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**Report of the  
Comptroller and Auditor General  
of India**

**for the year ended March 2005**

**UNION GOVERNMENT  
(NON TAX RECEIPTS)  
NO. 9 OF 2006**

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Laid on the table of Lok Sabha/Rajya Sabha on \_\_\_\_\_

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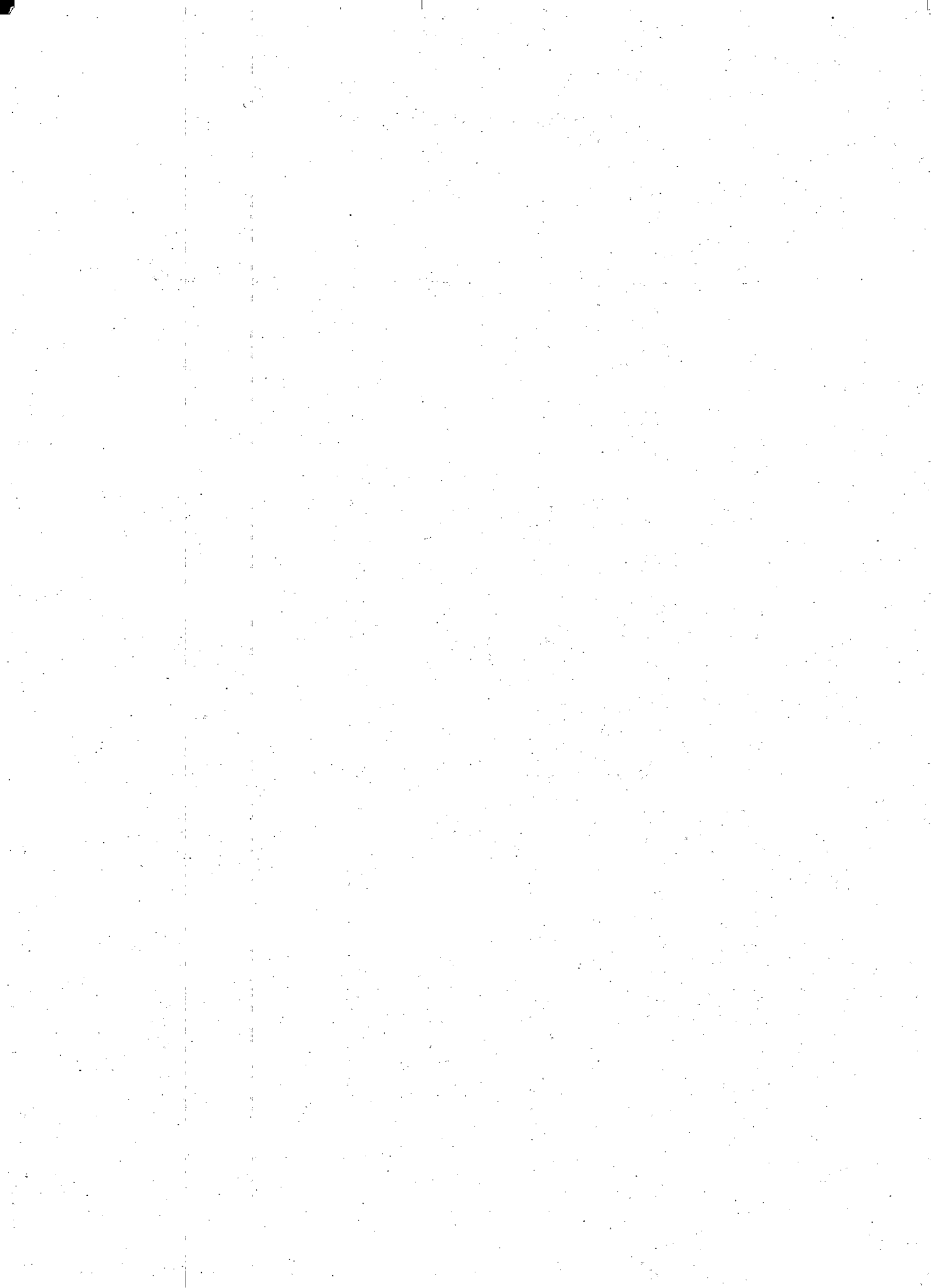
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## PREFACE

The Report for the year ended March 2005 has been prepared for submission to the President under Article 151(1) of the Constitution of India.

Audit of Non Tax Receipts of the Union Government is conducted under section 16 of the Comptroller and Auditor General of India (Duties, Powers and Conditions of Service) Act, 1971. The Report presents the results of systems studies of non tax receipts in selected areas.

This Report is arranged in the following order:-

Chapter I is an introduction to the Non Tax Receipts of the Union Government.

Chapter II deals with revenue management in Department of Telecommunications.

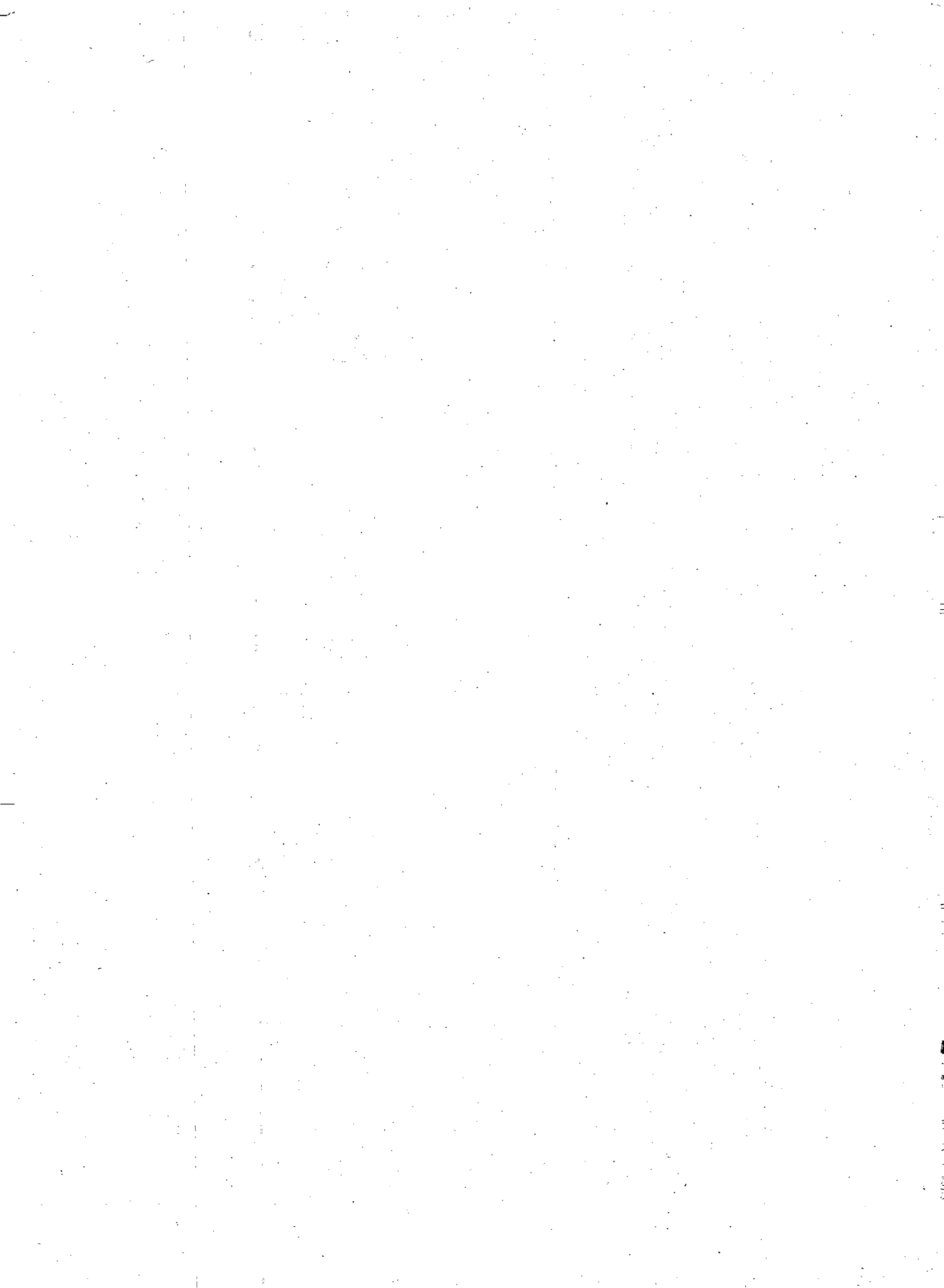
Chapter III is an appraisal of the system of levy and collection of fees by the Registrar of Companies.

Chapter IV is a study of some aspects of receipts at Badarpur Thermal Power Station.

Chapter V discusses issues relating to receipts of Department of Space.

Chapter VI is an examination of major receipts from Department of Atomic Energy.

The observations included in this Report have been selected from the findings of test audit conducted during 2005-06.



## Overview

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This report consists of six chapters. Chapter one analyses the trends and fluctuations of the non tax receipts of the Union Government. Chapters two to six contain the results of systems studies carried out in Department of Telecommunication, Registrar of Companies, Badarpur Thermal Power Station, Department of Space and Department of Atomic Energy. The significant findings are highlighted below.

### Department of Telecommunication

- Contract conditions on Performance Bank Guarantee in licence agreements were not sufficient to act as a deterrent for failure to complete roll-out obligations.

(Para 2.6.1 & 2.6.2)

- Weak verification procedures on Adjusted Gross Revenue led to understatement of revenues by service providers and also short collection of licence fees and spectrum charges.

(Para 2.6.5, 2.6.6, 2.6.7, 2.6.8, & 2.6.9)

- Failure of DoT to communicate the new financial conditions of the revenue sharing regime to MTNL in time resulted in non-levy of interest of Rs.43.51 crore on MTNL for delays in payment of licence fees.

(Para 2.6.10)

- DoT did not insist upon the clearance of outstanding amounts while allocating additional spectrum to six operators although they had dues of Rs.73.94 crore outstanding against them

(Para 2.6.15)

- Licences of users other than telecom service providers were not renewed in time, resulting in non-levy of Rs.3.59 crore.

(Para 2.6.20)

- DoT did not collect financial bank guarantees worth Rs.4.99 crore from commercial VSAT operators.

(Para 2.6.21)

- Wireless monitoring activities of DoT were affected due to the delay in completion of a World Bank assisted project for modernization.

(Para 2.6.26)



## Registrar of Companies

- The records and database of companies maintained by the Registrars of Companies were either incorrect or incomplete and not updated. Discrepancies and variations were noticed in the data maintained on the basis of actual receipt of revenue/documents and main database of the system. The database lacked inbuilt validation checks and system to safeguard and prevent unauthorized alterations.

**(Para 3.8.3)**

- In 5 ROCs fine of Rs.1381.74 crore was not levied against 2353 companies under Section 168 of the Act on account of delay and not holding annual general meeting during the years 2000-01 to 2004-05.

**(Para 3.10.1)**

- In 15 ROCs annual returns were not filed as required under Sections 159 and 160 of the Act in 782007 cases during 2000-01 to 2004-05. This resulted in non collection of fee of Rs. 232.63 crore. Prosecution was launched against one per cent of the defaulting companies only.

**(Para 3.10.2)**

- Balance sheets and profit & loss accounts were not filed in 919577 cases during 2000-01 to 2004-05 in 15 ROCs under Section 220(1) of the Act which resulted in non-collection of fee of Rs. 237.06 crore.

**(Para 3.10.5)**

- Suspected fraud of Rs. 98.98 lakh was noticed in ROC, Kolkata where 52 cash receipts for levy of registration fee of Rs. 52.36 lakh and additional fee of Rs. 46.62 lakh towards increase in authorised capital were cancelled. In all these cases the increased authorised capital was not restored back to its earlier limit after cancellation of cash receipts.

**(Para 3.10.10)**

- Investor Education & Protection Fund had not been created, as envisaged under Section 205(C) of the Companies Act. The amount of dividends, matured deposits etc. lying unclaimed for 7 years were credited to the Consolidated Fund of India and the expenditure incurred on investor awareness was met through normal budgetary procedure. The ROCs were not in a position to assess or determine delays made by the companies in the transfer of these funds nor was any system in place for identifying such companies which did not transfer the unclaimed dividends etc. to government account after the expiry of 7 years. ROCs thus had no control over the implementation of the provisions of Section 205(C) of the Act.

**(Para 3.11)**



- Internal controls were inadequate. During the years 2000-05 the inspections conducted by the ROCs under Section 209(A) was negligible. In 5 States against 392066 annual accounts received during 2002-03 to 2004-05, technical scrutiny was conducted in 4369 cases only.

**(Para 3.12.1 & 3.12.2)**

### **Badarpur Thermal Power Station**

- During 2000-01 to 2004-05, there were no surplus receipts available with government after adjusting the expenditure requirements of BTPS.

**(Para 4.5)**

- The average cost of coal for generation of one unit of electricity in BTPS was higher than the other NTPC power stations by 16 per cent to 403 per cent.

**(Para 4.6.1)**

- The transit and handling loss of coal in BTPS were 531 per cent more than the CERC norm and 236 per cent more as per tariff norm. BTPS suffered loss of Rs 146.42 crore during 2000-01 to 2004-05.

**(Para 4.6.2)**

- MW Man ratio in BTPS was 1:2.52 as against 1:0.91 in NTPC. The generation per employee per year in BTPS was 3.07 million units against 6.73 million units in NTPC power stations.

**(Para 4.7.1 & 4.7.2)**

### **Department of Space**

- There was lack of uniformity in application of rates charged for lease of television transponders and rates ranged from Rs.1.80 crore to Rs.5.76 crore.

**(Para 5.6.2)**

- Non enforcement of contractual obligations on VSAT operators resulted in non recovery of Rs. 2.69 crore.

**(Para 5.6.3)**

- Out of revenues from Indian remote sensing satellites (IRS) of Rs.23.96 crore received during the period under review, only Rs. 9.03 crore was credited to departmental revenue head while Rs.3.52 crore was spent for departmental expenditure and Rs.11.41 crore retained in the deposit head at the centres.

**(Para 5.8.1)**



- There was a loss of Rs.76 lakh due to non-provisioning of administrative overheads in projects.

**(Para 5.8.4)**

### **Department of Atomic Energy**

- There were substantial variations between budget estimates and actual receipts of 232 per cent in dividend, 63 per cent in power and 56 per cent in interest receipts during 2000-01 to 2004-05.

**(Para 6.4.1)**

- Receipts of DAE decreased to Rs 2876.05 crore in 2004-05 from Rs.3558.74 crore in 2000-01. Decrease of non tax receipt was due to revised pricing policy of heavy water implemented in January 2004.

**(Para 6.4.1 and Para 6.5)**

- The decision of DAE to supply heavy water to four nuclear power stations at subsidised rates led to reduction in non tax receipts by Rs 400.02 crore during 2000-01 to 2004-05.

**(Para 6.6.4)**

- While a major reason for reducing pool price was stated to be the need to make the cost of nuclear power more competitive, audit observed that the cost of heavy water alone was not a significant factor in the increase in nuclear tariff.

**(Para 6.6.3)**

- There was under realisation of dividend from three PSUs viz NPCIL, IREL and ECL.

**(Para 6.6.1)**

# **CHAPTER I**

## **AN INTRODUCTION TO THE NON TAX RECEIPTS OF THE UNION GOVERNMENT**





## Chapter – I : Non Tax Receipts Of The Union Government

### 1. Introduction

1.1 The non-tax receipts of the government are divided into three categories:

- *Currency, Coinage and Mint:* This category covers the receipts of Currency Note Press; Security Paper Mill; Bank Note Press and of the Mints as well as the profit from circulation of small coins.
- *Interest receipts, Dividends and Profits:* This category comprises, apart from interest receipts on loans by the Government to other parties, dividends and profits from public sector undertakings run by or as government departments including other income generating departments, e.g. contributions from railways and posts and telecommunications, and surplus profits of the Reserve Bank of India transferred to the Government. The income and profit accrued from the creation of currency by the government are also included in this group of revenue.
- *Other non-tax receipts:* This category covers revenue from various government activities and services such as from administrative services, public service commission, police, jails, agriculture and allied services, industry and minerals, water and power development services, transport and communications, supplies and disposal, public works, education, housing, information and publicity, broadcasting, grants-in-aid and contributions etc.

1.2 This Chapter provides a trend analysis of the growth and composition of non-tax receipts of the Union Government during the five years from 2000-01 to 2004-05 based on the information contained in the Finance Accounts.

### Growth of non-tax receipts vis-a-vis total revenue receipts

1.3 The trends in the growth of total revenue receipts as well as receipts of non-tax revenue of the Union and their relative to gross domestic product (GDP) during each year from 2000-01 to 2004-05 are exhibited in the Table 1.

(Rs. in crore)

Year	Receipts in Revenue Account		Non-Tax Receipts (NTR)			Share in GDP in percent	
	Total Rs	Rate of growth in percent	Total Rs	Rate of growth in percent	Share in Total Receipts in percent	Total Revenue receipts	NTRs
2000-01	256036	-9.06	118307	-5.52	46.21	12.25	5.67
2001-02	265279	3.61	129309	9.30	48.74	11.68	5.63
2002-03	299826	13.02	137814	6.58	45.96	12.18	5.62
2003-04	339100	13.09	148359	7.65	43.75	12.28	5.38
2004-05	376871	11.14	147946	-0.28	39.26	12.13	4.76

1.4 The overall non-tax receipts<sup>1</sup> of the government increased from Rs. 118307 crore in 2000-01 to Rs. 147946 crore in 2004-05 registering an increase of Rs 29639 crore while the total receipts in revenue account increased by Rs. 120835 crore during the period, resulting in declining share of the non-tax revenue receipts to the total revenue receipts of the Union of India, especially after 2001-02. The share of non-tax receipts in the overall receipts has witnessed a decrease from 46.21 *per cent* in 2000-01 to 39.26 *per cent* in 2004-05, which was partly due to the corporatisation of telecom services and setting up of Prasar Bharati. The share of the total revenue receipts and non-tax receipts in GDP at current prices has remained on an average around 12 and 5 per cent respectively over the last five years.

