to Rs.3.73 crore (as assessed by Audit); but the real and specific issue, which could still be raised by the licensees to procrastinate the payment of arrears, remains to be tackled by the Railway Administration.

The matter was brought to the notice of the Railway Board in September 2004 and their reply has not been received (December 2004).

5.1.6 Northern Railway: Non-recovery of licence fee

Failure to mark and guard boundaries of Railway land, raise and pursue timely recovery of licence fee resulted in unauthorised occupation of Railway land by HPCL and accumulation of arrears of Rs.2.04 crore

In April 1965, Railway land measuring 2,252.62 square metres at Bareilly was licensed to M/s.Esso Standard Eastern Inc, now known as M/s.Hindustan Petroleum Corporation Limited (HPCL) for constructing tank godowns and depots. An agreement to this effect was executed in September 1965.

Later, the company occupied some adjoining Railway land as and when required, without formal understanding with the Railways. Consequent upon the Railway Board's orders of September 1985 on revision of rates of licence fee from April 1986, revised bills for January 1986 to December 1992 for an area of 9,113.95 square metres (including additional land of 6861.33 square metres) were raised. M/s.HPCL, however, while asking for break up of licence fee per annum, disputed (May 1992) the area of land stating that the bill was for more land than what was in their possession.

In June 1992, a joint survey with the company's representative revealed that the company had possessed 9,790 square metres of land. Later, in April 1993, it was agreed that land in occupation of the company was 10,030 square metres. For this entire piece of land, the arrear, assessed as outstanding against the company for the period ended March 1995, was Rs.0.27 crore.

In August 1995, the Railway Board, in supersession of their earlier order of September 1985, issued revised guidelines. Accordingly, in January 1997, the Railway Administration preferred a revised arrear bill of Rs.0.87 crore for April 1986 to March 1997; no bills were raised thereafter. The unrealised licence fee, as assessed by Audit and vetted by the Railway Administration for 1986 to March 2004, works out to Rs.2.53 crore.

In this connection, the following audit comments arise:

- The Railway Administration failed to mark, maintain and conduct periodical verification of boundaries of their land leading to HPCL occupying more land than the area for which the agreement was executed. Exact area of land (which had been changed thrice) and date from which additional land was occupied by HPCL is not known and arrears of licence fee are being proposed for recovery only from 1986.
- Even after assessing/ raising revised arrear bills in January 1997, the Railway failed to effectively pursue recovery/ raise regular bills thereafter. Even after considering the latest the Railway Board's orders (March 2004) for waiving arrears of licence fee for April 1986 to March 1995, amount recoverable would be Rs.2.04 crore.
- Licence agreement for actual land now with HPCL is yet to be drawn up.

When the matter was taken up (February 2004), the Railway Administration stated [during discussion (June 2004) and in reply (July 2004)] that:

- Land was measured afresh and bills for licence fee for the additional land in possession of the company were raised accordingly.
- The licence fee could not be recovered from M/s.HPCL because the missing relevant case file has been re-constructed and a fresh bill for the period upto March 2004 raised in May 2004.

The reply is not tenable because:

- Additional land was occupied by the company at will since 1965 onwards. Raising arrear bills of licence fee only in 1992, that too only from January 1986 onwards for land occupied by the company (including additional land

occupied irregularly) has resulted in accumulation of arrears yet to be realised.

- It took the Railway Administration more than seven years to reconstruct the file stated to have been missing and raise arrear bill (May 2004) that too after it had been pointed out by Audit (February 2004). Evidently, the Railway Administration did not pursue recovery of arrear and issue of current bills during January 1998 to April 2004.

The matter was brought to the notice of the Railway Board in September 2004 and their reply has not been received (December 2004).

5.1.7 Southern and South: Western Railways — Undue benefit to a sleeper manufacturer

Provision of an exclusive clause for recovery of land licence fee led to undue benefit to a firm and loss of Rs.1.13 crore to the Railway Administration

According to existing orders, licence fee is recoverable at a prescribed percentage on market value of the land based on the value in the surrounding area as on 1 January 1985, as determined by the Revenue Authorities, increased notionally by ten per cent annually.

Audit scrutiny of agreements entered into with six out of seven pre-stressed concrete sleeper (PSC) manufacturers on Southern and South Western Railways revealed that clauses existed for periodical revision of licence fee and review and recovery of licence fee with retrospective effect either in the sleeper supply agreement and/ or in the land license fee agreement executed with the firms. But, the initial contract and repeat order contract with M/s. Sri Maruthi Builders, Bangalore, provided for recovery of a fixed land licence fee at Rs.25,000 per acre per year. The clause also provided for licence fee so fixed to remain unaltered during the contract period and six months thereafter.

The Railway Board clarified in August 1996 that rules regarding recovery of licence fee are applicable to sleeper factories also. Based on this clarification, the Railway Administration raised a claim for Rs.0.22 crore only in September 1997 for the period 1 May 1996 to 31 March 1998. The firm turned down this claim (October 1997) quoting relevant clause of the agreement and continued to pay licence fee at the fixed rate. While accepting the firm's offer against a fresh tender in May 2003, a clause indicating that licensing of Railway land will be dealt with under normal Railway orders prevalent from time to time was included. Though the firm has commenced supply, a formal agreement is yet to be entered into (July 2004) in this regard.

Thus, provision of an exclusive clause of fixed licence fee in the agreement and acceptance of supply against later orders without a formal agreement incorporating correct clause with the firm resulted in loss of revenue of Rs.1.13 crore for the period September 1996 to 2003-04. This tantamounts to undue benefit to this firm, as correct provisions had been included and recovery effected in respect of contracts relating to all other firms.

When the matter was taken up with the Railway Administration (April 2004) and the Railway Board (August 2004), it was contended (December 2004) that

the firm was liable to pay licence fee at the rate of Rs.25,000 per acre per year for the original contract CS/1/CE of 1992 and repeat order dated 2 August 1996. Against contract CS-120/97, the firm was liable for licence fee under normal rules prevalent from time to time only upto 27 January 2002. Actual licence fee payable by the firm from June 1999 to 27 January 2002 worked out to Rs.44.52 lakh only.

These arguments are not tenable. Had correct clause, as included in the other contracts, been included in the original Agreement executed (1992) with this firm also, the Railway Administration would have been in a position to recover licence fee as per normal rules. While clarification regarding recovery of licence fee as per normal rules was notified by the Railway Board in August 1996, the divisional administration raised bills only in September 1997.

5.1.8 Southern Railway: Inadequate commercial exploitation

Non-execution of agreements with parties led to non-realisation of licence fee of Rs.1.04 crore, besides loss of potential earnings of Rs.1.02 crore due to non-leasing of space earmarked for commercial exploitation

Two station buildings of Chintadripet (MCPT) and Chepauk (MCPK), of the Metropolitan transport Project (MTP) have a total area of 4632 sq.m. available for commercial leasing. In 1994, MTP floated an omnibus tender for leasing out of office accommodation, shops and advertising rights etc. at these stations. Licenses were awarded between March 1995 and June 1995 to seven parties for a period of three years.

Out of these, five occupied the premises without execution of agreements. Only one party executed agreements for various premises occupied by it, after a delay of one to three years. None of the five parties paid licence fees in time or fully. Three of the five parties were evicted on various dates during September 2000 and June 2002. Remaining two parties are still in occupation of 1422.795 sq.m. in MCPT. All the five parties have approached court of law/ arbitrator. Thus, due to non-execution of formal agreements with the parties, the Railway Administration could recover only Rs.0.43 crore from the parties and an amount of Rs.1.04 crore remained outstanding.

As on date, 57 per cent of the available space remained vacant and the remaining area, except for the space occupied by the Railway offices is under disputed occupation. An assessment by Audit revealed that licence fee for the space available for commercial exploitation for the period from 16 November 1995 to 31 May 2004 worked out to Rs.1.02 crore.

When the matter was taken up (May 2004), the Railway Administration stated (in their reply in July 2004 and during a meeting on 30 July 2004) that:

- The Letter of Acceptance duly acknowledged by the licensees unconditionally constitutes a binding contract between both parties till formal agreements are executed. The licensees did not raise dispute on this account and started paying licence fees. However, they raised disputes before the High Court/ Arbitrators.
- The two stations do not have commercial activity in surrounding areas.

- Subsequent attempts proved that there are problems of market potential and the environment is not conducive for commercial exploitation.

These contentions are not acceptable because:

- Non-payment/ delay in payment of licence fee, the Railway Administration's action to evict the parties, the parties approaching court/ arbitrators on matters regarding date of commencement of licence, period of licence and licence fee are clear indication that mere acknowledgement of letter of acceptance does not constitute existence of a binding contract between the Railway Administration and the parties. Even letter of acceptance clearly stipulates that the parties have to execute an agreement in the standard form of the Railways.
- MCPT station is in immediate vicinity of Anna Salai, a major arterial road in Chennai, housing many commercial establishments and located near densely populated residential locality of Chintadripet, also having many commercial activities. MCPK station is situated near Kamaraj Salai, a major road along the Marina Beach, housing many State Government offices and thickly populated residential area of Triplicane also having many commercial activities. Moreover, even in their counter-affidavit to OP No.358 of 2002, the Railways have stated that station buildings at both MCPT and MCPK were designed and developed as commercial complexes.
- The fact that evicted parties had gone to court against eviction proceedings and some of the parties were not willing to vacate even after expiry of licence period indicates that they had profitable commercial activity. Even in their counter-affidavit to OP No.144/ 2001 and OA No.194/ 2001, the Railway Administration had stated that all the shops and offices have been fully occupied by sub-lessees and that the petitioner was getting good revenue.

