

## CHAPTER I: DEPARTMENT OF ATOMIC ENERGY

### Nuclear Power Corporation of India Limited

#### 1.1.1 Avoidable loss due to short payment of advance tax

**The Company's failure to pay advance tax as per the provisions of the Income Tax Act in two years resulted in avoidable payment of Rs.5.65 crore towards interest under section 234B and 234C of the Income Tax Act.**

Under Section 234C read with Section 208 of the Income Tax Act 1961 (Act), if in any financial year, the advance tax paid by a Company on its current income on or before 15 June is less than 15 *per cent* of the tax due on the returned annual income; that paid on or before 15 September is less than 45 *per cent*; that paid on or before 15 December is less than 75 *per cent* and the last instalment paid on or before 15 March is less than 100 *per cent* of the tax due on the returned income, the Company shall be liable to pay interest at the prescribed rates on the shortfall. Further, the assessee is liable to pay interest under Section 234B of the Act if the total advance tax paid is less than 90 *per cent* of the assessed tax.

Nuclear Power Corporation of India Limited (Company) made short payment of advance tax in all the 12 quarters of assessment years 2003-04 to 2005-06. The shortfall ranged between 6.93 *per cent* and 34.43 *per cent* as per **Appendix-I**. Consequently, the Company had to pay interest of Rs. 20.71 crore.

During Audit it was observed (December 2006) that the Company had incorrectly worked out the estimated profit resulting in short payment of advance tax in the three assessment years 2003-04 to 2005-06. In response, the Department of Atomic Energy (Department) stated (August 2007) that the estimation of income for payment of advance tax differed due to the followings reasons:

- (i) Operating profit for the assessment year 2004-05 increased by Rs.460 crore due to retrospective increase in tariff and reduction in heavy water price with consequential reduction in value of inventory at various stations.
- (ii) Delayed payment charges and interest thereon amounting to Rs.631.30 crore were collected in September-October 2003 as per the Ahluwalia Committee recommendations
- (iii) Tax reimbursements relating to earlier years were received from State Electricity Boards as per Ahluwalia Committee recommendations to the extent of Rs.37.02 crore, Rs.191.65 crore and Rs.254.38 crore respectively for assessment years 2003-04 to 2005-06.

For the assessment year 2003-04, reply of the Department was not tenable as the reimbursement of tax might had total impact of tax of Rs.12.96 crore only while short payment of tax ranged from Rs.15.09 crore to Rs.62.07 crore. For assessment year

2004-05<sup>1</sup>, the Company may be justified for short payment of advance tax, however, based on the experience for the assessment year 2004-05, it could have more correctly estimated its profit for the assessment year 2006-07 taking into account expected tax reimbursements.

Thus, short payment of advance tax for the assessment years 2003-04 and 2005-06 resulted in avoidable loss of Rs.5.65 crore<sup>2</sup> due to short payment of advance tax.

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<sup>1</sup> *Interest payment for the assessment year 2004-05 have been excluded from the avoidable payment of interest*

<sup>2</sup> *The loss has been reduced by the amount of Rs.5.97 crore on the assumption that the Company might have earned interest on short term deposits at the rate of six per cent per annum for the funds retained by it and also the tax implication of income of Rs.37.02 crore received in assessment year 2003-04.*