1.5 A major portion of the non-tax receipts accrue to commercial departments viz Railways, Posts and Canteen Stores Department. The trend of non-tax receipts from commercial departments and from other sources are exhibited in Table 2.

(Rs. in crore)

Year	Receipt from commercial departments					Receipts from Civil Departments	Total Non-tax revenue
	Railways	Posts	CSD	Others*	Total <sup>§</sup>		
2000-01	36011	3298	3296	4670	47275	71032	118307
2001-02	39358	3697	3688	4881	51624	77685	129309
2002-03	42741	4010	4150	4658	55559	82255	137814
2003-04	44911	4257	4432	4932	58532	89827	148359
2004-05	49047	4432	4674	3768	61921	86025	147946

\* Includes receipts from Currency Note Press, Bank Note Press, Security Paper Mill, India Nasik Press, Security Printing Press, DMS Scheme, Opium and Alkaloid Factories, Fuel Fabrication Facility, Badarpur Thermal Power Station, Fuel inventory, Heavy Water Pool Management and Lighthouses.

§ As per Finance Accounts.

1.6 The non-tax revenue accruing to the Government from commercial departments varied from 39 to 42 *per cent* of its total non-tax receipts during the period 2000-05. Major portion of the receipts from commercial departments originated from Railways (75 *per cent*), Posts (7 *per cent*) and Canteen Stores Department (7 *per cent*). These receipts were however utilised by these departments themselves and were not available to the Government for other purposes.

#### Budget estimates vs actuals

1.7 A comparison of budget estimates and actual receipts of non-tax revenue during the years 2000-01 to 2004-05 (Table 3) revealed that the actual receipts of non-tax revenue exceeded the budget estimates in three out of the five years. In 2003-04 and 2004-05, increased collections *vis-à-vis* budget estimates were attributable to revenues under 'Economic Services' and 'income from dividends'.

<sup>1</sup> Not-tax receipts exclude grants-in-aid. The receipts are in gross terms as the expenditure on maintenance or otherwise are reflected as revenue expenditure in Finance Accounts.



(Rs in crore)

Year	Commercial Departments			Civil Departments			Total Non-Revenue Receipts		
	BE	AR	Variation	BE	AR	Variation	BE	AR	Variation
2000-01	47363	47275	(-) 88	82662	71032	(-) 11630	130025	118307	(-) 11718
2001-02	53421	51624	(-) 1797	73707	77685	(+) 3978	127128	129309	(+) 2181
2002-03	56740	55559	(-) 1181	81993	82255	(+) 262	138733	137814	(-) 919
2003-04	59087	58532	(-) 555	75855	89827	(+) 13972	134942	148359	(+) 13417
2004-05	61507	61921	(+) 414	79732	86025	(+) 6293	141239	147946	(+) 6707

BE - Budget Estimates, AR - Actual Receipts and Variation is the difference between AR and BE

1.8 A comparative analysis of actual non-tax receipts and budget estimates for commercial departments and civil departments reveals that while actual receipts of commercial departments fell short of budget estimates except during the year 2004-05, the actual receipts of the civil departments exceeded their budget estimates during the five year period 2000-05 except in 2000-01. Amongst the commercial departments, the variations during the period 2001-05 could be explained largely by trends in the gap between actual receipts and budgetary estimates of Railways.

As regards the civil departments, the non-realisation of Rs 2005 crore in the form of actual interest receipts as compared to the budgetary estimates largely explains the variation during 2000-01. For the remaining four years 2001-05, the actual receipts were more than the budget estimates mainly on account of receipts from Telecommunication services within the major group of 'economic services'.

For instance, the realisation of Rs 8018 crore against the BE of Rs 3752 crore during 2001-02 on account of increased receipts in the form of telecom fee and increased receipts from Wireless Planning and Coordination Organization were mainly responsible for high overall receipts by civil departments during the year. Similarly, during 2003-04 and 2004-05 the receipts exceeded the budget estimates mainly on account of larger receipts in the form of telecom licence fee recorded under the minor head 'other communication services' and also under the major head 'interest receipts' in the form of other interest receipts of central government and dividends and profits.

### **Composition of non-tax receipts**

1.9 Non-tax receipts are composed of the following six major groups:-

- Fiscal services
- Interest receipts
- Dividends & Profits
- General Services
- Social Services, and
- Economic services

1.10 The growth trend under various major components of non-tax receipts during the years 2000-01 to 2004-05 is exhibited in Table 4.

(Rs in crore)

Period	Total NTR	Fiscal Services	Interest Receipts	Dividends and Profits	General Services	Social Services	Economic Services
2000-01	118307	918	36721	13575	7770	361	58962
2001-02	129309	1082	42250	17290	9076	297	59313
2002-03	137814	1157	44705	21230	9634	424	60664
2003-04	148359	1448	46645	21160	10501	449	68156
2004-05	147946	1058	36411	22939	11499	451	75588

1.11 Non-tax revenue from dividends and profits (inclusive of surplus transferred from the Reserve Bank of India) was the component which grew fastest at an average rate of 14 per cent during 2001-05. However, during the years 2002-03 and 2003-04, the revenue from this source was virtually static and registered a moderate increase of 8 per cent during 2004-05 over the previous year. This was largely due to the decline in the surplus transferred from the Reserve Bank of India from Rs. 10,320 crore in 2002-03 to Rs. 8,834 crore in 2003-04 and further to Rs. 5,400 crore in 2004-05. The receipts under 'Dividends' from Public Sector Undertakings (PSUs) increased by 7 per cent and 52 per cent respectively in 2003-04 and 2004-05, while the collection under 'Economic Services' increased by 12 per cent and 11 per cent during the period. Although the average rate of interest on loans and advances was maintained above the average cost of borrowing, there was a decline in the interest receipts during 2004-05 mainly due to the implementation of debt swap scheme enabling prepayment of high cost Central Government loans. The receipts from the fiscal services which grew at an average rate of about 14 per cent during the first four years registered a substantial decline of 27 per cent in 2004-05 suppressing the annual average growth in receipts from the fiscal services to 4 per cent during the five year period 2000-05. An increase of about 25 per cent recorded under fiscal services in 2003-04 over the previous year was in fact on account of a sharp increase of receipts of Bank Note Press from Rs 301 crore in 2002-03 to Rs 606 crore in 2003-04 which in the subsequent year came down to the level of 2002-03.

1.12 The commercial departments are mainly engaged in the provision of services within the major groups of fiscal, general and economic services. The contribution of commercial departments vis-à-vis the total non-tax receipts under these sectors are depicted in Table 5.



(Rs in crore)

Year	Fiscal Services		General Services		Economic Services	
	Total Receipts	Share of Commercial Departments	Total Receipts	Share of Commercial Departments	Total Receipts	Share of Commercial Departments
2000-01	918	671 (73.10)	7770	3296 (42.42)	58962	43308 (73.45)
2001-02	1082	724 (66.91)	9076	3688 (40.63)	59313	47212 (79.60)
2002-03	1157	882 (76.23)	9634	4150 (43.08)	60664	50527 (83.29)
2003-04	1448	1113 (76.86)	10501	4432 (42.20)	68156	52987 (77.74)
2004-05	1058	767 (72.49)	11499	4674 (40.65)	75588	56479 (74.72)

Figures in the brackets indicate the percentage share of commercial undertakings in total non-tax receipts of the respective Major Head

1.13 Out of the total non-tax receipts of Rs 274911 crore from commercial departments during 2000-05 (which amounts to 40 per cent of the total non tax receipts of the Union during the period), about 91 per cent was contributed by the commercial departments under 'Economic Services'. The average share of commercial departments was 73 and 42 per cent respectively under the sector 'fiscal services' and 'general services' in their respective total non tax receipts during the period 2000-05. Since the expenses of these commercial departments were being met out of the receipts being generated by them and depicted as non tax receipts, these were not available to the Union Government for utilisation for other purposes, i.e. about 40 percent of non tax receipts were actually not available for public expenses.

### Relative Contribution

1.14 The relative contribution of major components of non-tax receipts during the year 2000-01 to 2004-05 is exhibited in Table 6.

(in per cent)

Table 6: Relative contribution of major components of non-tax receipts							
Year	Total NTR	Fiscal Services	Interest receipts	Dividend	General Services	Social Services	Economic Services
2000-01	100.00	0.78	31.04	11.47	6.57	0.30	49.84
2001-02	100.00	0.84	32.67	13.37	7.02	0.23	45.87
2002-03	100.00	0.84	32.44	15.40	6.99	0.31	44.02
2003-04	100.00	0.98	31.44	14.26	7.08	0.30	45.94
2004-05	100.00	0.72	24.61	15.51	7.77	0.30	51.09

1.15 Relative shares of the various components of non-tax revenue witnessed insignificant changes during the years 2000-05. Notwithstanding inter year variations and a moderate growth in the last two years, the share of dividend and profits increased from 11 per cent during 2000-01 to around 16 per cent during 2004-05. In the year 2004-05 the share of interest receipts in the overall non-tax receipts was 24.61 per cent and was below the trend rate of 32 per cent observed during 2001-04. Non-tax receipts from economic services contributed almost half of the total non-tax receipts. Overall contribution of the general services in non-tax revenue remained around 7 per cent during 2000-05 while the share of social and fiscal services was insignificant, i.e. less than one percent.

#### Component-wise analysis of Non-tax Receipts

1.16 A detailed analysis of various components of Non-tax Receipts during the period 2000-05 is discussed under this sub-section.

#### Receipts from Fiscal Services

1.17 The trends and major components of receipts of the Union under the head 'Fiscal Services' during 2000-05 are exhibited in Table 7.

(Rs in crore)

Minor Heads	2000-01	2001-02	2002-03	2003-04	2004-05
Currency Note Press	271.11	252.03	294.81	228.73	249.40
Bank Note Press	222.12	245.00	300.58	605.90	275.30
Security Paper Mill	57.38	78.14	98.00	92.30	68.76
Mint Receipts	19.37	11.66	31.15	13.82	61.63
Profits from circulation of Small Coins	174.70	297.22	179.70	253.33	107.11
Smugglers and forfeiture of property	2.03	0.46	0.21	0.10	0.52
India Security Press, Nasik	96.62	118.11	151.01	149.54	147.19
Security Printing Press, Hyderabad	24.21	30.90	37.69	36.77	26.79
Other Receipts	50.86	48.79	63.28	67.77	120.96
<b>Total - Fiscal Services</b>	<b>918.40</b>	<b>1082.31</b>	<b>1156.43</b>	<b>1448.26</b>	<b>1057.66</b>

1.18 The receipts under fiscal services are yielded mainly on account of production and supply of currency notes, coins, postage stamps, judicial and non-judicial stamps etc which are the sole responsibility of the Union Government.

Under the Coinage Act 1906, Government of India is charged with the responsibility of production and supply of coins to Reserve Bank of India. The RBI places an annual indent for this purpose to Government of India. The RBI under the Reserve Bank of India Act has the authority to issue currency notes in the country. Based on the annual assessment of the requirement of the currency

notes of various denominations as well as of coins by RBI, Government of India draws up the production programme for the India Government Mints and the printing schedules of the Security Printing Presses. The receipts accrued to Union solely as custodian of circulation of currency notes, coins and security papers accounted for around 95 per cent of total receipts under 'Fiscal Services' during 2000-05 except for the year 2004-05 when it was reduced to 89 per cent largely due to decline in receipts by Bank Note Press and profit earned on circulation of small coins, while collections under minor head 'other receipts' substantially increased in 2004-05 over the previous year. Notwithstanding the fact that mint receipts and receipts from India Nasik Press were perpetually lower than the revenue expenditure incurred by the Government, the non-tax revenue receipts under 'Fiscal Services' net of revenue expenditure turn out to be positive in each of the years 2000-05.

### Non-Tax Revenue Receipts arising from Financial Intermediation

1.19 Apart from receipts on account of interest on loans and advances by the Central Government, this section comprises dividends and profits from central public sector enterprises including the surplus profit transferred to Union Government by the RBI and other financial institutions. The trends in interest receipts of the Union for the last five years are given in Table 8.

(Rs in crore)

Sub Major Heads	2000-01	2001-02	2002-03	2003-04	2004-05
Interest from State Govts	26198.76	27579.15	28886.08	28051.61	22610.57
Interest from UT Govts	771.25	673.6	713.35	589.67	377.34
Other Interest Receipts of the Central Government	9750.84	13997.71	15105.76	18003.41	13423.62
Other Interest Receipts of the Central Government (a+b+c+d)	9750.84	13997.71	15105.76	18003.41	13423.62
(a) Interest from Railways	281.78	1311.32	2688.98	3361.22	3083.62
(b) Interest from departmental commercial undertakings	1283.06	899.87	991.83	811.34	314.00
(c) Interest from public sector and other undertakings	3423.74	4350.05	3552.58	2226.27	2459.28
(d) Others	4762.26	7436.47	7872.37	11604.58	7566.72
<b>Total – Interest Receipts</b>	<b>36720.85</b>	<b>42250.46</b>	<b>44705.19</b>	<b>46644.69</b>	<b>36411.53</b>

<sup>s</sup> As per Finance Accounts

1.20 Interest receipts from the State and UT Governments include mainly interest on loans for State/UT Plan Schemes, Central Plan Schemes and Centrally Sponsored Plan Schemes, Non-plan schemes besides the interest receipts on Ways and Means Advances to State Governments. The major share under the head 'Other Interest Receipts of Central Government' is contributed in the form of interest realized from departmental commercial undertakings, public sector

enterprises, railways, posts and telegraphs, market stabilisation scheme, investment of cash balances and interest receipts on other accounts recorded under 'other receipts'. The trends in Table 8 reveal that the share of interest receipts from State/UT governments has declined from Rs. 26199 crore in 2000-01 to Rs.22611 crore in 2004-05. For the year 2004-05 total interest receipts of the Union have gone down substantially by more than Rs 10200 crore. The decline in the interest receipts from the State/UT governments during 2004-05 was mainly due to the debt swap scheme enabling pre-payment of high cost Central Government loans while the dip in the 'Other Interest receipts' was largely on account of a sharp decline in receipts from residual accounts recorded under minor head 'other receipts' from Rs.9937 crore in 2003-04 to Rs.5863 crore in 2004-05.

Another important trend in interest receipts emerged during the period 2000-05 is that contribution in the form of interest receipts from commercial departments as well as from central public enterprises have declined from Rs.4707 crore in 2000-01 to Rs.2773 crore in 2004-05 and they have almost equally shared the decline of around Rs.1900 crore during this period. The interest receipts from railways has, however increased from a meagre sum of Rs.282 crore in 2000-01 to Rs.3084 crore in 2004-05 and the share of interest/premium arising out of market stabilisation scheme and return on investment of cash balances have also increased significantly during the last two years.

1.21 Dividends and profits to Union Government is another component of gains arising as a result of financial intermediation or investments in commercial departments, public sector enterprises, nationalised banks and other financial institutions. The major head 'dividends and profits' in Finance Accounts also include surplus transferred by the Reserve Bank of India under section 47 of RBI Act as a gain from seignorage, which is revenue accruing to the Government from the newly issued reserve money. The growth and shares of various components of dividends and profits of the Union during the period 2000-05 is given in Table 9.

(Rs in crore)

<b>Minor Heads</b>	<b>2000-01</b>	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>
Dividends from PSUs	3322.72	7088.03	9664.78	10385.93	15797.89
Contribution from Railways	-	-	-	-	90.00
Contribution in lieu of taxes of Passengers Fare	23.12	23.12	23.12	23.12	23.12
Share of Surplus Profits from RBI	9350.00	9350.00	10320.00	8834.00	5400.00
Share of Profits from LIC	161.39	93.44	433.25	488.09	476.5
Profits from Nationalized Banks	464.88	504.88	669.75	1310.2	1071.67
Share of Surplus Profits from IDBI	243.76	171.78	57.25	57.26	57.26
Dividends from Other Investments	6.08	58.27	62.14	61.69	22.88
Other receipts	2.77*	0.06	0.07	0.07	0.00
<b>Total</b>	<b>13574.72</b>	<b>17289.58</b>	<b>21230.36</b>	<b>21160.36</b>	<b>22939.32</b>

\* Includes Rs 2.73 crore for contributions towards safety works.

1.22 The trends in growth and composition of dividends and profits of Union Government reveal that the share of profits and dividends from production of economic goods and services from the public undertakings has increased from 24 per cent in 2000-01 to 69 per cent in 2004-05 while the share of financial institutions including RBI has dipped from 75 per cent to 30 per cent during this period. The statutory surplus transferred by RBI to the Government contributed 69 per cent of the total dividends and profits of the Union in 2000-01 which consistently declined thereafter and reached 23 per cent in 2004-05 indicating that government reliance on seignorage gains has reduced significantly over the period 2000-05.

A further analysis of the share of profit making statutory corporations and government companies (excluding RBI and other financial institutions) in total dividend and profits of the Union Government indicates that the major contributions were made by the corporations and companies in energy sector (e.g. oil, thermal & nuclear power). For instance, the contribution of both upstream and downstream oil companies has increased from Rs.1483 crore in 2000-01 to Rs.6191 crore in 2004-05 after reaching the peak of Rs.6742 crore in 2003-04. Despite the substantial increase, share of oil companies in total dividend and profits of the Union has declined from 45 per cent in 2000-01 to 39 per cent in 2004-05 indicating improvement in the share of other sectors.