The matter was brought to the notice of the Railway Board in August 2004 and their reply has not been received (December 2004).

5.1.9 South Central Railway: Contradictory clauses in the tender schedule for advertisement rights

Failure to issue tender schedule with correct clauses, in spite of the modification suggested by the Associate Finance resulted in loss of Rs.1.06 crore, due to receipt of lower bids in retendering with modified clause

The Railway Board identified Commercial Publicity as one of the thrust areas to generate resources and advised (April 2000) Zonal Railways to draw up a suitable plan of action. One of the policy guidelines issued (May 2000) in this regard stipulates that all proposals should be cleared within 45 days from conceptualisation to finalisation since these are revenue contracts.

As a follow up, the Chief Commercial Manager (CCM)/ South Central Railway issued (April 2000) instructions for awarding contracts for sole advertisement rights. In case of Vijayawada (BZA) Division, CCM approved 16 stations, including BZA.

Terms and conditions of the tender schedule obtained from the Zonal Headquarters for BZA contained two contradictory clauses relating to payment of Security Deposit (SD). While clause eight stated that all quotations were to be submitted along with demand draft for SD, clause 12 stated that only successful tenderer had to pay SD within 15 days of receipt of offer letter sent by Railway. Associate Finance, while vetting the tender schedule, general conditions and agreement suggested (October 2000) modification in clause eight. However, the tender schedule was issued in respect of Zones I and II of BZA, without the suggested modifications.

When the bids were received, highest bidders in both Zones had not remitted the SDs (Rs.0.73 crore and Rs.0.48 crore for Zones I and II respectively). The TC, therefore, expressed its inability to decide legal validity of the highest bidder and recommended (April 2001) to discharge the tenders to avoid financial loss and legal complications. The recommendations were accepted (April 2001/ May 2001) by the competent authority.

Fresh tenders were called for (August 2001), duly modifying the defective clause and contracts were awarded (May/ October 2002) to the highest bidders (Rs.0.56 crore and Rs.0.26 crore for Zones I and II respectively).

This resulted in inordinate delay of 610 days and 702 days in finalisation of tenders in the case of Zones I and II of BZA respectively, after allowing a lenient time frame of 120 days for processing/ finalisation of tenders. Since the contracts were awarded for lesser amounts, this also resulted in loss of Rs.1.06 crore, due to discharge of earlier tenders.

When the matter was taken up (May 2004), the Railway Administration accepted (July 2004) that the said contradictory clause found its place in the terms and conditions/ model agreement though Associate Finance had advised to modify clause eight and stated that staff responsibility had been fixed for delay and punishment imposed on erring staff. They, however, argued that:

- Commercial publicity was newly identified core area, which had to pass through initial hiccups before procedures and systems are well understood.
- The loss as contended by Audit was only notional.

These arguments are not acceptable because:

- The Railway Administration failed to take cognisance of the contradiction when pointed out by the Associate Finance in October 2000 and carry out suitable rectification. Consequently, the Railway Administration had to discharge the tenders and call for fresh tenders.
- The loss pointed out is real as no licence fee was realised from April 2001 to April 2002 and for the currency of the contract (May 2002 to March 2005), lesser licence fee would be realised.

The matter was brought to the notice of the Railway Board in August 2004 and their reply has not been received (December 2004).

5.2 Charges recoverable from siding owners

5.2.1 South Eastern Railway Non-recovery of engine hire charges

Placement/ withdrawal of rakes from exchange yard to a siding by a Railway diesel engine, without agreement resulted in loss of Rs.7.47 crore

Kolaghat Thermal Power Plant (KTPP) siding in Kharagpur Division is served by Mechada (MCA) station. Exchange yard at MCA was constructed on electrified traction on deposit terms and started functioning from 21 March 1992, though certain works were yet to be completed and exchange yard taken over by KTPP. Loaded coal rakes coming from Kharagpur (KGP) end and Andul end were placed in this yard by train engine and then were placed inside KTPP by the Railway diesel shunting engine and empty rakes were drawn out to exchange yard. The Railway Administration collected trip charges from KTPP for this activity. A dedicated shunting engine was kept in MCA yard.

After commissioning of another yard on 23 December 1996 at Kolaghat end, loaded rakes coming from Andul end were placed inside KTPP directly by train engine, without touching MCA. Empty rakes were drawn out directly by the Train engine from May 2000 onwards resulting in reduction of number of trips made by shunting engine. Taking note of this decrease and high cost of keeping the shunting engine at MCA, the Railway Administration requested (May 2001) KTPP to take over the exchange yard and engage their own engine for placement/ withdrawal of rakes. However, no decision could be taken mainly because of constraints faced by KTPP in taking over the exchange yard and responsibility of placement and withdrawal of rakes remained with the Railways.

In this context, the following observations are made:

- The Railway Administration failed to make good deficiencies in the exchange yard, even though more than 12 years have elapsed since the yard started functioning. KTPP have, therefore, not taken over the exchange yard and the associated responsibility of placement and withdrawal of rakes beyond the exchange point.
- Since the costs of placement/ withdrawal of rakes with dedicated diesel engine far outweigh the trip charges being paid by the KTPP authorities, the Railway Administration should have entered into an agreement for levying loco hire charges instead of trip charges. Instead, they unilaterally adopted a methodology for working out dues, which had no backing of codal provisions or the Railway Board's instructions. As per assessment in Audit, hire charges for the shunting engine works out to Rs.7.47 crore for the period March 1999 to March 2004 after deducting the trip charges bills.

When the matter was taken up (May 2004), the Railway Administration stated (September 2004) that trip charges are being recovered from the very beginning for placing and drawing out loads/ empties to/from KTPP Siding. Loco hire charges were being levied with effect from 1 November 2001, if line clear was not granted within thirty minutes of arrival of the rake which

included notional running charges for movement of loco from the base shed i.e. KGP to MCA. The total dues on account of loco hire charges stand at Rs.1.56 crore for November 2001 to December 2002. Necessary steps are being taken to realise the said dues from KTPP authorities.

These contentions are not tenable. The MCA Exchange Yard was to be taken over by KTPP and the Railway Administration was to be relieved of the responsibility of placement and removal of wagons. However, a dedicated diesel engine was still being used even after opening of yard and trip charges being levied were not covering the high cost of keeping a dedicated diesel engine. Instead of levying loco hire charges, the Railway adopted a system of levying trip charges as well as loco hire charges that had no backing of codal provisions or the Railway Board's instructions. Moreover, KTPP have refused to pay loco hire charges of Rs.1.56 crore for the period 1 November 2001 to 31 December 2002 and the Railways have not raised any bill for loco hire charges for periods beyond December 2002.

The matter was brought to the notice of the Railway Board in September 2004 and the reply has not been received (December 2004).

5.2.2 Northern and North: Eastern Railways — Non-recovery of licence fee, maintenance and inspection charges

Failure to execute/ revise agreements resulted in non-recovery of licence fee, maintenance and inspection charges amounting to Rs.4.51 crore from private siding owners

As per existing rules, maintenance of private sidings is primarily the responsibility of siding owners. In case, a siding owner requests Railways to undertake maintenance, the Railways may do so by levying maintenance charges at rates fixed from time to time. The sidings or a portion thereof maintained by private siding owners themselves are periodically inspected by the Railways and charges therefor are recovered from siding owners. In order to ensure timely recovery of maintenance charges, Executive Engineer in charge should inform Accounts Department about the date of opening of the siding within ten days of its opening. Thereafter, the Accounts Department should ensure that bills are correctly prepared and preferred.

Northern Railway

Two private sidings viz. IOC at Suchipind (SCPD) and Central Warehousing Corporation (CWC) at Bhagtanwala (BGTN) were opened in December 1982 and May 1988 respectively. Firozepur Division had been maintaining these sidings (except the track portion within CWC siding) since their opening.

Audit scrutiny revealed that bills for maintenance and inspection charges had not been preferred since their opening. In reply to audit query (January 2004), Senior Divisional Finance Manager, Firozepur replied (February 2004) that maintenance charges of Rs.1.45 crore had been preferred (December 2003) against IOC, SCPD but the amount had not been recovered so far as a copy of revised agreement in respect of this siding had not been received from the Engineering Department. No bills in respect of CWC, BGTN had, however, been preferred due to non-receipt of agreement from Engineering/

Commercial Department. Dues recoverable from this siding for the period May 1988 to March 2004, assessed by Audit, worked out to Rs.0.48 crore.

Thus, due to failure to execute/ revise agreements and prefer bills accordingly resulted in accumulation of unrealised Railway dues of Rs.1.93 crore.

When the matter was taken up (February 2004), the Railway Administration during discussion accepted (June 2004) the audit contention and stated that the Railway dues could not be recovered due to non-availability of complete records in the Divisional Office.

The matter was brought to the notice of the Railway Board in September 2004 and their reply has not been received (December 2004).

North Eastern Railway

Two assisted sidings (Garrison Engineers Air Force, Gorakhpur and Fertiliser Corporation of India, Nakaha Jungle, Gorakhpur) were opened in 1975 and 1968 respectively. Due to meagre traffic, these sidings were closed in November 2000 and January 2003 respectively. The Railway Administration failed to recover interest charges at the rate of dividend and maintenance charges applicable from time to time on the cost of the sidings borne by the Railway. The outstanding against them as on 31 March 2004 worked out to Rs.0.35 crore and Rs.0.89 crore respectively.

