

CHAPTER XVII: MINISTRY OF RAILWAYS

Railtel Corporation of India Limited

17.1.1 Avoidable payment of Rs.3.39 crore

The Company's failure to prepare the separate accounts for Infrastructure Provider Category II licence resulted in an avoidable payment of Rs.3.39 crore towards licence fee, interest, penalty and interest on penalty.

Railtel Corporation of India Limited (Company) executed (February 2002) an agreement with the Department of Telecommunications (DOT) to obtain licence for acting as 'Infrastructure Provider – Category II (IP-II)' to establish, lease, rent out or sell digital transmission capacity. The licence was valid for a period of 20 years from the date of the agreement and was extendable for a further period of 10 years.

The agreement provided for payment of licence fee to the DOT in four quarterly instalments, within 15 days of the commencement of a quarter on self assessment basis, subject to a minimum payment of the actual revenue of the previous quarter. In case the cumulative quarterly licence fee paid for any financial year was short by more than 10 *per cent* of the licence fee, the Company was liable to pay penalty of 150 *per cent* of the amount short paid. The Company was also required to draw, keep and furnish independent accounts for the services and to maintain accounting records to show its transactions presenting the costs, revenue and financial position of its business under the licence for the quantification of revenue or for any other purpose. Such accounting statements were required to be duly certified by the Company's auditors.

The Company however, did not maintain separate accounts for the services provided under the agreement for IP-II licence and paid the licence fee on self assessment basis for the years 2001-02 to 2003-04. The DOT carried out the provisional re-assessment for these years and raised (September 2005) a demand of Rs.3.23 crore after adding back the miscellaneous income like interest and dividend in the revenue earned, on the basis that the Company had not furnished any disaggregated accounts in respect of IP-II licence.

The Company requested (November 2005) for waiver of the miscellaneous income from the total revenue for the three years ending 31 March 2004 and subsequently deposited (January and February 2006) Rs.3.39 crore with the DOT under protest towards licence fee (Rs.90.93 lakh), interest (Rs.53.98 lakh), penalty (Rs.1.39 crore) and interest on penalty (Rs.55.10 lakh). The DOT rejected the request in November 2006. The Company started preparing the separate accounts from 2004-05 onwards for segregating the revenue licence wise and apportionment of interest income.

The Management stated (May 2007) that the DOT did not agree to exclude interest income and also imposed penalty and interest on penalty, which was increased as the

demand was raised in 2005-06 *i.e.*, after four years. However, had the Company prepared the separate accounts for each licence, it could have convinced the DOT that the interest income had not arisen from the revenue of IP-II licence.

Thus, the Company's failure to prepare separate accounts for IP-II licence resulted in an avoidable payment of Rs.3.39 crore towards licence fee, interest, penalty and interest on penalty.

The matter was reported to the Ministry in May 2007; reply was awaited (November 2007).