### Receipts from Major General Services

1.23 The receipts from the general services comprise of four major groups, namely, Maintenance of Law & Order, Administrative Services, Miscellaneous General Services and Defence Services. An analysis of the receipts from various components under major general services is indicated in Table 10.

(Rs in crore)

	2000-01	2001-02	2002-03	2003-04	2004-05
Maintenance of Law & Order	329	906	957	1340	1402
Administrative Services	1081	1954	1930	2180	2476
Miscellaneous General Services	4222	4482	4771	4895	5127
Defence Services	1638	1734	1976	2087	2495
<b>Total General Services</b>	<b>7770</b>	<b>9076</b>	<b>9634</b>	<b>10502</b>	<b>11500</b>

1.24 A robust growth of more than 10 per cent was observed in receipts for three out of four broad groups of general services. The receipts from Miscellaneous General Services on average grew at the rate of four per cent, but the Canteen Stores Department which largely comprised this group recorded an average growth of eight per cent during this period. Receipts from police and jails, the two components for maintenance of internal law and order also recorded a healthy growth of 14 per cent during 2004-05. Receipts of the Union government under this category were also buoyant with the increase in the receipts from supply of police forces to other parties largely contributing to this buoyancy.

The receipts from 'Administrative Services' have increased more than twice during the period 2000-05 mainly on account of twofold and sevenfold increase in contributions respectively in the form of 'passport and visa fees' and 'contributions and recoveries – pensions and retirement benefits' within this group. The collections in the form of passport and visa fees have increased from Rs.568 crore in 2000-01 to Rs.1198 crore in 2004-05 and contributed on an average 45 per cent of total receipts of the group during the five year period. The share of receipts from 'contributions and recoveries – pensions and retirement benefits' on the other hand increased from 12 per cent in 2000-01 to 37 per cent in 2004-05 of the total receipts under the group 'Administrative Services'.

The receipts of the Government within the group 'Defence Services' have increased by 52 per cent during 2000-05 mainly due to buoyancy in receipts from works, services and supplies and sale of stores of Army and sale of outputs and stores of ordnance factories.

1.25 Although strict comparison of the receipts of the government collected in the form of various kind of fees, fines, penalties and sale of government stationery etc with the expenditure incurred by the government in discharging its primary and sovereign functions may be difficult, it is noticed that net expenditure of the government in making provision of these general services has increased from Rs. 47390 crore in 2000-01 to Rs. 55726 crore in 2000-05 as indicated in Table 11.

(Rs in crore)

	2000-01	2001-02	2002-03	2003-04	2004-05
Maintenance of Law & Order	6050	6462	7338	7633	9408
Administrative Services <sup>2</sup>	4222	4482	1903	1778	1798
Miscellaneous General Services <sup>3</sup>	-120	-801	-654	-581	658
Defence	37238	38059	40709	43203	43862
<b>Total - General services</b>	<b>47390</b>	<b>48202</b>	<b>49296</b>	<b>52033</b>	<b>55726</b>

### Receipts from Social Services

1.26 The aggregate receipts from social services like education, health, water supply, sanitation and social security increased from Rs.361 crore in 2000-01 to Rs.451 crore in 2004-05. Overall contribution of the Social Services in total non-tax revenue of the Union remained insignificant (less than one per cent) during the period 2000-05. The relative share of this component in non-tax revenue was 0.30 per cent in the last two years (2003-04 and 2004-05) and had declined progressively from 0.99 per cent in 8<sup>th</sup> Five Year Plan (1992-97) to 0.49 per cent in 9<sup>th</sup> Five Year Plan (1997-2002). The total receipts of the government from various Social Services during the years 2000-05 are given in Table 12.

<sup>2</sup> Administrative services include receipts from Public Service Commission, Supplies & Disposal, Public Works, Elections, and Other fees for emigration, visa, passport, copyright and others.

<sup>3</sup> Miscellaneous General Services excludes the expenditure on Pension Payments.



(Rs in crore)

	2000-01	2001-02	2002-03	2003-04	2004-05
Education, Art & Culture	45	55	42	53	66
Medical & Public Health	73	73	119	103	119
Family Welfare	19	17	16	18	34
Water Supply & Sanitation	1	1	2	2	2
Housing	53	56	76	78	82
Urban Development	0	0	0	1	0
Information and Publicity	98	88	163	183	137
Broadcasting	68	1	0	4	3
Labour Welfare	3	5	4	5	6
Other Social Services	1	1	2	2	1
<b>Total Social Services</b>	<b>361</b>	<b>297</b>	<b>424</b>	<b>449</b>	<b>451</b>

1.27 The receipts under the major head 'Medical & Public Health' and 'Information & Publicity' contributed the bulk of the share of total receipts under 'Social Services' which has increased from 47.37 per cent in 2000-01 to 56.76 per cent in 2004-05. 'Medical & Public Health' have recorded an impressive growth of 63 per cent during 2002-03 over the previous year mainly on account of more than 50 per cent increase under minor head 'Urban Health Services'. The receipts from 'Information & Publicity' had increased at an average rate of 21.7 per cent during 2000-04 but declined by 25 per cent in 2004-05 resulting in an average rate of increment of 8 per cent during five year period 2000-05. 'Family Welfare' recorded an impressive increase of 88.8 per cent in 2004-05 over the previous year essentially on account of an increase of Rs 16.6 crore on account of 'Sale of Contraceptives'. The receipts under 'Art and Culture' increased at an annual average rate of 9 per cent during 2000-05 and contributed around 87 per cent of total receipts under 'Education, Sports and Art and Culture'.

Similarly, the minor head 'General Pool Accommodation' continued to share the bulk of the receipts ranging from 67 to 71 per cent under 'Housing' during 2000-05 which itself increased at an average rate of 10.4 per cent during this period. The receipts from 'Labour and Employment' showed a two fold increase during 2000-05, but in absolute terms increase was only Rs.2.93 crore which constituted only 3 per cent of the total increase under 'social services' during the period.

Receipts under 'Broadcasting' witnessed a negative growth mainly on account of transfer of these services to the newly constituted Prasar Bharti which also explains the decline of 17.7 per cent in total receipts under social services during 2001-02 over the previous year. The receipts under other components of social services either remained static and/or exhibited less than average growth rate during the period 2000-05.



### Non-tax Receipts vis-à-vis Revenue Expenditure on Social Services

1.28 The public expenditure incurred in creation and strengthening of social infrastructure especially in expansion of educational and health care facilities has increased manifold during recent years with only nominal user charges made applicable. As a result, the ratio of revenue receipts from social services to revenue expenditure incurred on providing these services declined from 2.05 *per cent* in 2000-01 to 1.49 *per cent* in 2004-05. Although an improvement in this ratio is observed in case of 'Medical & Public Health' (because of increase in contribution for CGHS) and also in Information and Publicity services (because of substantial increase under the head 'other receipts') (Table 13) the receipts are still substantially below the expenditure incurred on running these services.

(in per cent)

	2000-01	2001-02	2002-03	2003-04	2004-05
Education, Art & Culture	0.64	0.74	0.43	0.49	0.48
Medical & Public Health	3.79	3.61	5.14	4.09	3.97
Family Welfare	2.89	2.17	1.96	1.41	2.45
Water Supply & Sanitation	0.16	0.15	0.16	0.13	0.12
Housing	2.87	2.46	3.41	3.17	2.32
Urban Development	0.20	0.03	0.23	0.42	0.23
Information & Publicity	47.70	42.39	82.11	88.06	63.56
Broadcasting	7.08	0.08	0.02	0.38	0.27
Labour Welfare	0.31	0.56	0.55	0.66	0.56
Other Social Services	0.03	0.03	0.09	0.14	0.02
<b>Total Social services</b>	<b>2.05</b>	<b>1.52</b>	<b>2.03</b>	<b>2.05</b>	<b>1.49</b>

### Economic Services

1.29 Table 14 exhibits the trends in growth and structure of receipts from 'Economic Services' during the period 2000-05.

(Rs in crore)

	2000-01	2001-02	2002-03	2003-04	2004-05
Agriculture, Food & Cooperation	117	107	73	80	86
Animal Husbandry & Dairy	128	123	117	146	188
Fisheries	4	6	4	4	5
Forest	21	18	11	10	8
Irrigation	10	10	21	9	16
Power	3064	3191	2928	3010	2540
Village and SSI	19	18	21	23	23
Industries	1101	1267	1144	2106	1519
Mines and Minerals	2168	2440	3039	3199	5319
Railways	36011	39358	42741	44911	49047

Ports	91	105	100	116	113
Road, Water & Other Transport	102	114	114	122	140
Civil Aviation	3	3	3	4	5
Roads and Bridges	112	99	97	93	100
Postal Services	3298	3697	4010	4257	4432
Other Communication Services including Telecommunications	11790	8018	5541	9222	7976
Tourism	2	3	3	4	4
Other Economic Services <sup>4</sup>	921	736	696	839	4068
Total - Economic services	58962	59313	60663	68156	75588

1.30 The overall receipts from the Economic Services increased from Rs. 58,962 crore in 2000-01 to Rs. 75,588 crore in 2004-05. However, the receipts originating from the Railways continued to share the bulk of the total receipts from 'Economic Services' during 2000-05 ranging from 61 per cent in 2000-01 to 65 per cent in 2004-05 after reaching the peak level of 70.5 per cent in 2002-03.

Communication Services including telecommunications contributed another 20 per cent of total receipts from 'Economic Services' in 2000-01 which subsequently declined to 10.5 per cent in 2004-05 mainly on account of corporatization of the telecom services in India. Although telecom receipts to Union Government have declined since 2000-01, receipts from other communication services including Wireless Planning and Coordination Organisation and telecom licence fee/universal access levy have increased from Rs.1614 crore in 2000-01 to Rs.7976 crore in 2004-05, which maintained the share of communication services in total receipts ranging from 9 to 13.5 per cent during 2001-05.

Receipts from Power declined during 2004-05 by 16 per cent from the level in 2003-04 largely on account of a substantial fall in receipts from Rajasthan Atomic Power Station and also on account of lease charges of fuel during 2000-05.

Amongst other sectors which contributed significantly to the total receipts of 'Economic Services' are 'Mines and Minerals' and 'Postal Services'. The receipts under 'Mines and Minerals' essentially include receipts in form of fees and royalties in the petroleum sector which increased at an average rate of around 12 per cent till 2003-04 but showed sharp northward movement of 66 per cent in 2004-05 over the previous year mainly on account of a receipt of Rs 2689.7 crore as 'profit from petroleum'.

The receipts from the postal services increased at an average rate of 7 per cent during 2000-05 mainly on account of an increase in combined receipts from

<sup>4</sup> Other Economic Services include non-tax receipts from Atomic Energy & other Scientific Research, Foreign Trade and Export Promotion, Patent Fees, Fees for Registration of Trade Marks, Regulation of Joint Stock Companies, Meteorology, etc.

Rs.2967 crore in 2000-01 to Rs.3982 crore in 2004-05 from 'sale of postal stamps' and 'other services and service fees' which together constituted about 90 per cent of the receipts from postal services.

The buoyancy in receipts under 'Animal Husbandry and Dairy' which have increased at an average rate of 9 per cent during 2000-05 was observed mainly on account of an increase in receipts under 'Delhi Milk Supply Scheme' from Rs.119 crore in 2000-01 to Rs. 178 crore in 2004-05 which constituted about 93 per cent of total receipts under 'Animal Husbandry and Dairying' during 2000-05.

The receipts under the head 'Other Economic Services' exhibited a mixed trend during 2000-04 except for a sudden jump during 2004-05 mainly on account of a record collection of Rs.3140 crore under the minor head 'other receipts'. Similarly, the receipts under the head 'Industries' exhibited a moderate average growth of around seven per cent during 2000-05 but witnessed a sudden jump in 2003-04 again on account of receipt of Rs. 960 crore under minor head 'other receipts'. The other components of 'Economic Services' witnessed either less than the average growth rate or a negative growth rate in receipts during 2000-05.

#### Non-tax Receipts vis-à-vis Revenue Expenditure on Economic Services

1.31 The trends in the ratio of revenue receipts to revenue expenditure are detailed in Table 15. The overall ratio of revenue receipts to revenue expenditure declined from 52.92 per cent in 2000-01 to 51.37 per cent in 2004-05. The recovery rate was 100 per cent of the revenue expenditure for Railways (as the surplus from the operations of railways was transferred to Railway Development Reserve Fund, revenue exactly matched the expenditure). The recovery also exceeded 100 per cent in Telecommunication sector because consequent upon the corporatization of MTNL and BSNL, the revenue from Telecommunication sector consisted of license fees and there was no requirement as earlier to incur any expenditure on operation and maintenance of services. In other sectors, the recovery varied from 0.25 per cent for the agriculture sector to 76 per cent for postal services during 2004-05.

(In per cent)

Name of Services	2000-01	2001-02	2002-03	2003-04	2004-05
Agriculture, Food & Cooperation	0.61	0.42	0.24	0.25	0.24
Animal Husbandry & Dairy	60.95	53.71	51.54	53.29	51.08
Fisheries	6.77	8.69	5.06	7.28	7.14
Forest	11.35	8.18	3.28	2.48	1.79
Irrigation	2.94	2.52	6.23	2.52	4.50
Power	98.04	86.57	81.49	89.79	80.32
Village and SSI	1.84	1.88	1.74	1.68	1.50
Industries	9.03	11.71	9.55	14.44	10.23
Mines and Minerals	397.79	24.97	53.44	45.08	159.49
Railways	100.00	100.00	99.99	100.00	100.00
Ports	21.01	23.07	29.49	28.20	26.65



Name of Services	2000-01	2001-02	2002-03	2003-04	2004-05
Road, Water & Other Transport	8.81	6.66	7.68	6.81	10.15
Civil Aviation	1.64	1.31	1.23	1.47	1.38
Roads and Bridges	1.52	1.43	1.44	1.38	1.52
Postal	68.02	72.36	74.61	75.58	76.22
Telecommunications	106.80	260.66	162.82	301.71	232.19
Tourism	1.52	2.20	1.74	2.22	1.91
Others	13.16	8.84	5.33	6.02	42.93
<b>Total - Economic services</b>	<b>52.92</b>	<b>47.61</b>	<b>43.06</b>	<b>45.27</b>	<b>51.37</b>

### Arrears of non-tax receipts

1.32 As of March 2005, arrears of non-tax revenues amounting to Rs. 45,890.74 crore, was pending as detailed in Table 16 below.

(Rs in crore)

Description / Amounts pending	0-1 years	1-2 years	2-3 years <sup>5</sup>	Above 5 years	Total
<b>Fiscal Services</b>	2220.61	2557.93	3041.99	26695.40	34515.93
<b>Interest receipts of which</b>					
From State Govts and Union Territory Govts	1.57	5.11	9.30	510.65	526.63
From Railways <sup>6</sup>	-	-	-	1990.00	1990.00
From Departmental Commercial Undertakings	14.33	119.70	0.14	7215.64	7349.81
From Public Sector & other Undertakings	2204.71	2433.12	3032.55	16979.11	24649.49
Dividends and Profits	6.93	6.93	6.93	19.36	40.15
<b>General Services</b>	945.67	-	621.09	745.04	2311.80
Police receipts	945.67	-	621.09	745.04	2311.80
<b>Economic Services</b>	259.94	15.64	39.77	1106.53	1421.88
Petroleum Cess/Royalty	-	-	-	-	-
Communications (Licence Fee) Receipts	259.94	15.64	39.77	1106.53	1421.88
Other Receipts	1880.96	2917.10	1024.37	1778.55	7600.98
<b>Total</b>	<b>5314.11</b>	<b>5497.60</b>	<b>4734.15</b>	<b>30344.88</b>	<b>45890.74</b>

*Notes: These figures, compiled from the reports of respective ministries/departments, may be impacted, inter-alia, by the outcome of any litigation/disputes and improvements in data capture. Figures are rounded off*

<sup>5</sup> In the absence of complete data, certain amounts pending for 3-4 years are reported as part of the amount pending for 2-3 years or above 5 years.

<sup>6</sup> Arrears are part of dues on account of interest receipts from Railways deferred during 2000-01 and 2001-02.

1.33 It is observed that the outstanding arrears of non-tax receipts as on 31 March 2005 at Rs.45891 crore constitutes 31 per cent of the actual receipts in 2004-05 and two-third of these arrears are pending for more than five years. Moreover, 54 per cent of the total outstanding arrears and 56 per cent of the arrears of the age of more than five years are 'interest receipts' to Union pending from public sector enterprises and other undertakings.

#### General observations

1.34 In its plan of restructuring public finances, Twelfth Finance Commission (TFC) recommended that the combined non tax revenues of the Union and the States as a proportion to GDP should increase from 2.5 per cent in 2004-05 to 3.4 per cent in 2009-10, but the burden for increasing this ratio is largely placed on states as non tax revenues of the Union are expected to remain at 2.2 per cent of GDP during this period. This recommendation of TFC, however, implicitly assumed that to maintain the same proportion of GDP, non tax revenues of the Union have to increase at least at the nominal rate of growth of GDP which itself is expected to increase at 12 per cent per annum during the TFC award period. In view of the fact that non tax revenues have historically been inelastic and exhibit very low levels of buoyancy, even to keep the ratio of non-tax revenues of the Union to GDP stagnant as recommended by the TFC, widespread reform measures in the form of rationalization of subsidies and improvement in recovery of user charges and tariffs of various services provided by the government are required to be put in place by the Union Government. In the context of interest receipts and dividends, the issue is linked to the reform of public enterprises and the question of user charges is linked to rationalisation and targeting of the subsidies.