The Railway Administration failed to execute agreements in respect of two private sidings [Food Corporation of India (FCI), Gonda and BPCL, Gonda] opened in 1992 and 1997 respectively. Bills on account of licence fee, maintenance and inspection charges leviable as per codal provisions were, therefore, not raised since their opening. As on 31 March 2004, the dues of Rs.0.91 crore and Rs.0.43 crore were outstanding against FCI and BPCL respectively.

When the matter was taken up (March 2004), the Railway Administration stated (July 2004) that efforts would be made to recover the dues. Revised bills for Rs.3.06 crore up to 31 March 2005 have been issued.

The reply is not tenable. Raising bills, against the sidings after a delay of seven to twelve years and that too after it had been pointed out by Audit, does not explain their failure to raise the Railway's legitimate demands for huge amounts and their apathy towards Railway's interest. Moreover, the prospect of recovery of dues appears to be remote as two sidings have since been closed.

The matter was brought to the notice of the Railway Board in October 2004 and their reply has not been received (December 2004).

5.2.3 South Central and South: Non-recovery of cost of staff Eastern Railways

Non-realisation of cost of staff worth Rs.3.37 crore in respect of two sidings as the Railway Administrations failed to execute a formal agreement with a siding owner/failed to prefer bills for excess staff deployed in another siding

Standard Form of Private Siding Agreement provides that in POL sidings, facilities for examination, certification, repairs etc. should be provided

irrespective of the volume of traffic and cost thereof including cost of staff should be borne by siding owners. Railway Board also directed (November 1982) that job relating to operation of valves and checking leaky valves should be undertaken by the oil industry.

HPCL Siding, Gangineni

A new POL siding for M/s.Hindustan Petroleum Corporation Limited (HPCL), served by Gangineni (GNN) station (South Central Railway) was opened in June 1998. Though siding authorities had agreed (October 1997), no formal agreement has been executed so far (September 2004).

In May 2001, the Railway Administration passed an order for posting 54 C&W staff indicating that cost thereof was to be borne by the Railways. This was in contravention of the provisions of the existing rules and orders.

Audit review of records revealed that during 1999-2000 to 2003-2004, C&W staff deployed at the siding ranged between 20 and 50 and the cost incurred worked out to Rs.2.32 crore.

When the matter was taken up (March 2004), the Railway Administration agreed (June 2004) that since no formal agreement with the siding owner existed, cost of staff deployed was not recovered and C&W staff has been carrying all repairs at GNN. They also stated that ten staff are being deployed in HPCL loading point in three shifts for valve testing and attention to leaky valves and an amount of Rs.0.56 crore has been raised. The Chief Mechanical Engineer stated in a meeting held on 25 June 2004 that train examination consists of two parts viz., (i) for checking for safety and (ii) for certifying tank wagons for loading. He further stated that safety part of C&W examination is responsibility of the Railways and only cost of staff employed inside siding premises of HPCL for checking loading part is to be debited, the bill for which has now been raised.

These arguments are not tenable in view of clear directives given by the Railway Board and provisions existing in the Standard Form of Private Siding Agreement to be executed with siding owners. In fact, valve testing and attention to leaky valves, for which bill has now been raised was not even the responsibility of the Railways with effect from 1982. Provisions of Standard Form of Agreement obviously, therefore, are for covering expenditure relating to examination, certification, repairs etc. including cost of staff. Therefore, the Railway Administration has not only to recover Rs.0.56 crore for unnecessary responsibility of valve testing and attention to leaky valves, but also the cost relating to examination, certification, repairs etc., which they are required to undertake as per instructions in force.

Thus, the Railway Administration failed not only in the execution of a formal agreement with the siding owner but also in not raising bills for the legitimate expenditure of Rs.2.32 crore incurred by them in the examination, certification, repairs etc. including the cost of staff.

The matter was brought to the notice of the Railway Board in August 2004 and their reply has not been received (December 2004).

Kolaghat Thermal Power Project Siding, Mecheda

Kolaghat Thermal Power Project (KTPP), Mecheda was commissioned in February 1980 and placement of wagons started from June 1980. On the request of KTPP authority, GM/ South Eastern Railway accorded sanction (February 1982) to the creation of two posts of 'Goods Clerks' for provision of Commercial clerks at KTPP siding at Party's cost for three months. KTPP authority has been paying the costs of two Goods Clerks claimed by the Railway Administration since February 1982.

It was only in 1996 that an agreement was signed between KTPP and South Eastern Railway. Clause 13 of the agreement read with Para 5.3 of the Annexure to the agreement provided that cost for staff required for commercial work of the siding would be borne by KTPP.

Review of records of deployment of staff, however, revealed that sanction of two posts was last extended upto 31 March 1995 and staff in excess (varying between four and eight from time to time) of the number originally sanctioned was deployed for which the Railway Administration failed to prefer bills. Audit assessed the cost of such excess staff at Rs.1.05 crore for the period February 1990 to March 2004 (Records prior to this were not made available).

When the matter was taken up through special letter (December 2003), the Railway Administration sought (February 2004) to make a distinction in the activities carried out at the KTPP siding and stated that the job of preferring bills and attending to other related activities necessitated on account of introduction of Advance Payment System was to be borne by the Railway for which excess staff was deployed. They further stated that the Railways have now decided to switch over to a Paid System, completely eliminating the system of preferring bills and reduce the complement of staff posted at KTPP.

The above contention is not tenable as the staff were attending to commercial activities exclusively related to KTPP as confirmed by Chief Goods Supervisor, KTPP and their cost is, therefore, recoverable from KTPP. Any reduction of staff in future does not alter the fact concerning the past.

The matter was brought to the notice of the Railway Administration and the Railway Board in April 2004 and August 2004 respectively and their reply has not been received (December 2004).

5.2.4 East Central Railway: Non-recovery of cost of damaged wagons

The Railway Administration failed to execute agreement in the standard format and recover Railway dues of Rs.2.06 crore from five collieries

In five colliery sidings of the Central Coal Fields Limited (CCL), eight accidents occurred during 1996 – 1997 damaging 44 Railway wagons. Reports of joint inspections conducted during the period from February 1997 to April 1998 held that CCL was responsible for all these accidents. The CCL representatives, however, refused to sign the joint inspection notes.

In May 1999, the Railway Administration raised bills for Rs.2.06 crore. The amount has not been recovered so far (March 2004).

In this connection, following audit comments arise :

- As per the Railway Board's order of February 1985, the Zonal Railways were required to execute fresh agreements with siding owners in a standard format. Siding owners would be responsible for any loss or damage to the Railway property on any part or extension of sidings. In the event of non-payment of dues by siding holders within one month of written demand, the Railway Administration would have absolute right to stop serving the siding. The Railway Administration failed to execute agreements in revised format due to which, no effective steps could be taken to recover dues of Rs.2.06 crore or stop serving the sidings.
- The Railway Administration preferred bills only two to three years after accidents had taken place i.e., in May 1999 and also failed to pursue recovery of bills therefor. As a result, the Railway dues are outstanding even after lapse of about seven to eight years since damage to the Railway property occurred due to accidents.

The matter was brought to the notice of the Railway Administration and the Railway Board in March 2004 and September 2004 respectively and their reply has not been received (December 2004).

5.2.5 South East Central: Railway — Non-realisation of OHE maintenance charges

Non-execution of agreements led to non-realisation of OHE maintenance charges of Rs.1.53 crore

Instructions for realisation of maintenance charges from siding owners were liberalised in September/ October 2000 and the Zonal Railways were instructed that Overhead Equipment (OHE) maintenance cost for existing and new sidings would be borne by the Railways with effect from 29 September 2000.

Audit scrutiny of records of 19 electrified sidings of South Eastern Coalfields Limited (SECL) in Bilaspur Division disclosed that no separate agreements regarding OHE maintenance charges had been executed resulting in non-recovery of Rs.1.53 crore for the period from March 1995 to September 2000. SECL cited the Railway Board's instructions of September 2000 and refused to pay on the plea that they had neither paid any capital cost for erection of OHE nor signed any agreement for changing to electrical system of traction.

The stand taken by SECL was not correct. The Railways expedited electrification of existing sidings by incurring capital costs purely with a view to ensure that these did not become unworkable. Electrification done at the Railway's cost did not change the nature and status of sidings, which continued to be governed by existing rules for private sidings. Liberalisation of siding rules was to be from a prospective date and SECL's refusal to make payment for past period quoting the Railway Board's order of September 2000 was also not in order.

The Railway Administration failed to effectively pursue recovery of these charges with SECL Authorities after they refused to pay. Absence of any agreement in this regard only weakened the Railway's position in enforcing them to pay.

When the matter was taken up (September 2004), the Railway Board stated (September 2004) that sincere efforts to recover the OHE maintenance charges could not succeed in view of instructions of September 1994 and September 2000. This is not tenable since the dispensation given to the siding owners in regard to recovery of maintenance charges was from a prospective date and spirit of these instructions was obviously not to forego all past dues.

5.3 Charges recoverable from others

5.3.1 East Central Railway: Non-recovery of hire charges

Failure to recover hire charges for track machines from IRCON resulted in accumulation of arrears of Rs.2.55 crore

Mughalsarai Track Depot, Eastern Railway (now in East Central Railway) loaned on hire basis three track machines namely, DUOMATIC – 8034, CSM – 915 and MPT – 2008 to Indian Railway Construction Organisation (IRCON) on 14 July 2000, 22 May 2001 and 19 March 2003 respectively, based on directives of the Railway Board. Rates of hire charges payable by IRCON were fixed by Eastern Railway.

