

CHAPTER III : MINISTRY OF COMPANY AFFAIRS

3.1 Retention of public funds outside government accounts

Failure of the Official Liquidators of Delhi, Kolkata, Mumbai, Bangalore, Allahabad and Jaipur to credit to the government account fees realised from the liquidated companies, resulted in keeping Rs. 6.13 crore of government money outside government account for 1 month to 5 years and consequential loss of interest of Rs. 66.53 lakh.

The Official Liquidators functioning in various States and Union Territories of the country are officers appointed by the Union Government under Section 448 of the Companies Act 1956 and are attached to the various High Courts. According to Rule 291 of the Companies (Court) Rules, 1959, in every winding up process of a company where the Official Liquidator becomes or acts as Liquidator, fees out of the assets of the company in liquidation as determined under the said Court Rules are required to be credited by 31 March every year to the Public Account of India in the Reserve Bank of India. Rule 6 of the Receipts and Payments Rules also lays down that all moneys received by or tendered to government officers on account of revenues or receipts of the government shall, without undue delay, be paid in full into the accredited bank for inclusion in government account.

Audit scrutiny of records of the Official Liquidator, Delhi revealed (December 2005) that in contravention of the Companies (Court) Rules and Receipts and Payments Rules, the fees totalling Rs. 1.94 crore for the period 2001-05 was kept in a current account in a bank and was not credited to government accounts. On this being pointed out by Audit, the Official Liquidator deposited (March 2006) Rs. 1.94 crore in the government account. Not crediting the fees to the government account in time resulted in loss of interest of Rs. 43.48 lakh at the average rate of borrowing of 8.9 *per cent* of the Union Government. Audit also noticed that Official Liquidators attached to the High Courts of Kolkata, Mumbai, Bangalore, Allahabad and Jaipur instead of crediting fees totalling Rs. 4.19 crore (Kolkata: Rs. 1.31 crore, Mumbai: Rs. 1.54 crore, Bangalore: Rs. 0.80 crore, Allahabad: Rs. 0.34 crore and Jaipur: Rs. 0.20 crore) for the period 1994-2006 to the government account, kept it in the current account in the banks and deposited the amount after a delay of 1 month to 4 ½ years. Not crediting the fees to the government account in time resulted in loss of interest of Rs. 23.05 lakh.

Thus, inadequate monitoring of the functions of the Official Liquidator by the concerned Regional Director/Ministry resulted in keeping Rs. 6.13 crore (Rs. 1.94 crore + Rs. 4.19 crore) of government money outside government accounts for long periods of 1 month to 5 years and consequential loss of interest of Rs. 66.53 lakh (Rs. 43.48 lakh + Rs. 23.05 lakh).

The Ministry stated (May 2006) that the Regional Director (Northern Region) had been directed to conduct an inquiry into the lapses pointed out by audit and instructions had been issued to all the Regional Directors/Official Liquidators to ensure that the prescribed procedure was duly followed. It added that the results of the inquiry would be communicated to audit. No further report has been received from the Ministry as of December 2006.