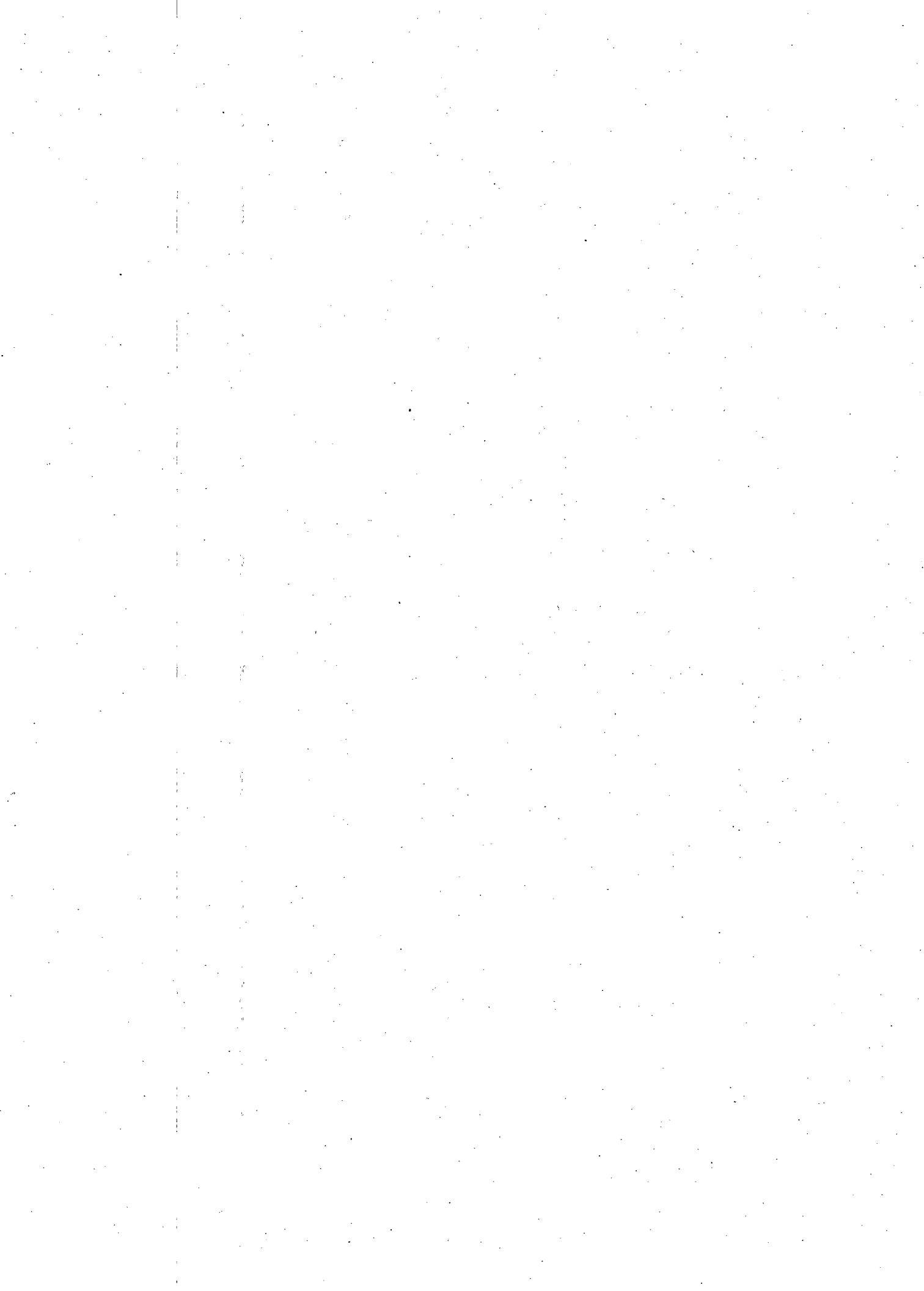
1.35 It is generally believed that there is potential to increase non-tax revenue significantly with recovery of user charges and rationalisation of subsidies. While there may be a case for not recovering the full cost in delivery of "merit goods" in view of their positive spill-over potential, recovery rates can be gradually increased. The Eleventh Finance Commission (EFC) suggested a paradigm shift in raising non tax revenues. "Where government consider it essential to publicly provide private goods, such provision should be at efficient costs, and the costs should be recovered from all users who can pay for them eliminating the subsidy implicit in under pricing<sup>7</sup>". EFC recommended cost based indexing of user charges, along with setting up of autonomous tariff commissions for administered prices to maintain their links with cost while protecting consumer interests.

The Twelfth Finance Commission has also suggested that "In the context of goods and services that are private in nature, the principle of cost recovery should apply and where costs are not meant to be recovered fully, explicit subsidies should be provided. The management of government finances in such a way would impart the necessary transparency and improve the efficacy of fiscal intervention<sup>8</sup>".

<sup>7</sup> Report of the Eleventh Finance Commission, Ministry of Finance.

<sup>8</sup> Report of the Twelfth Finance Commission, Ministry of Finance

1.36 There is also potential to increase non tax revenues by strengthening existing mechanisms for levy and collection of non tax receipts. This report attempts to assess the efficacy and effectiveness of the systems for maximising revenue collection and effectiveness of internal controls in four government departments and one departmental undertaking based on the magnitude of contribution to the overall non tax receipts which could be subjected to focused audit. The selected departments are Department of Telecommunications, Registrar of Companies, Department of Space, Department of Atomic Energy and Badarpur Thermal Power Station, New Delhi. The important audit findings and recommendations have been discussed in the subsequent chapters.





# **CHAPTER II**

## **DEPARTMENT OF TELECOMMUNICATIONS**





## Chapter Summary

- Of the total revenue of Rs.37,550.04 crore collected by DoT during the four years up to 2004-05, Rs.30,759.03 crore was collected from telecom service providers, which included Rs.26,301.68 crore from licence fees and entry fees and Rs.3,053.29 crore from spectrum charges.  
**(Para 2.1.4)**
- Contract conditions on Performance Bank Guarantee in licence agreements were not sufficient to act as a deterrent for failure to complete roll-out obligations.  
**(Para 2.6.1, & 2.6.2)**
- Non consideration of inter connectivity charges of Rs.24.95 crore by an operator while arriving at AGR resulted in short payment of spectrum fees of Rs.60.76 lakh in four circles  
**(Para 2.6.6)**
- Inappropriate calculation of interest for delayed payment of licence fee resulted in short recovery of penal interest of Rs.6.67 crore.  
**(Para 2.6.7)**
- Lack of internal coordination between LF wing and WPF resulted in short remittance of spectrum charges of Rs.17.72 crore.  
**(Para 2.6.8)**
- Failure of WPC wing to effectively scrutinize annual audited accounts and reconcile the same with payment made by operators resulted in short realization of Rs.2.51 crore.  
**(Para 2.6.9)**
- Failure of DoT to communicate the new financial conditions of the revenue sharing regime to MTNL in time resulted in non-levy of interest of Rs.43.51 crore on MTNL for delays in payment of licence fees.  
**(Para 2.6.10)**
- DoT did not insist upon the clearance of outstanding amounts while allocating additional spectrum to six operators although they had dues of Rs.73.94 crore outstanding against them.  
**(Para 2.6.15)**

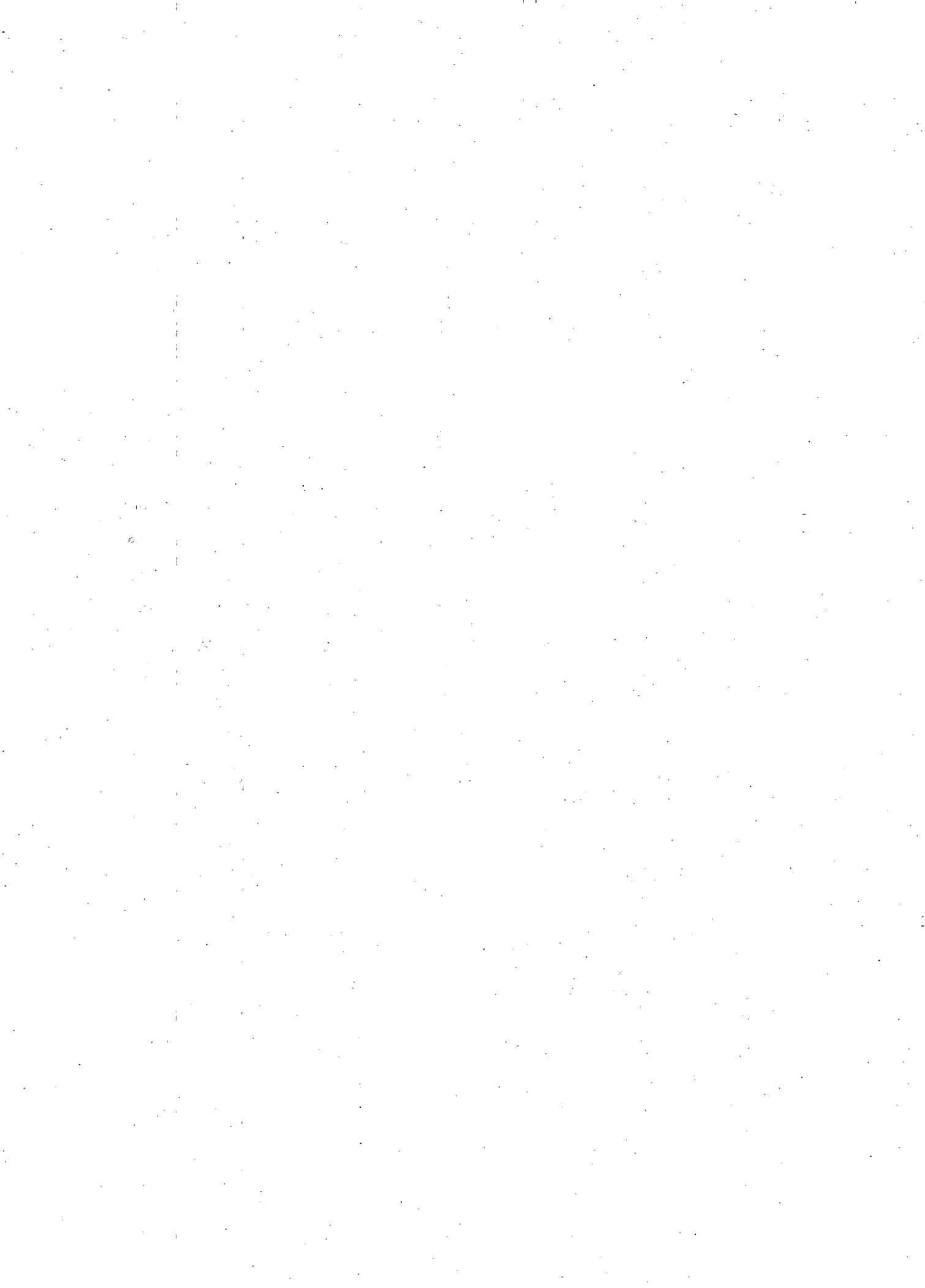
- In respect of GSM operators, DoT did not spell out the option of withdrawal of spectrum following inefficient usage, though a similar condition existed for Basic Services operators.  
(Para 2.6.16)
- DoT did not adhere to the guidelines on spectrum allocation, resulting in initial allocation of the 6.2+6.2 MHz radio frequency to ineligible operators.  
(Para 2.6.17)
- Licences of users other than telecom service providers were not renewed in time, resulting in non-levy of Rs.3.59 crore.  
(Para 2.6.20)
- DoT did not collect financial bank guarantees worth Rs.4.99 crore from commercial VSAT operators.  
(Para 2.6.21)
- Wireless monitoring activities of DoT were affected due to the delay in completion of a World Bank assisted project for modernization.  
(Para 2.6.26)
- Failure of DoT to transfer the stipulated amounts of Universal Service Levy from its revenue to the Consolidated Fund of India resulted in short credit of the levy to the tune of Rs.217.54 crore.  
(Para 2.6.29)
- Revenue shown to have been collected as per the records of the Licencing Finance Wing and as per the books of accounts maintained by the Accounting Wing had not been reconciled for the years 2001-02 to 2004-05, which resulted in a net difference of Rs.700.40 crore of revenue shown in these two sets of records.  
(Para 2.6.31)
- DoT did not realize spectrum dues of Rs.241.60 crore from five Central Government organizations.  
(Para 2.6.32)

#### RECOMMENDATIONS

- Roll-out obligations for all services should include the criteria of geographical coverage as this would facilitate accomplishment of the Government's policy of universal accessibility of telephones.



- DoT should pay greater attention towards verifying the correctness of AGR statements submitted by the service providers, DoT should strengthen its revenue collection process as well as its monitoring mechanism and should conduct special audits of licensees' books of accounts on a sample basis for checking the authenticity of their Adjusted Gross Revenue statements.
- DoT should take immediate action to realize the outstanding dues from MTNL.
- DoT should prescribe proper time schedules for utilisation of additional spectrum allotted beyond the minimum eligibility level
- Clearance of all outstanding dues against an operator should be made mandatory before allocation of additional spectrum.
- DoT should have a policy of withdrawal of spectrum from GSM licensees in cases of non utilization/under utilization.
- DoT should properly maintain and regularly update its records concerning frequency usages and consequent spectrum use by all network users, renewal of their licenses and FBGs to ensure proper collection and accounting of spectrum related dues.
- Results of verification of AGRs done by the LF Wing should be communicated to the WPC / WPF wings for appropriate levy of spectrum charges.
- DoT should introduce a proper MIS between the WPC wing and the monitoring stations for better frequency management and also to facilitate curbing of illegal /unauthorised use of wireless networks.
- DoT should take prompt decisions/corrective measures on all infringement reports.
- DoT should expedite the implementation of the National Radio Spectrum Management and Monitoring System.





## Chapter-II : Revenue Management in Department of Telecommunications

### 2.1 Introduction

With a population of over 1 billion and a GDP of around Rs. 3200 thousand crore<sup>€</sup>, India has 75.96 million fixed lines, and 82.09 million cellular subscribers. The country has a combined tele-density rate of 14.10 lines per 100 inhabitants<sup>∞</sup>. Telecom is acknowledged to be a critical infrastructure sector, the growth and development of which has a direct and significant impact on the efficiency and competitiveness of every other sector of the economy. The Department of Telecommunications (DoT), which had been operating the nationwide public telephone / telegraph network, since its inception, is no longer a service provider after the creation of the two Public Sector Undertakings (PSUs) viz., Mahanagar Telephone Nigam Limited (MTNL) in 1986 and Bharat Sanchar Nigam Ltd. (BSNL) in October 2000.

DoT is now entrusted with the planning, development, licensing and coordination in respect of all telecommunication matters and earns its revenue mainly through entry fees, licence fees and spectrum charges received from various telecom service providers. The grant of licences to public telecom service providers is regulated through the policies of Government and guidelines of the Telecom Regulatory Authority of India (TRAI). The public telecom services from which spectrum related charges and licence fees are received are listed in *Appendix -1*

#### 2.1.1 National Telecom Policy 1994

The Government announced its National Telecom Policy (NTP-94) in 1994, the important objectives of which were, ensuring the availability of telephones on demand, provision of world-class services at reasonable prices and universal availability of basic telecom services in all villages. The policy also recognized that the required resources for achieving these targets would not be available through Government and therefore, invited private sector participation based on a competitive bidding process. The licensees of Basic Telephone Services and Cellular Mobile Telephone Services (CMTS) were required to pay fixed amounts of annual licence fees. In respect of CMTS licensees in the metro cities, the licence fees consisted of a fixed annual lump sum amount for the first three years and from the fourth year onwards, they were linked to the number of subscribers.

#### 2.1.2 Setting up of the Telecom Regulatory Authority of India

With rapid growth in the telecom sector and increase in the number of telecom operators, Government felt the need for an independent regulator for telecom services in the country and matters connected thereto. Consequently, the Telecom Regulatory Authority of India (TRAI) Act, 1997 was enacted and TRAI was set

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<sup>€</sup> Economic Survey 2005-06

<sup>∞</sup> As of July 2006 – Department of Telecommunication

up in February 1997. The original Act was amended (March 2000), providing for the establishment of Telecom Dispute Settlement and Appellate Tribunal (TDSAT) for dispute settlements.

### 2.1.3 Introduction of New Telecom Policy 1999

NTP-99, announced by the Government in April 1999, focused on creating a conducive environment for attracting investment in the telecom sector. Accordingly, applicants fulfilling the conditions set by DoT were entitled to receive licences for providing telecom services. All the existing operators who were under the fixed licence fees regime as per NTP-94 were required to migrate to a revenue sharing regime under NTP-99 w.e.f August 1999, whereby they were required to pay to DoT, one time entry fees and a fixed percentage of their Adjusted Gross Revenue (AGR)<sup>¥</sup> as annual licence fees. NTP-99 was amended in November 2003 to provide for a Unified Access Service Licensing (UASL) regime, which envisaged the provision of wireline, fixed and limited mobile wireless, full mobile wireless (WLL-M) and cellular mobile telephone services, under one licence, on payment of prescribed entry fees. 26 Basic Telephone Service providers migrated to the UASL regime in November 2003.

The country was divided into 20 service areas for issue of licences for Basic Telephone Services and 24 service areas including four metro cities for CMTS. The circles were further divided into three categories, viz., A<sup>&</sup>, B<sup>ψ</sup> and C<sup>\*</sup>, according to their revenue generating capacities. The details of licences issued for various services as of March 2005 are given in *Appendix-2*.

### 2.1.4 Revenue collection by DoT

Revenue collection by DoT during the years 2001-05 are given below:

(Rs. in crore)

Details	2001-02	2002-03	2003-04	2004-05	Total
Revenue Share	6238.26	4827.34	8420.57	6815.51	26301.68
WPC and WMO	695.14	640.28	677.43	1040.44	3053.29
Other receipts	1084.95	75.55	123.63	119.94	1404.07
<b>Total Revenue under the MH 1275-Other Communication Services</b>	<b>8018.35</b>	<b>5543.17</b>	<b>9221.63</b>	<b>7975.88</b>	<b>30759.03</b>
Receipts creditable to other Major Heads	2871.89	1076.99	831.75	2010.38	6791.01
<b>Total Non Tax Revenue</b>	<b>10890.24</b>	<b>6620.16</b>	<b>10053.38</b>	<b>9986.26</b>	<b>37550.04</b>

<sup>¥</sup> AGR: The total income of a telecom operator from services including other incomes, after adjusting service/sales tax actually paid to the Government and interconnection usage charges (IUC) paid to other operators.