DUOMATIC – 8034 and CSM – 915 were returned by IRCON on 14 July 2001 and 2 April 2003 respectively and the third machine was still with IRCON (31 March 2004). Hire charges of Rs.2.57 crore in respect of the returned machines and for the period upto 31 March 2004 for MPT – 2008, besides an amount of Rs.0.04 crore towards the cost of repairs in respect of DUOMATIC – 8034 were recoverable. Against bills for Rs.2.62 crore raised by Eastern / East Central Railway Administrations, IRCON made a payment of only Rs.0.07 crore (April 2001), leaving a balance of Rs.2.55 crore. Eastern Railway issued several reminders to IRCON and also brought the matter to the notice of the Railway Board.

Review of the Railway Board's relevant case file revealed that IRCON has been insisting on adjustment of an amount of Rs.31.03 lakh incurred by them on long life spares used in repairing the DUOMATIC machine before commissioning it towards the hire charges payable by them. Besides, they proposed to adjust another amount of Rs.39.27 lakh towards refund due to them from Eastern Railway on account of short supply of CST9 sleepers for Railway project in Bangladesh. The dispute could not be resolved.

The Railway Board instead of resolving the dispute and giving specific advice to Eastern Railway, left the matter to Eastern Railway. Routine reminders were issued rather than negotiating with IRCON to ensure speedy recovery outstanding dues. Leaving aside the disputed amount of Rs.70.30 lakh (Rs.0.70 crore), the Railway Administration would have been well advised to recover the balance amount of Rs.1.85 crore [Rs.2.55 crore (-) Rs.0.70 crore].

The matter was brought to the notice of the Railway Administration and the Railway Board in April 2004 and September 2004 respectively and their reply has not been received (December 2004).

5.3.2 Central Railway: Non-recovery of maintenance charges and cost of staff posted at LCs

Failure to execute agreements before construction of LCs and to take effective action to recover maintenance charges led to non-recovery of Rs.1.33 crore

In terms of provisions of Indian Railway code for the Engineering Department if an LC is provided at the request of a State Government/ local body, an agreement incorporating the terms and conditions for maintenance of the same should be entered into before commencement of the work. The Railway Board issued instructions in July 1999 to execute fresh agreements in all cases, where agreements were either not executed or were untraceable.

Audit scrutiny (October 2002) revealed that out of 12 LCs provided in Nagpur Division at the instance of State Government/local bodies, agreements in respect of ten LCs were not available and huge amount on account of maintenance charges and cost of staff posted at these LCs was outstanding. In reply (March 2003), Divisional authorities stated that out of 12 LCs, eight were provided by the Railway as per safety requirements and thus maintenance charges were not due and that maintenance charges for the remaining were being raised for recovery. Further scrutiny by Audit revealed that in respect of four LCs, records clearly indicated that they were provided at the request of State Government/ local bodies and maintenance charges (Rs.1.03 crore) and cost of staff (Rs.0.30 crore) was recoverable. For the remaining, the Railway could not produce specific records as to whether these were provided by the Railway as per requirement of the Railway Act or not.

When the matter was taken up with the Railway Administration (March 2004) and Railway Board (September 2004) they stated in June 2004 and December 2004 respectively that maintenance charges and cost of staff in respect of four out of 12 LCs was due and bills for Rs.1.33 crore have been raised. As regards execution of agreements and recovery of maintenance charges, it has been stated that notices have been issued to parties for doing the needful failing which LCs will be closed. The reply is not tenable because Railway Administration has not followed the prescribed procedure for execution of agreement before the commencement of work which has resulted in non-recovery of maintenance charges.

5.3.3 North Western Railway: Non-recovery of maintenance charges of ROBs/ RUBs

Failure to draw completion reports of works has resulted in non-raising of bills of Rs.1.20 crore on account of maintenance charges

As soon as a work is completed and commissioned, its accounts should be closed within three months and completion reports be prepared and submitted within six months from the date of completion in case of works costing up to one crore and within eighteen months in case of larger projects. The

particulars of work such as name, date of opening, completion cost and share of cost borne by the Railway as well as party should be intimated to Accounts Department for raising the bills on account of repair and maintenance etc.

The Railway Administration constructed and commissioned seven ROBs and two RUBs over Jaipur Division during March 1996 to October 2002. Out of these, three ROBs and two RUBs were constructed at the request of the parties on 'deposit terms' and repair and maintenance charges at the rate of 2½ per cent were recoverable as these works were being maintained by Railway. The remaining four ROBs were constructed on cost sharing basis and maintenance charges at the rate of 2½ per cent on the cost of bridge proper beyond the width of 7.5 metres were recoverable from the parties.

Audit scrutiny revealed that though these ROBs/ RUBs had been opened long back, bills for maintenance charges were not raised at all. Divisional Authorites stated (December 2003) that these ROBs/ RUBs were constructed by Construction Organisation, the details of which were not available with them and bills will be raised as and when details are received. Based on the cost of these works booked in the Works Register, the maintenance charges recoverable till March 2004 works out to Rs.0.94 crores. Besides, bills of Rs.0.26 crore for the year 2004-05 were also due to be raised in advance.

When the matter was taken up (May 2004), the Railway Administration reiterated (July 2004) the reply furnished by Divisional Authorities. The reply is not tenable because Accounts Department should issue provisional bills as soon as the work is completed on the basis of available details, subject to adjustment on final drawal and verification of the completion reports. Delay of two to eight years in raising the bills was, therefore, not justified.

The matter was brought to the notice of the Railway Board in September 2004 and their reply has not been received (December 2004).

5.4 Electricity/ Water Boards

5.4.1 Western Railway: Avoidable payment of energy bills

Non-acceptance of the proposal of Tata Electric Company Limited for out of court settlement resulted in avoidable payment of Rs.2.69 crore

Electricity for use in Mumbai suburban sections is obtained from TATA Electric Company Limited (TEC). Electric supply is governed by an agreement, which is read and construed in all respects conforming to Indian Electricity Act (IEA), 1910. Any dispute regarding the correctness of meter is to be decided by an Electrical Inspector (EI) upon the application of either party. In case the meter ceased to be correct, the WI shall estimate the amount of energy supplied for the period the meter had ceased to function and such period will be a maximum of six months.

TEC reported (13 June 1993) that the Current Transformer (CT) installed in feeder No.36 at Dharavi station was defective and recording lower output. The CT was replaced with new one and it was observed that consumption of electricity increased considerably. TEC, therefore, compared electricity bills

of the period April 1989 to June 1993 and noticed that meter reading for October 1991 to June 1993 was about 34 per cent less than meter reading recorded prior to October 1991 and after replacement of CT in June 1993. It was concluded that CT had been malfunctioning since October 1991 and TEC sent a bill of Rs.8.89 crore on account of arrears due to short billing for the period October 1991 to June 1993. After a lot of deliberations on the issue, the Railway Administration (April 1994) felt that the Railway should make payment for six months period preceding the date the fault was detected and submitted a proposal for Accounts concurrence for payment of Rs.3.17 crore. After more deliberations with Accounts about accuracy of the calculations, it was decided to obtain legal opinion. In the meanwhile, TEC informed the Railway (July 1995) that they have appointed an arbitrator under clause 20 of the agreement and that the Railway should also appoint and advise the particulars of the arbitrator for resolving the dispute early. After obtaining legal opinion, the Railway appointed their arbitrator and the case was referred for arbitration.

During arbitration proceedings, Railway's arbitrator held that CT should be treated as a meter and as such the dispute comes under the IEA. Therefore, EI was the sole authority to decide the issue of short billing. Arbitrator appointed by TEC, however, stated that CT was not a meter and, therefore, the amount of Rs.8.89 crore should be allowed to TEC. The Umpire gave his decision in favour of TEC, but reduced the amount of payment to Rs.4 crore plus interest at 12 per cent per annum from August 1993 to the date of passing the decree (30 March 1998). The Railway Administration challenged the award in Mumbai High Court, which upheld (December 1999) Railway's view that Umpire had no jurisdiction to decide this case and it should be decided by EI under IEA. TEC's appeal, against this judgement, filed in the Division Bench of High Court was also dismissed in October 2000.

Keeping the implications of IEA, TEC proposed (December 2000) for out of court settlement and submitted revised claim of Rs.3.64 crore based on six months average consumption and also suggested that they will not claim any interest if payment was made before 30 June 2001. As the Railway did not respond immediately, TEC filed (February 2001) an SLP in Supreme Court. While admitting that out of court settlement was the best acceptable proposal, the Railway sought legal opinion, before taking any further action. Legal Cell of the Railway advised acceptance of TEC's proposal, provided the SLP was withdrawn. As the payment involved huge amount, the Railway sent the proposal to the Railway Board in June 2001, which was not accepted. Supreme Court in their judgement (February 2003) set aside the order of the High Court and modified the award of Umpire by restricting the period from the date of decree (March 1998) till onward, instead of from August 1993 onward. Ultimately the Railway ended up paying Rs.6.33 crore.

In this connection, following audit comments arise:

- The Railway Administration prolonged deliberations, instead of immediately referring the matter to the EI as per provisions of the IEA, which compelled TEC to go for arbitration.

- Again, after the High Court judgement and TEC's offer in December 2000, the Railway Administration failed to act in time for settling the matter, which was ultimately resolved by Supreme Court against the Railway, leading to avoidable payment of Rs.2.69 crore [Rs.6.33 crore (-) Rs.3.64 crore].

When the matter was taken up (February 2004), the Railway Administration stated (April 2004) that TEC had filed SLP, without honouring its commitment of giving six months time. Moreover, the Railway Board had advised the Railway to wait for Supreme Court's decision which if decided in favour of the Railways, could have resulted in objectionable expenditure, had out of court settlement been accepted.

The reply is not tenable. The time was of essence in this case, yet the Railway had not intimated their intention of accepting the proposal to TEC. Waiting for the outcome of SLP was not financially prudent, as the Supreme Court would have either upheld the award of the Umpire or directed the parties to make a reference to the EI. In either case the amount payable would have been less than what the Railway ultimately paid.

The matter was brought to the notice of the Railway Board in September 2004 and their reply has not been received (December 2004).

5.4.2 North Central Railway: Payment of penalty due to delay in execution of agreement

Failure to execute a timely agreement to enhance the CD to 13.5 MVA resulted in payment of avoidable penalty of Rs.1.44 crore

In March 1984, Central Railway (now North Central Railway) executed an agreement valid up to 30 November 1995 with UPSEB, now Uttar Pradesh Power Corporation Limited (UPPCL), for electricity at TSS, Mathura. As per agreement, CD was to be 10 MVA with effect from 1 January 1988. In June 1997, after a delay of about one and a half years, Central Railway entered into an agreement for enhancing CD to 13.5 MVA retrospectively from 1 December 1995.

Review by Audit revealed (October 2003) that during December 1995 to May 1997, UPPCL recovered penalty of Rs.1.53 crore for excess consumption of energy with reference to the CD of 8 MVA, instead of 10 MVA. Reckoning enhanced CD of 13.5 MVA with effect from 1 December 1995, penalty leviable for excess consumption of electricity amounted to Rs.0.09 crore. Thus, an amount of Rs.1.44 crore [Rs.1.53 crore (–) Rs.0.09 crore] was refundable. Though, the Railway Administration requested for refund (August 1997, August 2000 and March 2003), UPPCL has not refunded the amount.

In this connection, the following comments arise:

- The Railway Administration failed to execute an agreement in time for enhancement of CD, resulting in payment of penalty of Rs.1.44 crore.

- Even after execution of an agreement for enhanced CD with retrospective effect, refund due (Rs.1.44 crore) was not adjusted in future energy bills, despite clear agreement provisions and the Railway Board instruction of July 1995.

When the matter was taken up (February 2004), the Railway Administration stated during discussion and in their reply (June 2004) that to safeguard the Railway's interest, agreement was executed with retrospective effect from 1 December 1995 and that Jhansi Division would be asked to adjust the amount of penalty paid against future energy bills.

The reply is not tenable. Having salvaged the situation by executing the agreement with retrospective effect, the Railway Administration failed to push the advantage to its logical conclusion with the result that they have not received the refund even after lapse of a period of seven years.

The matter was brought to the notice of the Railway Board in August 2004 and their reply has not been received (December 2004).

5.4.3 North Central and: Northern Railways — Non-payment/ delay in payment of SDs

Non-payment/ delay in payment of SDs for enhancement of CD resulted in payment of penalty of Rs.2.48 crore and a pending liability of Rs.1.88 crore besides payment of extra SD of Rs.0.41 crore

As per provisions of UPPCL Rate Schedule, if maximum demand for electricity in a month exceeds the contract demand, the Railways have to pay penalty charges at specified rates for such excess demand. If there is a regular increase in demand, the Railway Administration should approach UPPCL for enhancing CD to avoid payment of penalty. As per rules of UPPCL, SD is payable when CD is enhanced.

Non-payment/ delay in payment of SDs by the Railway Administrations for enhancement of CD resulted in payment of Rs.2.48 crore and a pending liability of Rs.1.88 crore in two cases as follows:

North Central Railway

Central Railway (now North Central Railway) has been getting power supply from UPPCL since March 1984 at TSS, Mathura. In June 1997, based on a request from the Railway, UPPCL sanctioned enhancement of CD to 13.5 MVA retrospectively from December 1995, without asking for any SD.

Based on a further request from the Railway, UPPCL enhanced (October 1999) CD from 13.5.MVA to 17.5.MVA but asked for (February 2000) an SD of Rs.3.35 crore, before execution of agreement and release of additional load. The Railway insisted upon exemption from payment of SD and approached Uttar Pradesh Electricity Regularity Committee (UPERC) in December 2001 for exemption praying that the electricity boards of Madhya Pradesh, Rajasthan, Maharashtra and Haryana were not insisting upon SDs and also that

UPPCL had exempted Northern Railway from payment of SD in respect of TSS, Amausi. UPERC, however, rejected the request (December 2003).

UPPCL preferred bills with reference to earlier CD (13.5 MVA). Amount of penalty levied in the bills aggregated Rs.3.06 crore for the period October 1999 to January 2004. Out of this, an amount of Rs.1.18 crore has been paid and a balance of Rs.1.88 crore remained to be paid (February 2004).

When the matter was taken up (February 2004), the Railway Administration stated (July 2004) during discussion and reply that the Railway was in process of filing review petition with UPERC for exemption from payment of SD.

This stand is not sustainable. For the very same TSS (Amausi) quoted by the Railway Administration in petition to UPERC in defence of their stand that SD is not payable, Northern Railway Administration paid SD, when enhancement of CD came up for consideration.

Northern Railway

Northern Railway has also been getting power supply from UPPCL for TSS at Amausi since March 2002. In July 2002, Northern Railway Administration requested UPPCL to increase CD from 5,000 KVA to 10,000 KVA. In October 2002, UPPCL sanctioned the additional load, stipulating that the load would be released after completion of the required formalities. In November 2002, UPPCL asked for SD of Rs.0.60 crore within 30 days. The Railway Administration requested UPPCL for exemption from payment of SD but ultimately, in November 2003, paid SD of Rs.0.60 crore. However, UPPCL pointed out that the Railway had not paid SD within the stipulated period and that based on average consumption of two months of previous financial year 2002-03, SD was worked out to Rs.1.15 crore and the Railway asked to pay a further amount of Rs.0.55 crore (reduced to Rs.0.41 crore in February 2004). The Railway Administration paid this additional amount (Rs.0.41 crore) also in March 2004. Total SD paid aggregated Rs.1.01 crore.

Meanwhile, UPPCL continued to prefer bills on the basis of CD of 5,000 KVA and charged penalty of Rs.1.30 crore for the excess consumption for the period from December 2002 to January 2004. This was also paid by the Railway Administration despite payment of full SD of Rs.1.01 crore.

Prolonging the issue resulted in avoidable extra payment of SD of Rs.0.41 crore and penalty of Rs.1.30 crore for excess consumption of electricity.

When the matter was taken up (March 2004), the Railway Administration stated (July 2004) that they had approached UPPCL for exemption from payment of SD anticipating that their request would be accepted. UPPCL, however, did not accept their request.

The amount of penalty paid/ to be paid has already outstripped the amount of SDs demanded. The Railway Board could, perhaps look into the matter to ensure that delays in enhancing the CD are avoided and consistent decisions are taken by Zonal Railways in similar situations.

The matter was brought to the notice of the Railway Board in October 2004 and their reply has not been received (December 2004).

5.4.4 Eastern Railway Loss due to non-segregation of electricity for domestic purposes

Delay in construction of sub-station buildings and in segregation of domestic load resulted in non-achievement of savings of Rs.1.63 crore

With a view to avail cheaper rate for domestic load, two works of segregation of domestic load by providing separate supply points at Bamangachi and Golmohar covered under Howrah Division were sanctioned during the year 1997-98. Anticipated annual savings from the two works were estimated as Rs.0.14 crore and Rs.0.12 crore respectively.

Audit review revealed that contract for supply, erection, testing and commissioning of transformer and other accessories at both these places was awarded in October 1998, with date of completion as 29 November 1999. In December 2000, the Chief Electrical Services Engineer informed DRM, Howrah that electrical equipment for the sub station buildings had already been procured. But for want of sub station buildings, work could not be completed. He requested the DRM to arrange for completion of sub station buildings on priority so as to avail of the benefit of lower domestic tariff.

Tender for construction of sub station buildings at Bamangachi and Golmohar were opened only on 17 July 2001. Work for Bamangachi was awarded with date of completion as April 2002; but the work for Golmohar was awarded only in September 2002. Fresh tender had to be called for in respect of Golmohar and was re-awarded in February 2004. The work of sub-station at Bamangachi was completed in March 2004 and the Golmohar sub station has been targetted for completion by 30 October 2004.

Delay in construction of sub station buildings led to non-achievement of the benefit of lower tariff for 51 months in case of Bamangachi and 59 months in case of Golmohar. Thus, saving of Rs.1.63 crore (Bamangachi - Rs.0.83 crore for the period December 1999 to February 2004 and Golmohar - Rs.0.80 crore for the period December 1999 to October 2004) could not be achieved.

When the matter was taken up (May 2004), the Railway Administration accepted (July 2004) the audit contention, but sought to explain that delay was on account of a defaulting contractor and long process involved in cancelling/ re-awarding work was inescapable. They further stated that directives are being issued for allotting high priority to such works, which generate substantial savings. The explanation offered is only in respect of one work and the fact remains that both the works were inordinately delayed due to mismanagement by the Railways.