<sup>&</sup> Andhra Pradesh, Delhi, Gujarat, Karnataka, Maharashtra (including Mumbai and Goa) and Tamil Nadu (including Chennai).

<sup>ψ</sup> Haryana, Kerala, Madhya Pradesh, Punjab, Rajasthan, Uttar Pradesh (East), Uttar Pradesh (West) and West Bengal (including Kolkata).

<sup>\*</sup> Andaman & Nicobar, Assam, Bihar, Himachal Pradesh, J&K, North East and Orissa.



Out of the total revenue of Rs.37,550.04 crore collected by DoT during these four years, Rs.30,759.03 crore (81.91 *percent*) consisted of licence fees, entry fees, spectrum charges and other miscellaneous receipts received from telecom service providers. The remaining revenue of Rs.6,791.01 crore (18.09 *percent*) came from other sources like interest on loans and advances to employees and public sector undertakings, dividends, other departmental miscellaneous income, etc.

Of the total revenue of Rs.30,759.03 crore collected by DoT from telecom operations during these four years, Rs.26,301.68 crore were from licence fees (including entry fees) from public telecom service providers and Rs.3,053.29 crore were from spectrum related licence fees and charges.

Out of the total revenue received during these years, 69.27 *percent* was collected from Basic and Unified Access Service licensees and 20.43 *percent* from CMTS.

## **2.2 SCOPE OF AUDIT**

Performance audit of revenue management in DoT, inter alia covering aspects relating to terms and conditions of the licence agreements and enforcement of contractual obligations, collection and accounting of revenue such as entry fees, licence fees, universal service levy and spectrum charges was conducted, covering the period from 1999-2000 to 2004-2005.

### **2.2.1 ORGANISATIONAL SETUP**

Revenue management in DoT is under the overall control of the Secretary, DoT, who is also the Chairman of the Telecom Commission. He is assisted by the Member (Finance), the Member (Production), the Adviser (Finance), the Adviser (Production) and the Deputy Directors General in charge of Finance Establishment and Budget; Wireless Planning Finance (WPF); Accounts; Value Added Services and Basic Telephone Services; Licensing Regulation and Licensing Finance.

The Licensing Finance (LF) Wing at DoT Headquarters was carrying out the work relating to collection of licence fees up to December 2002. However, from January 2003, work relating to eight service areas, was delegated to Controllers of Communications Accounts (CCAs). From April 2004, work relating to the rest of the service areas was also handed over to the jurisdictional CCAs.

The Wireless Planning and Coordination (WPC) Wing, headed by the Wireless Adviser, is the regulatory agency responsible for radio frequency spectrum management, including wireless licensing for all users of radio frequency spectrum. The Wireless Monitoring Organization (WMO) is the field organization of the WPC Wing and provides monitoring, inspection and other technical support for spectrum management. A WPF Division headed by the Deputy Director General (WPF), created under the Member (Finance) in December 2000, provides financial advice and monitors collection of spectrum dues.

The work of collection of spectrum dues from GSM<sup>o</sup> mobile telephone operators was with the WPF Wing from October 2002 but from April 2004, this work was delegated to the CCAs. The work of reconciliation of dues from operators using CDMA<sup>†</sup> technology, which was being done by the WPF Wing, was further entrusted to all the CCAs with effect from April 2005. Wireless monitoring was controlled by the WMO Headquarters with the help of 21 Wireless Monitoring Stations (WMS) located all over the country. Organizational setup of DoT is given at *Appendix-3*.

### 2.3 AUDIT OBJECTIVES

Achieving high tele-density and enhanced competition were the thrust areas of the New Telecom Policy apart from universal provisioning of telecommunication services at affordable cost. The rapid technological changes in the sector which are capable of offering a number of value added applications, require effective spectrum management. In view of the above audit sought to examine

- whether the terms and conditions of the licence agreements framed by DoT for providing telecom services were in consonance with the fulfillment of objectives enshrined in NTP 99;
- the degree of adherence to the terms and conditions of the licence agreements by the licensees;
- the framework and the systems adopted for allocation, utilization and monitoring of spectrum;
- the mechanisms to curb unauthorized use of spectrum;
- adequacy of mechanisms for assessment and collection of revenue and
- adequacy of internal controls including reporting and monitoring.

### 2.4 AUDIT CRITERIA

The criteria against which the department's performance was evaluated were:

- o Incorporation of the objectives of NTP-99 in the guidelines prepared by DoT;
- o Compliance with the terms and conditions of tenders and parameters set for their evaluation and implementation;
- o Whether financial terms and conditions protected the interest of DoT in the event of failure by the operators and whether these were implemented;
- o Efficiency and effectiveness of the system of monitoring calculation and collection of licence fees;
- o Policy adopted for allocation of spectrum including evaluation of the mechanism to check unauthorized use of spectrum;
- o Compliance with the WPC guidelines relating to payments of spectrum charges.

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<sup>o</sup> GSM- Global System of Mobile telephone services based on Time Division Multiple Access (TDMA)

<sup>†</sup> CDMA- Code Division Multiple Access

## 2.5 AUDIT METHODOLOGY

The audit methodology involved examination of documents and discussions with the auditee to evaluate the policies related to telecom revenue management; the efficiency of the process of licensing and collection of licence fees, spectrum charges and other revenue in DoT, on the basis of the audit criteria broadly outlined earlier.

## 2.6 AUDIT FINDINGS

### 2.6.1 Terms and conditions of licence agreements

Clear and definite terms and conditions in the licence agreements were imperative for ensuring the achievement of Government's policy objectives and to optimize DoT's revenue.

The licence agreements for Basic Telephone Services stipulated roll-out obligations in terms of Point of Presence (POP)<sup>v</sup> to be achieved by the licensees at the Short Distance Charging Area (SDCA)\* level. The service areas were divided into SDCAs and establishment of a POP in an SDCA was to be treated as completion of the roll-out obligation. The roll-out obligations and the penalties for non-performance as per the agreements were as under

Phase	Time period for completion	Cumulative coverage in terms of POP to be achieved at SDCA level		PBG to be released on fulfilment of obligations shown under Column 3
I	2 Years		15%	-
II	3 Years		40%	20%
III	5 Years		80%	30%
IV	7 Years		100%	50%

Any shortfall in network coverage in Phases II, III and IV would entail forfeiture of the Performance Bank Guarantees (PBGs) relating to those phases. There would be no carry forward of the unfulfilled network obligation from one phase to another.

Audit analysis of these conditions relating to roll-out obligations and penalty for non-fulfilment of obligations revealed the following.

<sup>v</sup> Point of Presence: As per the licence agreements, this referred to the setting up of a switching system of adequate capacity to meet the required quality of service.

\* Short Distance Charging Area: the smallest territorial unit for charging purposes. Calls within the same SDCA are charged as local calls. SDCAs normally coincide with Tehsils or Talukas.

### 2.6.2 Inconsistencies in definition of point of presence and geographical areas

The percentage of coverage in terms of POPs did not consider the percentage of geographical area to be covered within SDCAs. Thus an operator became eligible for refund of PBGs after setting up POPs in a given number of SDCAs even if adequate service coverage within the SDCAs was not provided. Further, there was no penalty for non-fulfilment of roll out obligations up to three years. No provision for penalty existed in the agreements for non-fulfilment of 15 *per cent* cumulative coverage under Phase-I.

(a) It was observed in Delhi SDCA that M/s Bharti Telenet was to provide Basic Telephone Services. After setting up a single switching system at the Okhla industrial area in February 2002 they obtained full refund of Rs 200 crore of PBGs in spite of not covering the entire city of Delhi. Further, M/s Bharti Telenet (renamed as Bharti Infotel Limited) surrendered (October 2004) its licence for the Delhi SDCA leaving many parts of the city uncovered.

(b) M/s Bharti Infotel Ltd, which had been granted a licence in October 2001 for providing Basic Telephone Services in the service areas of Haryana, Karnataka, and Tamil Nadu, gave a formal notice to DoT in August 2004, for surrendering their licences for these areas w.e.f. 1 October 2004. The roll-out achieved by them was short by 15 *per cent* in Haryana, 23 *per cent* in Tamil Nadu and 25 *per cent* in Karnataka. However, despite non-achievement of the complete roll-out obligation by M/s Bharti Infotel Ltd, DoT was unable to encash 20 *per cent* of the PBG of Rs 76 crore, as the three year period for levy of this penalty ended only on 31 October 2004.

Thus the condition for forfeiture of PBG which was to act as a deterrent for failure to complete roll out obligations proved ineffective.

### 2.6.3 Collection and monitoring of revenue

Service providers were required to pay licence fees annually at the rates of 10 *per cent*, 8 *per cent* and 6 *per cent* of their AGR in the A, B and C category service areas, respectively. Annual licence fees were payable in four quarterly instalments, starting from the April-June quarter, together with the statements of AGR for the relevant quarters. Licence fees for the first three quarters were to be paid within 15 days of the completion of the relevant quarter. For the fourth quarter it should be paid by 25 March on the basis of the expected revenues for the quarter, subject to a minimum payment equal to the actual revenue share paid for the previous quarter. The deficiencies in collection of revenue by DoT from various operators, as observed by audit, are discussed in the succeeding paragraphs.



#### 2.6.4 Undue benefit to operator

Licence fees for Basic Telephone Services, CMTS and UASL in respect of all circles as well as the metro service areas were reduced by 2 *per cent* uniformly with effect from April 2004. Over and above this, an additional 2 *per cent* relief in licence fees was allowed to the first two cellular operators in the circles where the licences had been awarded before 1999.

In Karnataka Circle, Bharti Group provided cellular services under a licence issued prior to 1999, in the name of M/s Bharti Mobiles Limited. The Basic services were being provided from 2001, by another group company viz. Bharti Infotel Limited. M/s Bharti Mobiles Limited migrated to the UASL regime in November 2004, which enabled them to provide Basic as well as Cellular services under a single licence. Consequently, M/s Bharti Infotel Limited surrendered their licence. Audit observed that M/s Bharti Mobiles Limited (now Bharti Televentures Limited), which was the cellular mobile service provider prior to 1999, was claiming the additional 2 *per cent* relief in respect of Basic Telephone Services also though this relief was applicable only for the cellular service. DoT continued to accept the reduced payment (November 2005). This undue benefit to the provider resulted in a loss of revenue of Rs 2.93 crore to DoT from October 2004 to June 2005.

(Rs. in crore)

Table 3 : Undue benefit to service provider				
Period	AGR	LF due @ 10%	LF paid @ 8%	Difference
IIIrd Qtr (2004-05)	42.16	4.21	3.37	0.84
IVth Qtr (2004-05)	48.80	4.88	3.90	0.98
Ist Qtr (2005-06)	55.31	5.53	4.42	1.11
<b>Total</b>				<b>2.93</b>

On this being pointed out by audit, DoT replied (February 2006) that only one levy was applicable on a particular licence and accordingly, there was no short collection of licence fee. The reply is not tenable since the additional relief of 2 *per cent* was applicable only to the first two licensees in a circle. Further, the instant relief was neither being claimed nor allowed to the same operator in other telecom circles. Incidentally, the jurisdictional CCA, Bangalore who collects the licence fee had accepted the audit contention.

#### 2.6.5 Assessment of Adjusted gross revenue statements

Since licence fees and spectrum usage charges were based on fixed percentages of AGRs, verification of the latter with reference to supporting documents was vital to ensure the correctness of the revenue generated and to guard against any revenue losses which could occur due to incorrect financial statements. Licence agreements provided for a verification process to ensure the correctness of the AGR statements. DoT had a right to access the books of accounts that the



licensee may have maintained in respect of the business carried on to provide the service(s) under the licence at any time. The records of the licensee would be subject to such scrutiny as may be prescribed by the licensor so as to facilitate independent verification of the amount due to the licensor as its share of the revenue. If DoT felt that the statements or accounts submitted were inaccurate or misleading they could order a special audit of the accounts of the licensee.

Audit scrutiny revealed that the procedures for verifying the AGR were not adequate, leaving room for different types of disputes and provisional assessments of AGR. It was observed that in all cases test checked by audit demands were finalised provisionally. In the case of fourteen service providers involving 52 licences, the computation of the annual gross revenues had been contested through representations or by filing cases before TDSAT, involving an amount of Rs.127.17 crore.

#### **2.6.6 Deductions allowed without verifying relevant details**

The gross revenue was arrived at after providing for deductions in respect of rebates provided by service providers as per tariffs approved by TRAI, service tax and sales tax paid, etc. Examination of files regarding licence fee calculations revealed that there were no internal guidelines with regard to verification of deductions stated to be provided by service providers. The veracity of the details of discounts and rebates depicted in AGRs and claimed by the operators were not being verified by the LF wing of DoT. It was observed that DoT did not have complete details of discounts claimed by licensees of tariff plans approved by TRAI nor was the same being actually verified with that allowed to the customers. A few cases of such non verification are indicated below.

For one service provider (M/s Bharti Infotel Ltd), for the year 2003-04, out of the total amount of rebates and discounts of Rs.70.75 crore given by the company, only Rs.2.05 crore (around 3 percent) had been added back in the AGR and the balance Rs.68.70 crore (around 97 percent) allowed as deductions under the tariff plans stated to be approved by TRAI. However this had not been verified by the department prior to allowing the deduction.

In the case of another service provider (M/s Reliance Infocomm Limited -RIL), neither were the details of discounts and rebates allowed by them to subscribers during the years 2001-02 to 2003-04 (in 20 basic telephone service areas and 7 cellular service areas) disclosed in the AGR statements (or in their Annual Reports) nor was the same called for by DoT. On this being pointed out in audit DoT stated (August 2005) that details and discounts were being called for.

As per the licence agreements details of service tax billed, collected and paid to the Government were to be attached with the AGR statements to enable correct computation of AGR and consequent realization of government share of revenues.

In the case of a service provider (RIL) for the years 1999-2000 to 2003-04 (in respect of 20 Basic Telephone Service areas and seven cellular service areas)



neither were details of service tax deductions furnished nor did the Department call for the same. On this being pointed out in audit, the Department stated (August 2005) that the details were being called for. Similar mistakes were noticed by audit in the case of 10 other service providers<sup>♦</sup>.

Audit attempted an independent verification of the audited accounts of a service provider (Tata Tele services Ltd), and found that the service provider had claimed ineligible deductions on account of lease line rent paid to other service providers, provision for access charges but not paid, etc. of Rs 8.78 crore and was allowed by DoT. This resulted in short levy of licence fee of Rs 1.05 crore. On this being pointed out in audit (December 2005), DoT accepted the audit observation and issued a revised demand (January 2006). Further scrutiny at the level of CCAs revealed instances of understatement of revenue by operators. Audit noticed that in the case of an operator (RIL) interconnectivity usage charges of Rs.24.95 crore were not considered by the operator while arriving at the AGR which resulted in short payment of spectrum fees of Rs.60.76 lakh in four circles<sup>°</sup>.

Department stated (November 2005) that a transaction level reconciliation can be carried out subject to availability of manpower and the case for augmenting manpower is being followed up.

#### **2.6.7 Penal interest was short recovered from the operators**

As per the amended payment schedule for revenue sharing, a licensee would have to pay the licence fees for the fourth quarter by 25 March, on the basis of the expected revenues for the quarter, subject to a minimum payment equal to the actual revenue share paid for the previous quarter. Interest for delayed payments, as stipulated in the licence, would apply for payments beyond the due dates. The licensees would have to adjust and pay the difference between the amount paid and the actual amount payable for the last quarter of the financial year within 15 days of the end of the said quarter. This scheme was operational from the quarter beginning 1.10.2002 onwards.

However, during examination of the records relating to the calculation of licence fees for the years 2002-03 and 2003-04, it was noticed that in 32 cases, the payments of licence fees for the fourth quarter had been made after the due dates of payment i.e. 25 March of the related financial year. Interest for short/delayed payments was calculated from 15 April of the next financial year instead of from 25 March. This method of calculation of penal interest resulted in short recovery of penal interest amounting to Rs.1.12 crore (*Appendix-4*).

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<sup>♦</sup> M/s BTA Cellcom, RPG Cellular Ltd, Bharti Cellular Ltd, BPL Mobile Cellular Ltd, Idea Cellular Ltd, Cosmat Max Ltd, Data Access, Essel Shyam Comm. Ltd, Tata Teleservices Ltd. and HFCL

<sup>°</sup> North East, Assam, West Bengal and Kolkata circles.

Similarly, for the period 01.08.1999 to 31.03.2002, the due date for payment was 10 days in advance of the commencement of each quarter. However, during examination of records, it was noticed that in 32 cases, the interest on delayed payments of licence fees was calculated from the date of commencement of each quarter and not from the due date i.e. 10 days in advance of the relevant quarter. This resulted in short collection of interest of Rs.5.55 crore (*Appendix-5*).

DoT accepted (November 2005) the short collection of penal interest of Rs.6.67 crore from the operators and stated that the cases would be re-examined.

#### **2.6.8 Lack of internal coordination resulted in short remittance of Rs.17.72 crore**

Spectrum charges for Cellular and WLL (CDMA) telephone services were to be paid in advance on a quarterly basis along with a return (AGR statement) to the jurisdictional CCAs. Spectrum charges are calculated as percentage of AGR. At the end of the financial year, the quarterly payments made by the service providers were reconciled with the audited annual accounts of the service providers through a process of financial settlements by the LF Wing. In case of differences, additional demands are raised by LF Wing only in respect of licence fees. However, since spectrum charges are apportioned to WPF, they need to coordinate closely with the LF Wing to ensure the correctness of spectrum charges payable in case of change in AGR.