The matter was brought to the notice of the Railway Board in September 2004 and their reply has not been received (December 2004).

5.4.5 Southern Railway: Non-separation of electric connection of workshop

Failure to obtain separate connection to avail benefit of lower tariff applicable to workshops resulted in avoidable payment of Rs.0.52 crore

The Railway Administration draws electric power from the Tamil Nadu Electricity Board (TNEB) for their use in the Tamil Nadu area. Tamil Nadu Government, through periodical notifications prescribes the tariff rates chargeable for different categories of consumers. Registered factories are chargeable under High Tension Tariff (HT) I or IA industrial category with lower tariff rates than HT III with the highest tariff rates.

Review of electric energy consumption charges paid during January 2000 to March 2004 in respect of the Railway Workshops at Arakkonam revealed the following:

Electricity requirements of the Engineering Workshop (EWS), Flash Butt Welding Plant (FBW), Electrical Loco shed and the Railway station were all met from a single HT service connection (HT SC No.1176) and are being charged under HT III category. No separate service connection has been obtained for EWS and FBW though they are chargeable under lower tariff rates.

Failure to get separate connections for EWS and FBW has resulted in avoidable payment of electric consumption charges at higher rates amounting to Rs.0.52 crore for the period 1 January 2000 to 31 March 2004. It is pertinent to note that at the Central Workshop, Golden Rock on the same Railway, the power consumption is being correctly charged under HT I/ IA for about 15 years.

When the matter was brought to the notice of the Railway Board in August 2004, it was accepted by the Railway Board (10 December 2004) that no separate connection had been obtained for EWS and FBW at AJJ. It was, however, stated that TNEB has agreed to segregate the loads and industrial tariff benefit will be available for EWS and FBW.

Review in Audit, however, revealed that the agreement with the TNEB for the segregation of loads at AJJ was executed only 13 December 2004. The actual separation is yet to take place. Had the Railway Administration taken action immediately after the point was taken up in Audit (March 2004), the extra expenditure incurred during the period April 2004 till the separate connection is actually obtained could have been avoided.

5.4.6 Southern Railway: Avoidable payment of surcharge

Injudicious action by Southern Railway to adopt the interim order passed by Andhra Pradesh High Court in favour of South Central Railway, without observing legal procedures led to avoidable payment of surcharge of Rs.1.32 crore towards penalty for the belated payment

TSSs at Puttur (PUT) and Sullurpetta (SPE) draw power from Transmission Corporation of Andhra Pradesh Limited (APTRANSCO). The Andhra

Pradesh Electricity Regulatory Commission (APERC) notifies the tariff for High Tension (HT) power supply.

Rate of Rs.4.60 per unit towards HT consumption charges for traction purposes in Andhra Pradesh notified by APERC applicable for the period from April 2001 to March 2002 was challenged (August 2001) by the South Central Railway in the Hon'ble High Court of Andhra Pradesh. The Hon'ble High Court passed an interim order (December 2001) staying the above notification of APERC and directed South Central Railway to deposit 50 per cent of amount due. Since the notification stayed by the Hon'ble High Court related to the period April 2001 to March 2002, South Central Railway paid consumption charges at Rs.4.05 per unit [Rs.3.50 (old rate) (+) 50 per cent of the increase in tariff i.e. Rs.4.60 (-) Rs.3.50 = Rs.1.10] for this period and at Rs.4.60 per unit thereafter. In January 2004, the High Court delivered judgement in favour of APTRANSCO.

Southern Railway took a view that the order was also applicable to them, though they were not a party to this petition and adjusted an amount of Rs.2.64 crore from bills payable to APTRANSCO in two instalments in April 2002 and May 2002, being difference between Rs.4.60 per unit and Rs.4.05 per unit for the period from April 2001 to February 2002. They went one step further and continued to pay at lower rate even beyond March 2002.

APTRANSCO objected stating (February 2003) that as Southern Railway had not filed any petition, the interim order was not applicable and demanded payment of surcharge at the rate of Rs.0.07 per rupee per day, treating this as delayed payment under clause 32.2.1(a) of the Power Supply Agreement.

A meeting was held in April 2003 between the Railway Board and Andhra Pradesh Government and Southern Railway was instructed (June 2003) to make payment for 2001-02, 2002-03 and part of 2003-04, as per APERC's tariff order. The Railway Administration calculated (August 2003) the surcharge payable in respect of SPE (Rs.68,47,948) and PUT (Rs.63,34,358) and paid Rs.1.32 crore in September 2003, in addition to the amount payable on consumption charges at Rs.4.60 per unit.

When the matter was taken up (April 2004), the Railway Administration contended (June 2004) that:

- Payment at reduced rate of Rs.4.05 per unit was continued beyond March 2002 because matter of tariff for the Railway traction for 2001-02 was not finally decided and for the year 2002-03, CMA No.1896 of 2002 was also filed by Southern Railway in the High Court of Andhra Pradesh. For this, legal opinion was also obtained from Additional Solicitor General of India, who stated that till stay petition comes up, the Railway can continue to pay the tariff as permitted by the High Court.
- Whether or not the interim order is applicable to Southern Railway will depend on the outcome of SLP being filed in the Supreme Court by South Central Railway.

These arguments are not tenable because:

- As Southern Railway was not a party to petition filed by South Central Railway, it would have been prudent to ensure proper legal procedures, before adopting the interim order of the Hon'ble High Court. Mere filing of a CMA would not legally entitle continuance of payment of energy charges at Rs.4.05 beyond March 2002, especially when South Central Railway themselves had started paying energy charges at the revised rates beyond this period. Southern Railway adopted the interim order, even before obtaining the legal opinion from Additional Solicitor General. Moreover, the Additional Solicitor General had also suggested paying the amount under protest without prejudice to the outcome of the appeal pending before the Andhra Pradesh High Court, in case APTRANSCO took any coercive steps.
- The SLP is yet to be filed; proceedings are to take place thereafter and verdict of the apex court to come much later. Surcharge amounting to Rs.1.32 crore paid by Southern Railway could have been avoided, had they made payment at higher rates under protest and followed due legal procedures for seeking relief.

When the matter was taken up with the Railway Board (August 2004), the Railway Board reiterated (September 2004) the stand taken in the reply to the Draft Paragraph (June 2004).

5.4.7 East Central Railway: Non-recovery of overpayment of energy bills

Failure to claim refund of or to adjust overpayment in the future energy bills resulted in an amount of Rs.1.04 crore remaining un-recovered

Under an agreement executed in June 1995 between Eastern Railway with Bihar State Electricity Board (BSEB), the Tolra TSS supply point in Garhwa Road under Dhanbad division (now in East Central Railway) would receive electricity from BSEB and be governed by their tariff notification in force.

As per clause 16.8 of BSEB Tariff Notification effective from July 1993, if an energy meter goes out of order for any reason during any month/ months, consumption for the month/ months shall be assessed on average consumption of previous three months from the date of meter being out of order or average consumption for the corresponding three months of previous years' consumption or the minimum Monthly Guarantee, whichever is the highest. Such consumption will be treated as actual consumption for all practical purposes until the meter is replaced/ repaired.

In December 1999, the Railway Traction Authorities, Dhanbad reported to BSEB that the energy meter installed at Garhwa Road Grid for supply to TSS was defective. In May 2000, BSEB admitted that said meter was defective from December 1999 and the meter was rectified in October 2000. For the period December 1999 to September 2000, BSEB preferred bills on the basis of actual readings upto March 2000 and on the basis of average consumption for April 2000 to September 2000. Incorrect billing on actual basis instead of

average basis as per tariff notification resulted in excess payment of Rs.1.04 crore to BSEB. Eastern Railway also failed to recover the excess amount paid to BESB either by way of refund or adjustment in future energy bills.

Thereafter, BSEB was bifurcated into BSEB and Jharkhand State Electricity Board (JSEB) and the administrative/ financial control of Garhwa Road Grid was transferred to JSEB (1 April 2001). Dhanbad Division (now in East Central Railway) approached JSEB (September 2002 to June 2003) for refund. As the excess payment pertained to the period prior to their formation, JSEB stated (June 2003) that the matter may be taken up with BSEB.

The excess payment has not been recovered/ adjusted (July 2004), even after a period of over four years due to failure of Eastern Railway Administration to take prompt action to recover the amount from BSEB. The prospect of the amount being recovered now from JSEB is also remote.

The matter was brought to the notice of the Railway Administration and the Railway Board in May 2004 and September 2004 respectively and their reply has not been received (December 2004).

5.4.8 Northeast Frontier: Railway — Non-payment of electricity bills in time

Failure of the Railway Administration to make payment in time resulted in avoidable payment of surcharge of Rs.0.88 crore

As per clause 18 (a) and (b) of terms and conditions of supply of electricity by Assam State Electricity Board (ASEB), consumers are required to pay electricity consumption bills within 15 days from the date of their presentation. Complaints with regard to accuracy of bills should be made in writing to ASEB. The amounts of such bills should be paid under protest within 15 days and will be regarded as advance until such time as the dispute is fully settled. Any failure in this regard will attract surcharge at five/ two per cent per month (or part thereof) for delayed payment.

Scrutiny of records by Audit of six consumer points of Lumding Division revealed that ASEB preferred electricity bills amounting to Rs.0.48 crore between January 1997 and December 1998 for different bill periods ranging from June 1995 to April 1998.

In June 2002, ASEB served disconnection notice for all the six consumer points as the bills had not been settled by the Railways and preferred a surcharge bill amounting to Rs.0.88 crore in September 2002. The Railway Administration paid Rs.0.48 crore in July 2002 and requested ASEB to waive the surcharge attributing the delay in making payment because the bills had been preferred directly to the Divisional Accounts office.

In August 2002, Area Manager, ASEB advised that he was not authorised to waive surcharge and the matter may be referred to the ACE (Commercial), ASEB for redressal of request, which the Railway Administration did not do.

In October 2003, the Railway Administration made the payment of surcharge of Rs.0.88 crore.

In this connection, following observations are made:

- As the Railway Administration had no monitoring mechanism to watch/ settle bills, non-receipt of bills for certain periods went unnoticed, leading to delayed payment and surcharge thereon.
- The Railway Administration should have made payment of surcharge under protest and thereafter approached the appropriate authority for its adjustment/ refund. Failure in adopting the laid down procedure for settlement of disputes and taking up the matter with higher authorities resulted in avoidable payment of surcharge of Rs.0.88 crore.

The matter was brought to the notice of the Railway Administration and the Railway Board in March 2004 and September 2004 respectively and their reply has not been received (December 2004).

5.4.9 North Western Railway: Extra expenditure due to non-segregation of water connections

Failure to get the water connections to Workshop and other station buildings segregated resulted in extra expenditure of Rs.1.47 crore

Water required by the Railway for use in station buildings and Workshop at Jodhpur over North Western Railway (NWR) is obtained from Public Health Engineering Department (PHED), Rajasthan. Water tariff of PHED provides three separate rates for charging water supplied for domestic, non-domestic and industrial purposes. While the water supplied to station buildings is charged under non-domestic category, the water supplied to the workshop is charged at industrial rates which are comparatively higher.

The matter was commented vide Para 3.4.2 of the Report of Comptroller and Auditor General of India-Union Government (Railways) for the year ended March 1996. The Railway Board in their ATN furnished in March 1999 had stated that a separate water meter has been provided to assess the quantity of water used in station buildings and workshop and that PHED has been requested to charge the water as per actual use.

Audit scrutiny of records of Jodhpur workshop in April 2003 revealed that even after providing a meter, PHED was charging the entire quantity of water consumed in workshop as well as in station buildings at industrial rates. As per actual meter reading, quantity of water consumed in the workshop ranged between 15 per cent and 24 per cent of total water consumed and Section Engineer had intimated this to Divisional Authorities in May/ December 1997 for taking the matter with PHED. In a meeting held in July 2000 between the Railway and PHED the latter had made it clear that the Railway should obtain separate water connection for workshop and station buildings. Accordingly, instructions were issued for initiating action in this regard. However, instead of taking action to obtain separate water connection, the Railway Administration was pursuing the matter for charging the water as assessed by the meter provided by the Railway. Thus, due to non-segregation of water connection, the Railway has incurred extra expenditure of Rs.1.47 crore during April 1996 to March 2004.

The matter was brought to the notice of the Railway Administration and Railway Board in March and September 2004 respectively. They stated in December 2004 that matter was persistently and consistently chased with PHED and efforts were made to get the water connection segregated. However, due to various constraints the connection could not be segregated earlier and that the work has now been sanctioned. The reply is not tenable because the constraints due to which the corrective action was not taken up earlier have not been explained and the work is yet to start. The avoidable expenditure on this account will continue till the water connection is segregated.

5.5 Establishment matters

5.5.1 East Central Railway: Non-recovery of rent at damage rate

Failure to evict the unauthorised occupants of railway quarters and to levy rent at damage rate resulted in loss/non-recovery of Rs.1.54 crore

Rules envisage initiating of eviction proceedings under provisions of Public Premises Act (PPE Act) against unauthorised occupants of railway quarters and recovery of rent at damage rate for unauthorised retention of quarters.

Audit scrutiny of records revealed (December 1999 and March 2004) that:

- Forty two employees were declared authorised occupants based on a circular issued by DRM, Mughalsarai in November 1990, which provided that Running and Train staff transferred and/ or posted from one unit to another within the same divisional jurisdiction would be entitled to retain their accommodation at the old station of posting on payment of normal rent. This circular was in violation of the Railway Board's orders of April 1989. On the matter being taken up by Audit in March 2004, the circular was withdrawn in April 2004. Damage rent of Rs.1.00 crore for the period 1 April 1989 to 31 December 2003 can not be recovered
- Twenty eight employees were occupying quarters despite expiry of permissible limit of retention and in another ten cases accommodations were retained by the retired employees/ family members of the deceased employees. The Railway Administration failed to take any tangible action either to invoke the eviction proceedings or to realise the rent at damage rate from 38 unauthorised occupants. The damage rent not recovered aggregated to Rs.0.54 crore for the period from 1 April 1989 to 31 December 2003.

The matter was brought to the notice of the Railway Administration and the Railway Board in March 2004 and September 2004 respectively and their reply has not been received (December 2004).

5.5.2 North Eastern Railway: Infructuous expenditure on manning LCs

Incorrect estimation of data resulted in infructuous expenditure of Rs.0.88 crore on manning seven LCs, which did not fulfil the laid down criterion

One of the parameters for manning LC is that the number of Train Vehicle Units (TVUs) per day on the LC should be more than 6,000.

Lucknow Division, based on TVUs per day, decided (July 1996) to man seven LCs that were hither to unmanned (No.132C, 134C, 139C, 143C to 145C and 12C) and started incurring expenditure on various engineering works.

Audit scrutiny (January 2001) revealed that these LCs did not fulfil laid down criterion of 6,000 TVUs per day. The Division had worked out the justification by adopting erroneously the weekly number of TVUs as the TVUs per day. Till then, an expenditure of Rs.0.32 had already been incurred.

Census conducted by the Division (June, July and August 2001) revealed that these LCs did not fulfil the criterion. TVUs per day on some LCs viz. Nos.143C, 12C and 144C were as low as 231, 440 and 525 respectively. In September 2001, the Division apprising the GM of the factual position, solicited his approval for not manning these LCs, who took a serious view of the situation and directed to fix responsibility for the official(s) at fault for carelessness and wasteful expenditure.

In December 2001, the GM accorded approval for not manning these LCs, except LC No.145C, where TVUs per day as per census taken was 5,166.

In March 2002, a Senior Section Engineer (Permanent Way) was held responsible for incorrect assessment and proceedings for a minor penalty were initiated against him. The proceedings were in process (February 2004).

The matter regarding avoidable infructuous expenditure of Rs.0.88 crore upto March 2003 in connection with manning these LCs was brought to the notice of the Railway Administration in February 2004. The Railway Administration stated in their reply (June 2004)/ during discussion (July 2004) that the subject LCs fulfilled the criterion when the proposal for manning them was submitted.

The reply is not tenable because the justification worked out at the time of proposal was based on erroneous calculations.

The matter was brought to the notice of the Railway Board in September 2004 and their reply has not been received (December 2004).

5.5.3 South East Central and South Eastern Railways: Overpayment of leave salary to Running Staff

Incorrect computation of leave salary led to overpayment to the tune of Rs.0.36 crore to running staff

Running staff are entitled to the Running (Kilometrage) Allowance for performance of running duties at the prescribed rates. Running allowance is also to be reckoned as pay for granting leave salary. When running staff are on leave (including casual leave) they shall be paid their leave salary based on

their basic pay plus 30 per cent thereof and other allowances including Dearness Allowance/ Additional Dearness Allowance due on such basic pay plus 30 per cent thereof.

Audit scrutiny of salary bills of running staff prepared in Divisional Personnel Office, Nagpur over South East Central Railway, however, revealed that Dearness Allowance, House Rent Allowance, City Compensatory Allowance etc. were correctly drawn but leave salary was paid based on their basic pay plus 39 per cent thereof resulting in overpayment. Overpayment thus made in respect of 22 Bill Units of Nagpur division for the period January 1999 to March 2004, as assessed by Audit, was about Rs.0.28 crore.

When the matter was taken up (April 2004), the Railway Administration admitted (August 2004) that there was a wrong interpretation leading to incorrect computation of leave salary and payment of leave salary at the rate of 39 per cent has been stopped with effect from April 2004. Action is being taken to recover the overpayment.

Similarly, an overpayment of leave salary to the tune of Rs.0.08 crore in respect of six Bill Units of Chakradharpur Division over South Eastern Railway was made for the period from January 2000 to February 2002. The Railway Administration have accepted the audit contention and assured recovery of overpayment.

The matter was brought to the notice of Railway Board in August 2004 and their reply has not been received (December 2004).

5.6 Miscellaneous

5.6.1 Northern Railway: Excess consumption of HSD

Non-adherence to targets fixed for HSD consumption during preventive maintenance of diesel locomotives lead to excess consumption of HSD worth Rs.3.61 crore

Preventive maintenance of Rolling Stock on the Railways envisages maintenance of diesel locomotives at specified intervals. HSD consumed during the maintenance schedule of a diesel loco is called Shed Consumption. Readings are noted in a sheet called 'Check Sheet'. The total of Check Sheets of all maintenance schedules done in a month is termed as the actual shed consumption of HSD for the month.

As per the Railway Board's order of June 1992, total number of maintenance schedules to be given to a WDM 2 loco in a year was 48 and monthly average consumption of HSD for these schedules was 700 litres. In February 1999, the Railway Board revised the periodicity of maintenance schedules, due to which the number of maintenance schedules to be given to a WDM 2 loco in a year came down to 36 and monthly average consumption of HSD to 517 litres. This was to be given effect to in a period of about four months (say July 1999).