Audit noticed that financial settlement of accounts was done at the LF Wing only for the licence fee portion in respect of the nine CDMA operators. LF Wing did not intimate WPF of any change in AGR nor did they raise any demand for additional spectrum charges. When audit reconciled the spectrum charges due as per the records available at LF Wing as against those remitted to WPF, it was noticed that four CDMA operators had made a short remittance of Rs.17.72 crore as detailed in *Appendix-6*.

Department stated (February 2006) that they are in the process of reconciling the dues as pointed out by audit.

#### **2.6.9 Short collection of spectrum charges from VSAT operators**

WPC is responsible for collection of spectrum charges from VSAT service providers. There are presently eleven commercial VSAT service providers. As in the case of other service providers, VSAT operators also submit AGR statements and make payments on a quarterly basis. An audited annual statement is also provided every year.

Audit observed that WPC Wing had not called for the audited AGRs for assessing the correctness of spectrum charges payable by commercial VSAT operators for the years 2003-04 to 2004-05. However, audit verified the audited AGRs which were available in the LF Wing with spectrum charges paid in respect



of seven cases, which revealed a short collection of Rs.1.82 crore (March 2005). Besides interest of Rs.69 lakh was also leviable. (*Appendix-7*) Failure of WPC wing to effectively scrutinize annual audited accounts and reconcile the same with payments made as per the AGRs by the operators resulted in short realization of Rs.2.51 crore.

#### **2.6.10 Delay in intimation of financial conditions**

Financial conditions relating to the revenue sharing regime introduced through NTP-99 were communicated in July and September 2001 to Basic Telephone Service operators and CMTS operators respectively. This regime was introduced with retrospective effect from August 1999. Accordingly all the service providers switched over to the revenue sharing regime and paid licence fees. The new financial conditions entailed payment of licence fees on quarterly basis. For delays, interest at 5 per cent above the prime lending rate of State Bank of India prevalent on the day the payment became due was also prescribed.

MTNL switched over to the revenue sharing regime in 2001-02, and delayed the quarterly payments by three to six months. Audit scrutiny revealed that the financial conditions of the revenue sharing regime, which stipulated levy of interest for delays in remittance of quarterly payment, were communicated to MTNL only in May 2002. MTNL therefore refused to pay interest due for the year 2001-2002 on the plea that the DoT had not communicated the new financial conditions to them in time. DoT accepted MTNL's argument and waived off the interest. Thus, failure to communicate the relevant financial conditions on time resulted in a loss of Rs.43.51 crore.

On this being pointed out DoT replied (February 2006) that MTNL was governed by different terms and conditions of licence granted in 1986 and that MTNL had not participated in any bidding competition to secure a licence for operation of services in Delhi and Mumbai. Moreover, MTNL was not amongst the licensees who had pleaded for migration to revenue sharing arrangement in 1999 and so there was no failure on the part of DoT.

The reply is not tenable as MTNL had migrated to the revenue sharing arrangement from 2001-2002 and thus necessary conditions regarding levy of interest should have been communicated to them in time.

#### **2.6.11 Allocation of radio frequency spectrum and collection of spectrum charges**

Mobile telephony entails sending and receiving signals at various radio frequencies spectrum. The frequency spectrum available for utilization is limited by factors like propagation characteristics of different bands, equipment availability and suitability to different types of application like imagery, communication, etc. The Indian Telegraph Act, 1885 and the Indian Wireless



Telegraphy Act, 1933 provide the legal basis for spectrum management. The National Frequency Allocation Plan (NFAP) 1981 provides the basis for assignment of frequencies and caters to the new requirements for spectrum, in view of the emerging technologies. WPC Wing updates the National Frequency Allocation Plan (NFAP) every two years.

Historically the allocation of spectrum was need based and was mostly allotted to Government organizations, Defence being one of the largest users. However, with growth of telecom sector and increase in the number of radio users, requirement of spectrum increased manifold. The planning and allocation of spectrum is based on consultations with major national users through the forum of the Standing Advisory Committee on Frequency Allocation (SACFA)\*, established in 1966.

The total receipts of the WPC wing of DoT from spectrum charges were Rs.1,040.41 crore in 2004-05. Out of this, the revenue from mobile telephony service providers, other than BSNL and MTNL was Rs 610.08 crore. The revenue receipts from BSNL and MTNL were Rs 357.43 crore, which included revenue from their backbone microwave links as well.

With exponential growth of the subscriber bases of mobile telephony operators in recent years, spectrum revenues are growing steadily. With rapid technological changes the economic value of spectrum for public service providers is receiving greater focus and calls for efficient spectrum management. It is, therefore, imperative for DoT to ensure:

- Well defined criteria for allocation of spectrum which are mindful of considerations of economy and efficiency
- Adherence to the laid down criteria for allocation
- Existence of an efficient system of collection of revenue and accounting to safeguard against the risk of revenue leakages
- Existence of a proper mechanism for encouraging lawful use of spectrum.

Audit observations on DoT's spectrum management are discussed in the succeeding paragraphs.

#### **2.6.12 Criteria laid down for allocation of spectrum were not adequate**

In the following cases, audit observed that the criteria laid down by the WPC Wing for allocation of spectrum were not sufficient to ensure efficient utilisation of spectrum and collection of revenues.

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\* SACFA: the apex body in the WPC wing of DoT, consisting of members drawn from DoT and user departments such as All India Radio, Doordarshan, Defence, Railways, Civil Aviation, BSNL, etc for considering matters regarding coordination for frequency allocations and other related issues and for issue of clearance of sites for fixed stations and their antenna masts.

### **2.6.13 Absence of subscriber base for allotment of radio frequency for CMTS operators**

As per the licence agreements, all CMTS operators were eligible for a initial allotment of radio frequency which shall not exceed 4.4+4.4 MHz.<sup>@</sup> Subsequent assignments of additional radio frequency were to be based on subscriber base reached by the operators and future projections. The criteria of subscriber base were to ensure that operators with higher subscriber base would not be deprived of radio frequencies and also to prevent the hoarding of spectrum by ineligible operators. Audit observed that though a condition of a minimum subscriber base existed for incremental allotment of radio frequency beyond 6.2 MHz, there were no subscriber base criteria fixed for increment from 4.4 MHz to 6.2 MHz.

On this being pointed out in audit, DoT stated (February 2006) that necessary criteria for allocation of additional radio frequency beyond the initial allotments was under consideration. In March 2006, they issued detailed orders prescribing the condition of a minimum subscriber base for allotment of additional spectrum beyond 4.4 MHz and upto 15 MHz.

### **2.6.14 Non utilization of additional spectrum**

In addition to the above absence of criterion for incremental allotment of radio frequency there was no time frame fixed for utilization of allotted incremental spectrum through expansion of subscriber base. Audit study of utilization of spectrum by 15 GSM operators spread over 23 service areas showed that in the case of four operators\* in seven different service areas, incremental spectrum allotted from 4.4 MHz to 6.2 MHz had not been utilized for periods ranging from 18 to 49 months. Such instances could have been avoided by prescribing a time schedule for utilization of spectrum by achieving required subscriber base.

### **2.6.15 Outstanding revenue not recovered before allocating additional spectrum**

Before allocating additional spectrum, DoT should have ensured that the operators had cleared their outstanding dues. Audit observed that though such a provision existed in the Letter of Intent for award of licences to Basic Telephone Service operators, no such provision existed in the case of allotment of additional spectrum to GSM operators. Audit noticed that DoT allocated additional spectrum to six operators<sup>@</sup> when they had total outstanding dues of Rs 73.94 crore against them. Besides, DoT had not taken any financial bank guarantees to safeguard its interests at the time of allocation of the additional spectrum. The details are given at *Appendix-8*.

On this being pointed out by Audit, DoT accepted the facts (February 2006) and agreed to take remedial measures.

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<sup>@</sup> 4.4 MHz for receiving and 4.4 MHz for transmitting data

\* Reliance Telecom, Bharti Telenet, BTA Cell com(IDEA) and Aircel Digilink

<sup>@</sup> BPL, Fascal, Bharti, Hutch, IDEA and Reliance

**2.6.16 Option of withdrawal was not spelt out in respect of GSM.**

As spectrum is a scarce resource, DoT should have had the option of withdrawing the entire or part of the spectrum allotted to operators in cases of inefficient utilization. Audit observed that though a provision for withdrawal of spectrum existed in the cases of Basic Services, no such condition existed in respect of GSM licensees.

It was noticed in audit that M/s Reliable Internet was allotted 6.2+6.2 MHz radio frequency for the Kolkata service area in March 2002 but it commenced its services only in March 2005. Similarly, frequencies assigned (March and April 2002) to M/s Escorts Telecom for operation in the Himachal Pradesh, Rajasthan and Uttar Pradesh (East) service areas remained unutilised for three years as the company had not commenced their services till June 2005. The absence of a withdrawal clause led to non-utilization of spectrum for periods ranging from 27 to 36 months.

DoT accepted the audit observation (February 2006).

**2.6.17 Radio frequency of 6.2+6.2 MHz was initially allocated to ineligible operators**

As stated earlier, the licence conditions for cellular operators in a service area stipulated that initially a maximum of up to 4.4+4.4 MHz radio frequency would be allotted. Further allocation was to be based on the usage pattern and availability of additional radio frequency. Audit, scrutiny revealed that in violation of the above condition, WPC Wing had made initial allotments of 6.2+6.2 MHz radio frequency to four cellular operators\* in three cases. Further, the excess allocation was not justified in terms of subscriber base of the operators as detailed in *Appendix-9*.

DoT, accepted the facts and stated (February 2006) that new criteria for allotment of spectrum were under consideration.

**2.6.18 Issue of operational licences was delayed**

Test checks of 100 operational licences of other than telecom service providers by audit showed that in 15 cases, the time taken for grant of the licences ranged from 3 to 22 months. In 11 other cases, no licences had been granted (November 2005) even after the lapse of seven to 34 months. Audit observed that the WPC wing had not prescribed any time schedule for completion of various activities such as verification of parameters and reconciliation of dues. The Department accepted (July 2005) the facts and stated that normally the licences were issued within four weeks. The reply is not tenable since in more than 50 percent of the test checked cases delays were more than 4 weeks.

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\*Bharti



### **2.6.19 No time frame was fixed for site clearances by SACFA**

As stated earlier, SACFA is a high level body chaired by Chairman, Telecom Commission, comprising members from various government and public sector organizations who are major users of the spectrum. It is responsible for clearance of sites for fixed wireless stations. All applications for spectrum allocation are processed in the WPC Wing, only after clearances by SACFA.

The details of applications processed and the time taken for clearance are given at *Appendix-10*. Audit observed that though measures such as online processing of applications had been introduced, the pace of clearance of application was slow. Out of 52,423 applications received by SACFA during the years 2003 to 2005, only 20,892 applications had been cleared (March 2005). Audit also observed that no time frame had been prescribed within which SACFA was to give clearances.

On this being pointed out by audit, DoT accepted (February 2006) the delays and stated they were beyond the SACFA Secretariat's control due to the complexities involved. DoT also stated that the members from the Defence services, viz., Army, Navy and Air Force, had not yet started online processing, which had hampered the speedy clearance of SACFA cases.

### **2.6.20 Lack of follow up action in licences of users other than telecom service providers.**

Audit observed that no follow up action was taken by the WPC Wing after issue of initial licences in respect of users other than telecom service providers. Although licences were renewable annually audit noticed delays in renewal of licences ranging from 7 months to over 19 years. In the interim no action was taken by the WPC Wing to withdraw spectrum allocated and cancel the licence. Audit observed that the database of licensees was incomplete and not updated. Test check of 684 cases from the database indicated that in 313 cases there was neither renewal nor cancellation. It was possible that these operators were still utilizing the spectrum originally allotted, with consequent non levy of spectrum charges of Rs.3.59 crore. Failure of the WPC Wing to effectively monitor the licenses jeopardized the interests of Government revenue of Rs 3.59 crore.

Further it was observed that the WPC Wing had not realized an amount of Rs.10.39 crore from 11 existing Commercial Radio Paging Service Providers. In five cases, where frequencies had been withdrawn from the service providers, the WPC Wing failed to realize outstanding dues of Rs.1.23 crore. (*Appendix-11*)

### **2.6.21 Financial Bank Guarantees not obtained**

The licence agreements with all service providers stipulated the submission of Financial Bank Guarantees (FBGs) as a security against non-payment of government dues. For commercial VSAT service providers, the charges and royalties for the use of spectrum as also for possession of wireless telegraphy equipment were to be separately securitized by furnishing bank guarantees



equivalent to the estimated sums payable annually. Audit observed that the WPC Wing did not obtain any FBGs from commercial VSAT service operators during the period 2003 to 2005. Based on the AGR figures of nine out of a total of 11 commercial VSAT operators, audit worked out that FBG worth Rs.4.99 crore should have been collected from them (*Appendix-12*). The WPC Wing also did not obtain FBGs amounting to Rs 77.19 lakh from one Basic Service provider, viz., HFCL, for the Punjab Circle.

On this being pointed out by audit, DoT stated (February 2006) that FBGs were not obtained from commercial VSAT service providers since annual spectrum charges were levied in advance and there was thus no loss of revenue on account of spectrum charges.

The reply is not tenable as advance payment of spectrum charges would not absolve DoT of the responsibility of obtaining requisite FBGs to securitize the cost of wireless telegraphy equipment. Failure of DoT to obtain adequate FBGs jeopardized the security of government assets.

#### **2.6.22 Monitoring activities**

WMO is the field organization of the WPC Wing providing monitoring, inspection and other technical support for ensuring interference-free operations and adherence to prescribed technical and operating conditions. Monitoring was carried out through 21 fixed monitoring stations, 4 microwave mobile monitoring terminals, five radio noise survey units, 10 inspection units and one satellite monitoring earth station at Jalna, Maharashtra. Physical inspections of licenced wireless installations were undertaken by inspection units to ensure that the wireless users were complying with the licensing conditions.

DoT had also undertaken a World Bank assisted project to provide a National Radio Spectrum Management and Monitoring System (NRSMMMS) to modernize its radio frequency management. Inadequate monitoring would lead to failure to detect unlawful usage resulting in revenue losses as well as interference in other operations. Audit observed the following inadequacies in spectrum monitoring.

#### **2.6.23 Updated details of networks of other than service providers were not available with the WPC Wing**

In order to verify the correctness of revenue due to Government, updated network details of all users should have been available with the WPC Wing. However, it was observed that the data available with WPC was not updated periodically and therefore, it was not possible to derive an assurance regarding the number of live licences. In the absence of details of licensees who were operating, it was also not possible for the field units of WMO to monitor the usage of spectrum by the licensees. In the absence of correct data WPC issued only provisional bills for spectrum charges, and it was observed in most cases that WPC had to depend on the customers for details of usage.



On this being pointed out in audit, DoT stated (February 2006) that the schedules of licences were being maintained in registers/folders and computerization would enable them to improve the situation. They stated that the matter of reconciliation of dues from government organizations had been taken up with the concerned organizations.

#### **2.6.24 Lack of coordination between the WPC Wing and WMOs**

The WPC Wing issues letters to wireless licence applicants informing them to complete further formalities before they commence their operations after grant of regular licences. There was no comprehensive database containing necessary technical and administrative details of spectrum licences in the WPC Wing or at the monitoring stations.

Timely intimation by the WPC Wing to the concerned monitoring stations, of the details of expired Agreements in principle (AsIP), was vital to ensure that no unauthorized operations took place. Audit check at six monitoring stations revealed that 27 wireless networks were being operated without operational licences. Audit observed that the WPC Wing did not intimate the monitoring stations regarding expiry of the validity periods of AsIP, resulting in non realization of revenue to the tune of Rs.2.39 crore. Further, it was observed that the penalty leviable under the Indian Wireless Telegraphy Act (1933) for operating without proper licence was only Rs.100 in the case of first offence and in the case of second or subsequent offence; the fine may extend to Rs.250. Thus, the quantum of penalty prescribed did not provide any deterrence against operating without valid licence.

#### **2.6.25 Infringement reports not followed up**

Audit observed that reports on various infringements of licence conditions and unauthorized usages of spectrum were being sent to the WMO Headquarters as well as the WPC Wing by the Engineers (Inspection) of the various monitoring stations. However, the WPC Wing, being the licensing authority, did not take necessary action against the concerned operators (*Appendix-13*).

On this being pointed out by Audit, DoT accepted (February 2006) that the schedules of licences were maintained in registers/folders and licences had not been renewed in most of the cases pointed out by Audit. DoT also intimated that the licence data had since been computerized but validation is in progress.

#### **2.6.26 Monitoring was affected due to delay in implementation of the World Bank Project**

Under the National Radio Spectrum Management and Monitoring System (NRSMMMS), the WPC Wing envisaged automation of the process for radio frequency spectrum management including upgrading of its monitoring facilities.

Four fixed H/V/UHF<sup>♦</sup> receiving systems for the four metros; one V/UHF Mobile Monitoring system for each of the monitoring stations except for the one at Jalna; one SHF<sup>♠</sup> Mobile Monitoring system for each of the monitoring stations except for the stations at Jalna and Dibrugarh; and one SHF fixed monitoring facility for the monitoring station at Jalna, were to be procured under this scheme.

As per the contract with the supplier, all the systems were to be delivered and operationally accepted by June 2004. Audit observed that the receiving equipment meant for the metros had failed the acceptance testing. Commissioning of the mobile monitoring system was delayed due to delays on the part of the contractor to submit satisfactory designs. As a result, the date for completion of the World Bank Project had to be extended up to March 2006.

On this being pointed out by audit, DoT replied (February 2006) that under the NRSMMMS project, installation of hardware and software for the automated spectrum management system for radio frequency management had been completed and the same was in use. However, as far as fixed and mobile monitoring activities were concerned, though the installation work of 21 VHF/UHF MMS had been completed, the acceptance testing for the overall facilities was still to be completed.

The delay of almost two years in the commissioning of equipments under the World Bank Project hampered the modernization of monitoring activities and delayed the expected improvements in the system especially in critical areas of monitoring fixed and mobile service providers.

#### **2.6.27 Enforcement Group was not set up**

In the Action Taken Note in respect of sub paragraph 1.1.8 to paragraph 1.1 of Audit Report No 2 of the Comptroller and Auditor General of India for the year 2004, DoT had stated that a case for creation of Enforcement Group for rigorous check/recovery of dues and taking penal action was under their consideration. Audit, however, observed that no such Group had been created (November 2005).

In reply, DoT stated (February 2006) that a committee had been constituted to study the restructuring of the WPC Wing and the WMO units. The committee's recommendations had been submitted and the same were under examination.

#### **2.6.28 Accounting Issues**

The deficiencies observed by Audit in accounting of revenue are discussed in the succeeding paragraphs.

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<sup>♦</sup> High/Very high/Ultra high frequency.

<sup>♠</sup> Super high frequency.

### 2.6.29 Universal Service Obligation levy was short credited to the Consolidated Fund of India

One of the objectives of NTP-94 was to achieve Universal Service, covering all villages, as early as possible. NTP-99 emphasized the achievement of telecom coverage of all villages of the country by 2002. As the goals set out in NTP-99 could not be achieved, a Universal Service Obligation (USO) fund was created in order to enhance the tele-density in rural and remote areas. Guidelines for operation of the fund were issued with effect from 1 April 2002.

Resources for meeting the USO were generated through a Universal Service Levy (USL), which amounted to 5 *per cent* of the AGR of the telecom operators and was included in the licence fees rates prescribed for the different service areas. Bifurcation of the revenue shares received by DoT into licence fees and USL was made at the end of the accounting year through a transfer entry by transferring the prescribed revenue share into USL. The USL so collected was directly deposited in the Consolidated Fund of India and was allocated by Parliament to the USO Fund through a Budget Grant. Deficiencies noticed in crediting the USL to the Consolidated Fund of India (CFI) are discussed below.

(a) In compliance of decisions (March/May 2003) of the Supreme Court and TDSAT, DoT was to refund Rs 584.79 crore to CMTS and Basic Telephone Service providers. Out of this amount, DoT adjusted the outstanding dues of the concerned service providers towards licence fees of Rs 325.06 crore and spectrum charges of Rs 65.66 crore for the years 2002-03 and 2003-04. However, DoT had not transferred the USL portion of Rs 202.04 crore out of the amount adjusted towards licence fees into the CFI till November 2005.

(b) Examination of the Payment Register for CMTS operators for the years 2003-04 and 2004-05 revealed that in 21 cases, the stipulated 5 *per cent* portion of revenue share aggregating Rs 15.50 crore had not been bifurcated as USL for crediting to the CFI till November 2005. The Department accepted the facts.

### 2.6.30 USL revenue share was incorrectly apportioned

In six CCAs, viz., Ahmedabad, Bhopal, Cuttack, Hyderabad and Lucknow {for UP (East) and UP (West) service areas} revenue shares between licence fees and USL were not correctly classified, which resulted in short account of revenue share of Rs 5.67 crore as USL for crediting to the CFI. DoT accepted the audit observation and agreed to take remedial action (February 2006).

### 2.6.31 Figures of revenue shares as per the records of the Licencing Finance Wing and the Accounts Wing did not match

A comparison of the figures of revenue shares collected as per the records maintained by the LF Wing and the books of accounts maintained by the Accounting Wing showed the following discrepancies:

Year	Revenue share (including USL & Entry Fees)		(Rs. in crore)
			Difference
	As per LF Wing	As per Accounts Wing	
2001-02	5621.09	6238.26	(-) 617.17
2002-03	5260.59	4827.34	433.25
2003-04	7911.89	8420.57	(-) 508.68
2004-05	6807.71	6815.51	(-) 7.80
<b>Total</b>	<b>25601.28</b>	<b>26301.68</b>	<b>(-) 700.40</b>

Audit observed that these differences in the figures of revenue shares had not been reconciled by DoT till November 2005. DoT accepted the audit observation and agreed to take remedial action (February 2006).

### **2.6.32 Outstanding dues on spectrum charges and licence fee were not realized**

NTP 99 envisaged the realization of spectrum charges from all users, but DoT did not levy these charges on Central Government Ministries and Departments till June 2004. Audit observed that as of November 2005, demands were finally raised on five entities, viz., Customs and Central Excise Department, Directorate of Logistics, Director General, Lighthouse and Lightships, Director, Police Telecommunications under the Ministry of Home Affairs and Prasar Bharati Corporation. Demands could not be raised in respect of others due to lack of updated details regarding their network usage. Audit observed that payment had been received only from the Director, Police Telecommunications.

Out of a total demand of Rs.241.60 crore raised against the above five organizations, Rs 221.47 crore and Rs 8.98 crore related to Prasar Bharati (Doordarshan and All India Radio). A final decision on Prasar Bharati Corporation's request (August 2004) for exemption from payment of Rs.230.45 crore is yet to be taken (November 2005).

Further it was observed that DoT had not collected the licence fee from MTNL for the period from August 1999 to March 2001 amounting to Rs 520.49 crore owing to a dispute on the applicability of revenue sharing regime to them. Interest of Rs.657 crore was also leviable on the above amount.

## **2.7 CONCLUSION**

The introduction of the New Telecom Policy in 1999 marked a major policy shift in the telecom sector since it initiated the revenue sharing regime in the grant of licences to telecom operators. This policy shift paved the way for rapid expansion of public telecom services, with competitive tariffs, benefiting consumers and resulting in significant increases in revenue for the Government. The policy also envisaged realisation of spectrum fees from Central Government departments and

organizations, besides the need for efficient usage of spectrum in view of the growing demand for spectrum amongst the service providers. As brought out in the above report, mechanisms to verify the AGRs based on which revenue to Government was realized were inadequate, financial conditions were not communicated to MTNL on time, coordination and verification procedures required to ensure the correctness of spectrum charges collected was absent, there were inconsistencies in the allocation of spectrum and lack of a proper database to monitor the allocation and use of spectrum. DoT needed to address all these issues adequately in order to improve their system of revenue management and achieve the objectives contained in their policies for the telecom sector.

## RECOMMENDATIONS

- Roll-out obligations for all services should include the criteria of geographical coverage as this would facilitate accomplishment of the Government's policy of universal accessibility of telephones.
- DoT should pay greater attention towards verifying the correctness of AGR statements submitted by the service providers. DoT should strengthen its revenue collection process as well as its monitoring mechanism and should conduct special audits of licensees' books of accounts on a sample basis for checking the authenticity of their Adjusted Gross Revenue statements.
- DoT should take immediate action to realize the outstanding dues from MTNL.
- DoT should prescribe proper time schedules for utilisation of additional spectrum allotted beyond the minimum eligibility level.
- Clearance of all outstanding dues against an operator should be made mandatory before allocation of additional spectrum.
- DoT should have a policy of withdrawal of spectrum from GSM licensees in cases of non utilization/under utilization.
- DoT should properly maintain and regularly update its records concerning frequency usages and consequent spectrum use by all network users, renewal of their licenses and FBGs to ensure proper collection and accounting of spectrum related dues.
- Results of verification of AGRs done by the LF Wing should be communicated to the WPC /WPF wings for appropriate levy of spectrum charges.
- DoT should introduce a proper MIS between the WPC wing and the monitoring stations for better frequency management and also to facilitate curbing of illegal /unauthorised use of wireless networks.
- DoT should take prompt decisions/corrective measures on all infringement reports.
- DoT should expedite the implementation of the National Radio Spectrum Management and Monitoring System.





Appendix- 1  
(Para 2.1)

**Detailed list of sources/services from which revenue is being earned by the  
Department of Telecommunications**

Sl. No.	Name of Service	Entry fees	Licence fees	USL	Remarks
1	Basic Service including WLL Service	One time Entry fees	On the basis of revenue sharing at the percentage fixed by DoT	5% of Adjusted Gross revenue	The rates of licence fees (including USL) were 8, 10 and 12 per cent up to 31 March 2004. From 1 April 2004, the rate of licence fees was reduced by 2 per cent.
2	Cellular Mobile Telephone Services	One time Entry fees	On the basis of revenue sharing at the percentage fixed by DOT	5% of Adjusted Gross revenue	The rates of licence fees (including USL) were 8, 10 and 12 per cent up to 31 March 2004. From 1 April 2004, the rate of licence fees was reduced by 2 per cent and another 2 per cent was reduced for those companies operating the first two cellular licences in the circle areas for a period of 4 years from 1 April 2004.
3	National Long Distance	One time entry fees of Rs.100 crore	Licence fees in the form of revenue share at 10 per cent	5% of Adjusted Gross revenue	
4	International Long Distance	Only one time entry fees of Rs.25 crore	licence fees	5% of AGR	
5	Infrastructure Provider I	Mere registration required.	No licence fees		
6	Infrastructure Provider II	No entry fees	Licence fees in form of revenue share at 10 per cent	5% of Adjusted Gross revenue	Licence fees were further amended to 6 per cent of AGR with effect from 29 June 2004.
7	Radio Paging	One time entry fees	Licence fees in form of revenue share at fixed by DOT	5% of Adjusted Gross revenue	
8	VSAT Service	One time entry fees	Licence fees in form of revenue share at 10	5% of Adjusted	Captive VSAT, the licence fees are Rs 10,000 per

Sl. No.	Name of Service	Entry fees	Licence fees	USL	Remarks
			<i>per cent</i>	Gross revenue	VSAT per annum.
9	Internet Service		No licence fees payable up to October 31, 2003, thereafter a token licence of Rs 1 per annum.		
10	Public Mobile Radio Trunking Service	No entry fees	Licence fees in the form of revenue share	5% of Adjusted Gross revenue	
11	Voice Mail/auditex/ UMS	No entry fees	No licence fees		The licensee is required to provide a Performance Bank Guarantee of Rs 3 lakh per licence and to pay levy towards USO from date of licence No separate licence for those having licences for basic or cellular mobile telephone service. The revenue earned by these operators through this service is to be counted towards the revenue for the purpose of paying licence fees.

**Appendix 2**  
**(Para 2.1.3)**

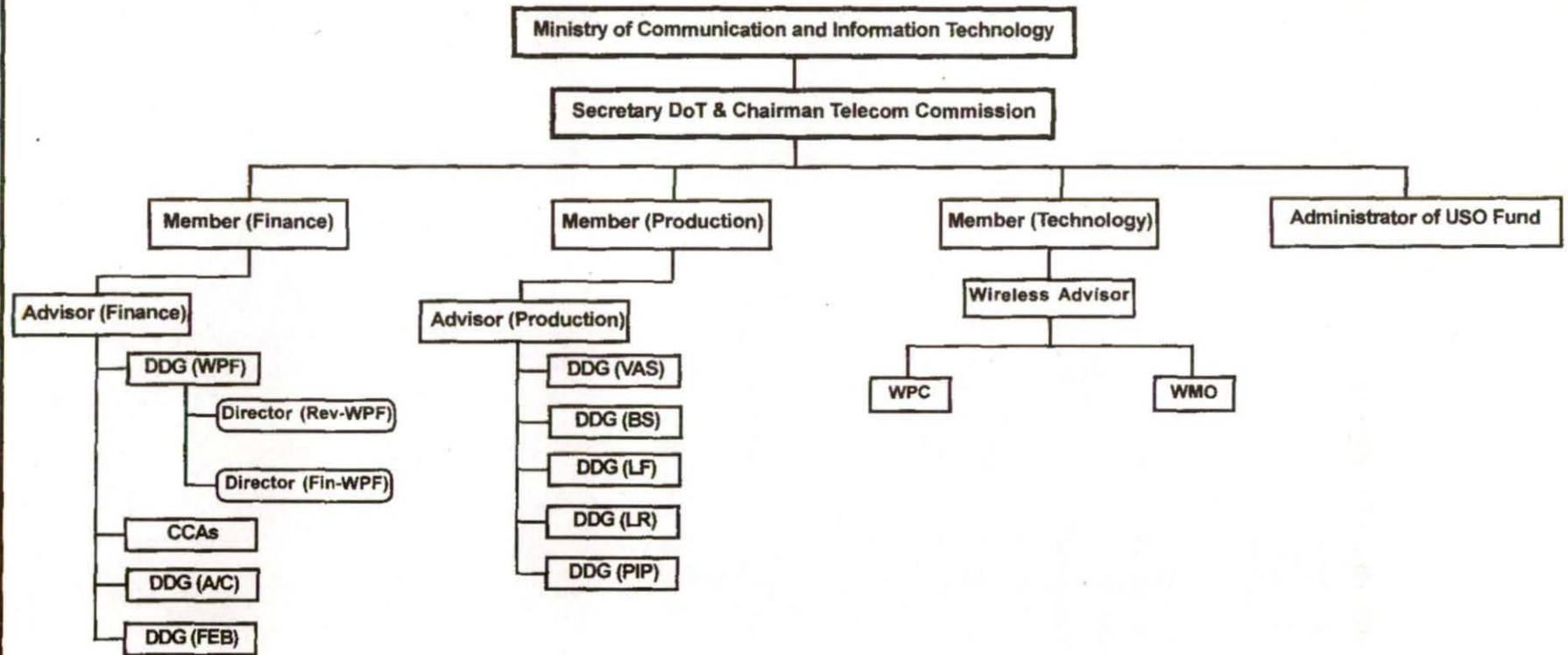
<b>SI No</b>	<b>Nature of Service / License</b>	<b>Number of licensees</b>
1	Basic Services / Universal Access Services License	59
2	Cellular Mobile Telephone Services	78
3	Public Mobile Radio Trunk Services	42
4	Captive very small aperture terminals (VSAT)	17
5	Commercial VSAT	10
6	Voice Mail Service/Audio Tex / UMS Service	29
7	National Long Distance Service	4
8	International Long Distance Service	5
9	Infrastructure Providers I	85
10	Infrastructure Providers II	7



Appendix-3

Para 2.2.1

ORGANISATION CHART OF DEPARTMENT OF TELECOMMUNICATION



**Appendix 4**  
**(Para 2.6.7)**

**Statement showing the short penal interest and interest thereon for 2002-03 & 2003-04**

(Rs in lakh)

Sl. No.	Name of Company	Name of Circle	Amount	Due date/ Payment date	Interest leviable	Interest levied	Difference	Interest upto 31.03.05	Total (8+9)
1	2	3	4	5	6	7	8	9	10
<b>2002-03</b>									
1.	Aircell Digilink	Haryana, Rajasthan and U.P (East)	296.29	25/3/2003/ 22/4/2003	7.83	3.89	3.94	1.34	5.28
2	BPL	Mumbai	1239.50	25/3/2003/ 20/6/2003	66.37	49.44	16.92	5.16	22.08
3	Bharti Mobile	Andhra Pradesh, Himachal Pradesh, Karnataka	299.93	25/3/2003/ 15/4/2003	3.94	0	3.94	1.41	5.35
4	Raliance Telecom Ltd	Bihar and West Bengal	30.55	25/3/2003/ 15/4/2003	0.40	0	0.40	0.14	0.54
5	Data Access	ILD	444.29	25/3/2003/ 15/4/2003	80.66	75.25	5.41	0.89	6.30
6	Escotel	Uttar Pradesh (West)	375.95	25/3/2003/ 15/4/2003	15.00	9.93	5.07	1.63	6.70
7	Bharti cellular	Kerala, Kolkata, Madhya Pradesh, Mumbai and Tamilnadu	94.90	25/3/2003/ 15/4/2003	1.25	0	1.25	0.44	1.69
8	HECL	VSAT	287.41	25/3/2003/ 30/6/2005	110.77	105.61	5.16	0	5.16
9	Tata Teleservices	Andhra Pradesh, Gujarat	454.59	25/3/2003/ 29/5/2003	16.85	10.74	6.11	2.02	8.13
<b>Total</b>									<b>61.23</b>
<b>2003-04</b>									
10	Idea Cellular	Delhi, Gujarat and Maharashtra	236.44	25/3/2004/ 15/4/2004	6.25	0	6.25	2.18	8.43
11	Hutchison Essar	Delhi	95.08	25/3/2004/ 15/4/2004	2.51	0	2.51	0.39	2.90
12	BPL	Mumbai	63.71	25/3/2004/ 7/5/2004	2.46	1.63	0.83	0.33	1.16
13	Bharti Mobile	Andhra Pradesh, Karnataka and Punjab	811.84	25/3/2004/ 15/4/2004	20.77	0	20.77	3.09	23.86
14	Tata Tele services	Andhra Pradesh, Delhi, Karnataka and Tamil Nadu	761.86	25/3/2004/ 15/4/2003	9.68	0	9.68	1.58	11.26
		Gujarat	248.08	25/3/2004/ 30/3/2004	3.15	0	3.15	0.52	3.67
<b>Total</b>									<b>51.28</b>
<b>Grand Total (2002-03 + 2003-04)</b>									<b>112.51</b>

**Appendix 5**  
**(Para 2.6.7)**

**Loss of interest due to non-accountal of LF dues from 10 days in advance of the commencement of quarter for the period 15-09-99 to 31-03-02**

(Rs in lakh)