Review by Audit (February 2003) of Check Sheets of WDM2 loco of diesel loco shed, Alambagh, Lucknow during July 1999 to December 2003 revealed

that against 18,515 schedules required to be done, 16,523 schedules (89 per cent) were actually carried out, by consuming 2,357.670 kilolitres excess quantity of HSD worth Rs.3.61 crore. The average consumption of HSD per loco per month during 1999 to 2003 was 783.68 litres; 11.95 per cent more than pre-revised norm of 700 litres and 51.58 per cent more than existing revised norm of 517 litres. During 2002, it was as high as 877.82 litres per month (25 per cent more than pre-revised norm and 70 per cent more than existing revised norm).

When the matter was taken up (February 2004), the Railway Administration stated (May 2004) that RDSO had revised schedule of standard examination in July 2000, wherein certain items/ activities were to be attended to more frequently, implementation of which resulted in excess consumption of HSD. The matter had also been referred to the Railway Board (March 2004).

This contention is not tenable. Though the revised schedule of examination was drawn up by RDSO in July 2000, the Railway Administration had neither assessed the implication in terms of consumption of HSD nor taken up the matter with the Railway Board. Reference to the Railway Board in March 2004 was merely a cover up after the irregularity had been pointed out by Audit in February 2004.

The matter was brought to the notice of the Railway Board in August 2004 and their reply has not been received (December 2004).

5.6.2 Eastern Railway: Idling of wagons at Liluah Workshop

Delay in POH of wagons at Liluah Workshop led to idling of six wagons and consequent loss of earning capacity to the tune of Rs.3.33 crore

Liluah Workshop was nominated (May 1995) to conduct POH of BOBR wagons. While directing the workshop to gear up for POH, the Chief Rolling Stock Engineer (CRSE) also directed them to pay special attention to door operating mechanism of these wagons.

Review of records at Liluah workshop revealed unusual delay in taking up POH in respect of six wagons (five BOBR and one BOBRN received between November 1998 and September 2000). According to Workshop Authorities, these wagons could not be given POH as nature of damage/ deficiency in the door operating mechanism required obtaining drawings of certain propriety items, procurement of special items of propriety design and identification of vendors. By the time process for procuring materials was started in January 2000, three wagons were detained for periods ranging from 47 days to 409 days. Procurement orders were issued between January 2000 and April 2000 and materials were not received even as of March 2002. Orders were ultimately cancelled in May 2002.

In February 2002, Jamalpur workshop (JMP) was nominated for POH of BOBR/ BOBRN wagons. Liluah workshop diverted (October 2002) these six wagons to JMP, where they were given POH within two to five months from the date of receipt in the workshop. The six wagons were detained for 6,202

days in the Liluah Workshop, resulting in loss of earning capacity of about Rs.3.33 crore.

When the matter was taken up (August 2004), the Railway Board stated (December 2004) that:

- Delay in POH of wagons cannot be termed as a lapse/ inefficiency. Liluah workshop had approached the original manufacturer and tried to develop sources that could be engaged in manufacturing such intricate and complicated mechanism. Jamalpur workshop was able to give POH to these wagons after the spares for door operating mechanism were received from trade.
- As per prevailing system, Zonal Railway is allowed to hold certain percentage of Railway's wagon holding ineffective for maintenance. The target in-effectiveness for Eastern Railway during the period 1998 to 2002 was 3.9 per cent, whereas the actual in-effectiveness as 3.8 per cent. Therefore, the loss of earning as calculated is notional and not actual.

The reply is not tenable because:

- Five BOBR and one BOBRN wagons were received in Liluah workshop between November 1998 and September 2000 whereas the process for procuring the materials was started only in January 2000 by which time already three wagons were detained for periods ranging from 47 days to 409 days. The procurement order could be issued by April 2000 and the materials were not received till March 2002 by which time Jamalpur workshop was nominated for POH of BOBR/ BOBRN wagons. Six wagons were diverted from Liluah only in October 2002. The fact that Jamalpur workshop was able to give POH to these six wagons within two to five months of their receipt clearly indicates that efforts made by authorities of Liluah workshop were not sincere.
- Target for ineffectiveness is fixed for ensuring timely POH and cannot be used to cover up the lapses/ inefficiency in the POH of wagons.

5.6.3 Southern Railway: Loss due to stabling of wagons fit for traffic use along with other unserviceable wagons

Lack of proper system to send and monitor disposal of condemned wagons at Korukkupet Goods Yard resulted in delay in realisation of scrap value of 70 wagons due for condemnation and loss of revenue of Rs.2.44 crore in respect of 25 fit wagons wrongfully detained amongst unserviceable wagons

Wagons identified for condemnation in Chennai area, after auction sale, are delivered to the purchasing party from the delivery lines of the General Stores Depot (GSD), Perambur. Due to limited line capacity and paucity of space inside GSD, condemned wagons sold on auction are also disposed of from the Korukkupet Goods Yard (KOKG).

Inventory conducted at KOKG on 29 October 2002 showed that 95 wagons were stabled in the scrap delivery yard. Audit scrutiny of the inventory register and other records regarding movement of wagons to the yard revealed

that many of the wagons were stabled for a long time. No action had been taken to dispose of these wagons.

After the matter was taken up by Audit, the Railway Administration conducted a joint survey on 21 October 2003. It was found that of these 95 wagons, 20 wagons were fit for traffic use and were moved to Tondiarpet Marshalling Yard (TNPM), 24 wagons had been sold and were awaiting delivery, 12 wagons had been condemned but not sold, 34 wagons (including 15 CRC wagons for Indo – Pak traffic) were awaiting various stages of condemnation proceedings, and 5 wagons were sick/ requiring POH. This indicates that there was no system in place to ensure that only condemned wagons sold on auction, were sent to KOKG for disposal. Further, no mechanism to monitor and take necessary action regarding the wagons stabled at KOKG yard existed. In this connection, the following comments arise:

- 25 wagons fit for traffic use lying stabled unnecessarily with other unserviceable wagons for long periods without the knowledge of the Railway Authorities. At least 18 of the 25 wagons were lying stabled since August/ November 2001. All of them would have remained so, had Audit not taken up the matter with the Railway Administration. The Railway suffered loss of earning capacity to the extent of Rs.2.44 crore for the period 2001-02 to 2003-04.
- 45 wagons lying for long, without any action being initiated for their condemnation. There was, thus, a delay in realisation of scrap value of these condemned wagons.

When the matter was taken up (February 2004), the Railway Administration accepted (June 2004) that the wagons pointed out by Audit were placed in the delivery line around the year 2000. They, however, maintained that:

- If there were to be any demand for these wagons at any time, these wagons would not have been allowed to remain idle, but would have been made available for loading. There was, therefore, no question of incurring loss of earnings of wagons.
- 43 out of 45 wagons have been sold and a sum of Rs.0.75 crore realised. Two more wagons are yet to disposed off due to low bid.

These arguments are not tenable because:

- The Railway Administration was not even aware of the availability of 25 wagons fit for traffic use in KOKG yard till it was pointed out by Audit in July 2003. Their statement is, therefore, unacceptable.
- A verification of records revealed that only 17 out of 45 wagons in question have been condemned and disposed of.

The matter was brought to the notice of the Railway Board in September 2004 and their reply has not been received (December 2004).

5.6.4 Eastern Railway: Unnecessary POH of WAG-4 Electric Locomotives

POH of seven WAG-4 electric locomotives in contravention to the Railway Board's directives and their subsequent condemnation led to the avoidable expenditure of Rs.1.74 crore

WAG-4 class locomotives were introduced mainly over Eastern Railway during the late 60s and early 70s. In November 1998, Member Electrical, Railway Board advised during a periodical conference that no spares should be procured for WAG-4 locos, which were having a short residual life. In February 1999, the Railway Board further advised that these locomotives which have done maximum service, had developed negative camber and were beyond technical and economical repairs, be phased out.

Audit examination revealed that despite directions of the Railway Board, seven WAG-4 electric locomotives were given POH at a cost of Rs.1.74 crore between March and December 1999. After POH, locomotives could be utilised for 138 days to 696 days only and were condemned as they developed negative camber. The average kilometer earned per day by these locomotives was between 12.29 and 151.64, which was far below the Eastern Railway average of 330 kilometer per day per loco for the year 1999-2000.

Had the Railway Administration scrupulously followed instructions contained in the letter dated 26 February 1999, POH of these locomotives could have been avoided in view of their negative camber and locos condemned.

When the matter was taken up (April 2004), the Railway Administration stated (June 2004) that POH of these seven locos was undertaken by Charbagh workshop because of the Railway Board's letter dated 16 April 1999. They further added that since the locos had worked for period ranging from four months to twenty three months on line after POH, audit observation of unfruitful expenditure is notional.

The above contention is not tenable. The Railway Administration did not make an assessment as to whether the locos were beyond technical and economical repairs, before actually undertaking POH. Moreover, loco holding statistics for the years April 1998 to April 2000 and average number in use on Eastern Railway revealed that less than 50 per cent of loco holding was actually put to use to handle the freight traffic. It is, thus, clearly evident that the Railway Administration could have condemned these locos instead of using them with their retarded efficiency levels. Thus the expenditure of Rs.1.74 crore incurred on their POH was totally avoidable.

The matter was brought to the notice of the Railway Board in September 2004 and their reply has not been received (December 2004).