Sl.No.	Name of the Company	Service Area	Amount
1	Aircel Digital India Ltd.	Rajasthan, UP-East	10.27
2	Idea Cellular Ltd.	Gujarat, Maharashtra and Andhra Pradesh	91.58
3	Reliance Telecom Ltd.	Assam, Bihar, Himachal Pradesh., Madhya Pradesh., North East, Orissa and West Bengal	34.15
4	Escotel Mobile Comm. Ltd.	UP-West, Haryana, Kerala	40.15
5	BPL Mobile Cellular	Maharashtra, Tamil Nadu, Kerala and Mumbai	95.01
6	Hexacom India Ltd.	Rajasthan	6.81
7	Fascel Ltd.	Gujarat	31.38
8	Bharti Mobinet Ltd.	Chennai, Andhra Pradesh, Delhi, Kolkata and Karnataka	101.63
9	Aircel Ltd.	Tamil Nadu	31.67
10	Usha Martin Telecom Ltd.	Kolkata	17.32
11	RPG Cellular Service Ltd	Chennai	14.23
12	BTA Cellcom	MP	4.28
13	Sterling Cellular Ltd.	Delhi	35.42
14	Hutchison Max Telecom Pvt. Ltd.	Mumbai	40.96
	<b>Total</b>		<b>554.86</b>

**Appendix 6**  
(Para 2.6.8)

**Outstanding dues and interest accrued thereon in the cases of CDMA service providers due to non completion of financial settlement**

(Rs. in lakh)

Sl. No	Name of operator	Service area	Period of accounts	Principle amount outstanding on account of CDMA spectrum dues	Interest on delayed payment	Penalty @ 150%
1	Reliance Infocomm Ltd.	Bihar, Haryana, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Mumbai, Orissa, and Rajasthan	2003-05	318.84	32.47	0
2	Bharti Infotel Ltd	MP	2003-05	73.64	17.39	0
3	HFCL	Punjab	2003-05	24.14	8.86	0
	HFCL	Punjab	2003-04	0	0	69.13
4	MTNL	Delhi & Mumbai	2003-04	491.03	0	736.55
<b>Total</b>				<b>907.65</b>	<b>58.72</b>	<b>805.68</b>

**Grand Total: Rs.17.72crore**

**Appendix 7**  
(Para 2.6.9)

**Outstanding dues and interest accrued in the cases of CUG VSAT service providers, due to non completion of financial settlement**

(Rs. in lakh)

Sl. No	Name of Service Provider	Principle outstanding	Interest outstanding	Total
1	TVC India Ltd.	22.14	4.34	26.48
2	ITI Ltd.	1.40	0.18	1.58
3	Gujrat Narmada Vally	1.42	1.53	2.95
4	Hugles Escort	95.80	39.48	135.28
5	Bharti Infotel Ltd.	0.67	1.80	2.47
6	Tata Tele Service	5.44	0.59	6.03
7	M/s Comset Max Ltd	55.19	21.94	77.13
<b>Total</b>		<b>182.06</b>	<b>69.86</b>	<b>251.92</b>



**Appendix 8**  
**(Para 2.6.15)**

**Allocation of additional spectrum to CMTS operators in spite of demands outstanding**

(Rs in crore)

Sl. No.	Name of operator	Name of service area	Date of allocation of additional spectrum	Additional spectrum allocated	Period of outstanding dues at the time of allocation of additional spectrum	Outstanding dues at the time of allocation of additional spectrum
1	BPL Cellular Ltd.	Mumbai	13.01.03	1.8 MHz (above already allocated 6.2 MHz to make total 8MHz)	31.12.03	11.35
2	BPL Cellular Ltd.	Mumbai	06.09.04	2 MHz (above already allocated 8 MHz to make total 10MHz)	31.08.04	10.12
3	Fascel Limited (Hutch)	Gujarat	14.11.03	1.2 MHz (above already allocated 6.2 MHz to make total 7.4MHz)	31.10.03	0.88
4	Fascel Limited (Hutch)	Gujarat	13.05.05	2.4 MHz (above already allocated 7.4 MHz to make total 9.8MHz)	30.04.05	3.04
5	BPL Cellular Ltd.	Andhra Pradesh	09.01.04	1.6 MHz (above already allocated 6.2 MHz to make total 7.8 MHz)	31.12.03	1.07
6	Bharti Cellular Ltd	Delhi	17.07.02	1.8 MHz (above already allocated 6.2 MHz to make total 8 MHz)	30.06.02	3.18
7	Bharti Cellular Ltd	Delhi	17.07.03	2 MHz (above already allocated 8 MHz to make total 10 MHz)	30.06.03	20.68
8	Bharti Telenet Ltd	Himachal Pradesh	19.09.03	1.8 MHz (above already allocated 4.4 MHz to make total 6.2 MHz)	31.08.03	0.95
9	Bharti Mobile Ltd	Karnataka	09.01.04	1.6 MHz (above already allocated 6.2 MHz to make total 7.8 MHz)	31.12.03	2.79
10	Bharti Cellular Ltd	Kolkata	24.01.05	1.8 MHz (above already allocated 6.2 MHz to make total 8 MHz)	31.12.04	0.57
11	Bharti Cellular Ltd	Mumbai	21.04.04	1.8 MHz (above already allocated 6.2 MHz to make total 8 MHz)	31.03.04	2.82
12	Bharti Cellular Ltd	Punjab	09.02.04	1.6 MHz (above already allocated 6.2 MHz to make total 7.8 MHz)	31.01.04	4.78
13	Hutchison Essar South Ltd	Karnataka	22.01.05	1.8 MHz (above already allocated 6.2 MHz to make total 8 MHz)	31.12.05	1.79
14	Hutchison Max Tele Ltd.	Mumbai	17.07.02	1.8 MHz (above already allocated 6.2 MHz to make total 8 MHz)	30.06.02	7.53
15	Hutchison Max Tele Ltd.	Mumbai	17.07.03	2 MHz (above already allocated 8 MHz to make total 10 MHz)	30.06.03	1.55
16	Idea Cellular Ltd.	Gujarat	31.12.03	1.2 MHz (above already allocated 6.2 MHz to make total 7.4 MHz)	30.11.03	0.55
17	Reliance Telecom Ltd.	Assam	06.10.03	1.8 MHz (above already allocated 4.4 MHz to make total 6.2 MHz)	30.09.03	0.29
<b>Total</b>						<b>73.94</b>

**Appendix 9**  
(Para 2.6.17)

**Statement showing under utilization of spectrum earmarked to operators**

SI No.	Service area	Operator	Date of earmarking of 6.2MHz spectrum straightaway	Period during which the operator registered subscriber base of 3 lakh*	No. of months for which spectrum remained under utilized
1	Bihar	Bharti	06.05.2004	Aug'2005	15
2	Orissa	Bharti	06.05.2004	Subscriber base only 224256 upto Sep'2005	16
3	UP (East)	Bharti	06.05.2004	Jun' 2005	13

**Appendix 10**  
(Para 2.6.19)

**Statement showing delay in site clearances by SACFA**

Year	No. of application to SACFA for site clearance	No of cases cleared during the year	No. of cases dropped	No. of cases pending	Remarks
2003	12160	10111	1827	222	(Cleared after April 2005)
2004	22619	10715	-	11904	-
2005 (Upto March 2005)	17644	66	-	17578	-

**Appendix 11**  
(Para 2.6.20)

**List of outstanding amounts in respect of Radio Paging Service providers**

(Rs. in lakh)

Sl. No.	Name of Service Provider	Area of operation	Outstanding as on	Amount	Remarks
1	M/s DSS Mobile Communications Ltd.	Mumbai, Bangalore, Pune, Hyderabad, Delhi, Calcutta, Chennai, Ahmedabad, Lucknow, Kanpur	31.12.03	365.56	DoT did not raise demand for 2004-05
2	M/s RPG Paging Services Ltd.	Ahmedabad, Delhi, Madras	31.12.03	213.71	DoT did not raise demand for 2004-05
3	M/s Modi Telecommunications Ltd.	Chandigarh, Jaipur, Lucknow, Kanpur, Varanasi, Chennai, Calcutta	31.12.03	168.03	DoT did not raise demand for 2004-05
4	M/s Microwave Comm. Ltd.	Mumbai, Vadodara, Ahmedabad, Calcutta, Delhi, Rakot, Surat	31.12.03	88.79	DoT did not raise demand for 2004-05
5	M/s Matrix Paging(I) Ltd.	Mumbai	31.12.03	78.76	DoT did not raise demand for 2004-05
6	M/s ABC (I) Ltd.	Delhi, Jaipur, Varanasi, Amritsar, Ludihana, Chandigarh, Kanpur	31.12.03	50.49	Main DoT License expired on 24.6.04 However the matter is subjudice
7	M/s Easy Call Comm. (I) Pvt. Ltd	Calcutta, Nagpur, Bhopal, Hyderabad, Indore, Vizag, Patna	31.12.03	46.19	DoT did not raise demand for 2004-05
8	M/s India Paging Services Ltd.	Kerala, Tamil Nadu and Karnataka	31.12.04	14.10	DoT did not raise demand for 2004-05
9	M/s Beltrom Telecommunication Ltd.	Ludhiana, Amritsar, Patna, Surat, Nagpur, Varanasi	December 2003	7.92	DoT did not raise demand for 2004-05
10	M/s Page Point Services (I) Pvt Ltd.	Pune, Hyderabad	26.10.04	4.56	DoT did not raise demand for 2004-05
11	M/s Nice (I) Ltd	Nagpur	11.9.03	1.28	DoT did not raise demand for 2004-05
<b>Total I (Existing Service Providers)</b>				<b>1039.39</b>	

12	Tele systems India Pvt. Ltd.	Madras, Ernakulam, Bangalore, Madurai, Coimbatore, Trivandrum	31.12.04	45.21	Frequency withdrawn w.e.f. 25.6.04
13	M/s BPL Wireless Telecom Service Ltd.	Ernakulam, Trivandrum	31.12.04	37.06	Frequency withdrawn w.e.f. 28.7.04
14	Punwire Paging Service Ltd.	Punjab, HP, Haryana Amritsar	21.9.01	32.06	Frequency withdrawn w.e.f. 21.9.01
15	Page Point Services (I) Pvt. Ltd.	Mumbai, Bangalore	08.07.04	7.23	Frequency withdrawn w.e.f. 8.7.04
16	M/s Matrix Paging (I) Ltd.	Pune, Rajkot, Vadodara, Surat	20.7.04	1.79	Frequency withdrawn w.e.f. 21.7.04
<b>Total II (Frequencies withdrawn)</b>				<b>123.35</b>	
<b>Grand Total (I + II)</b>				<b>1162.74</b>	



**Appendix 12**  
**(Para 2.6.21)**

**Non realization of Financial Bank Guarantees**

(Rs. in lakh)

Sl. No.	Name of Service Provider	Type of Service	Amount of Financial Bank Guarantee to be realized
1.	TVC India Ltd	V-SAT	12.50
2.	Hughes Escort Comm	V-SAT	119.77
3.	ITI Ltd.	V-SAT	3.42
4.	Bharti	V-SAT	100.39
5.	HCL Comnet	V-SAT	108.71
6.	Comset Max Ltd.	V-SAT	97.16
7.	Essel Shyam	V-SAT	39.75
8.	Tata Teleservices	V-SAT	16.83
9.	Gujrat Narmada	V-SAT	1.03
10.	HFCL	CDMA	77.20
<b>Total</b>			<b>576.76</b>

**Appendix 13**  
**(Para 2.6.25)**

**Loss of revenue due to inaction on infringement reports as pointed out by  
Engineer in charge (Inspection)**

Sl No	Name of licensee	Date of inspection	Objection made by the officer in-charge
1	Transmetals Ltd. Baroda	7.9.01	Licence was valid upto 30.4.99 Motorola GM300 equipment was being used instead of GTL
2	Raymon Glass & chemicals Vadodara	7.9.01	Licence was valid upto 28.2.96
3	Gas Authority of India Ltd. Baroda	5.9.01	Using different type of equipment other than but shown in licence
4	Bharat Starch Ind. Baroda	6.9.01	Licence renewed up to 31.7.01
5	Shah Engineering Co. Baroda	7.9.01	Licence valid up to 30.9.99 System dismantled but not surrendered
6	Gujarat Containers Ltd. Baroda	7.9.01	Licence valid up to 30.4.95 System dismantled but not surrendered
7	Saya Amusement Mfd. Ltd. Ahmedabad.	2.6.02	Licence valid up to 31.5.2000 System dismantled but not surrendered
8	Air India Ltd. Mumbai	25.6.02	Operating 9+1 VHF sets in place of 5+1 VHF sets
9	RPG paging Service	26.6.02	Licence was valid upto 31.12.97
10	DSS Mobile Communication Ltd. New Delhi	9.7.02	Licence valid up to 24.7.96 Additional fifteen base stations were operating for about 4 years without operating licence
11	Microwave Communication, New Delhi	8.7.02 21.12.04	Additional base station set up without approval and operating licence expired on 18.1.94
12	Ahmedabad Electricity Co.	14.2.02	Using 26+4 unauthorised stations
13	The Transport manager AMTS Ahmedabad.	13.2.02	Using 3 unauthorized fixed stations at Jamalpur.
14	Eureka India Ltd. Ahmedabad	21.2.02	Licence valid upto 31.12.2000
15	Gujrat Telephone Cables Ltd. Ahmedabad	21.2.02	Licence valid upto 31.5.97
16	Satyam Infoway Ltd. New Delhi	9.8.04	Validity of licence expired. As against allotted frequency band of 5792.5 MHz to 5807.5 MHz frequency of 5808MHz was unauthorizedly used. Further out of 4 links being operated, 3 links were found to be unauthorized.
17	Gujarat state Petroleum Corporation, Gandhinagar	13.7.04	Wireless links were being used without operating licence.
18	Gujarat Mineral Development Corporation	19.8.04	Licence expired on 31.12.03

19	Doordarshan Kendra	188.8.04	8 fixed stations were found active without licence
20	Joint Director Custom and Central Excise	5.8.04	1 VHF fixed station found active without licence
21	Gujarat Institute of Education Technology	21.10.04	2.4GHz wireless data transceiver found active without operating licence
22	Cadila Healthcare Ltd.	18.10.04	Of the 6 stations found active, 2 were operating without licence.
23	Troika Pharmaceuticals Ltd.	15.10.04	Equipments were transferred and added with another inter connect unit for telephone utilization and interconnectivity without authorization.
24	Tata Teleservices Ltd.	19.11.04	Operating licence was for 19 CDMA BTs whereas 29 were found active. Licence for only 13 BTs was authorized whereas 27BTs were having Microwave antennas. Licence expired on 30.9.04
25	Arvind Mills	16.12.04	The transceivers equipments were not of authorized make.
26	Communication officer Danapith Fire Station 'A'	26.4.05	As against 65 licenced stations, 354 stations were found to be active. The validity of licence expired on 31.12.2000. As against 31 licenced stations, 104 stations were found to be active. Validity of license expired on 31.12.80.
27	Ahmedabad Municipal Corporation	26.4.05	As against 400 licenced stations, 450 paging stations were being used. Operating licences had expired.

Note: No action was taken in any of these cases.

# CHAPTER III

# REGISTRAR OF COMPANIES





## Chapter Summary

- There were 6,79,649 companies registered under Companies Act as on 31.03.2005 in various States and Union Territories. 1,42,432 companies were added during 2000-01 to 2004-05. In addition, 1840 foreign companies as defined under Section 591 of the Act were operating in the country as of 31.03. 2005. The maximum concentration of companies is in Maharashtra, Delhi, Tamil Nadu, Andhra Pradesh, West Bengal, Karnataka and Gujarat.

**(Para 3.1.4)**

- The records and database of companies maintained by the Registrars of Companies were either incorrect or incomplete and not updated. Discrepancies and variations were noticed in the data maintained on the basis of actual receipt of revenue/documents and main database of the system. The database lacked inbuilt validation checks and system to safeguard and prevent unauthorized alterations.

**(Para 3.8.3)**

- In 5 ROCs fine of Rs.1381.76 crore was not recovered against 2353 companies under Section 168 of the Act on account of delay/not holding annual general meeting during the years 2000-01 to 2004-05.

**(Para 3.10.1)**

- In 15 ROCs annual returns were not filed as required under Sections 159 and 160 of the Act in 904709 cases during 2000-05. This resulted in non collection of fee of Rs. 232.63 crore. Prosecution was launched against one per cent of the defaulting companies only.

**(Para 3.10.2)**

- Balance sheets and profit & loss accounts were not filed in 919577 cases during 2000-05 in 15 ROCs under Section 220(1) of the Act which resulted in non-collection of fee of Rs. 237.06 crore.

**(Para 3.10.5)**

- In ROCs Andhra Pradesh, Meghalaya, Tamil Nadu, Rajasthan, Delhi, Maharashtra and West Bengal, fee of Rs. 15.74 crore was not collected despite increase in share capital of certain companies as reflected in their annual returns and balance sheets, as these companies did not file the form 5 as required under Section 97 of the Companies Act. Besides, due to deficiency in the software, additional fee of Rs. 1.07 crore was short recovered.

**(Para 3.10.6)**



- In ROCs West Bengal, Rajasthan, Delhi, Haryana, Bihar and Orissa, fee amounting to Rs. 2.03 crore and fine of Rs. 2.28 crore were not recovered in 5951 cases during 2000-04 from companies with paid up capital of Rs. 2 crore and above for non appointment of company secretary under Section 383(A) and non submission of compliance certificate under Section 383A (1A) of the Act.

(Para 3.10.8)

- Suspected fraud of Rs. 98.98 lakh was noticed in ROC, Kolkata where 52 cash receipts for levy of registration fee of Rs. 52.36 lakh and additional fee of Rs. 46.62 lakh towards increase in authorised capital were cancelled. In all these cases the increased authorised capital was not restored back to its earlier limit after cancellation of cash receipts.

(Para 3.10.10)

- Investor Education & Protection Fund had not been created, as envisaged under Section 205(C) of the Companies Act. The amount of dividends, matured deposits etc. lying unclaimed for 7 years were credited to the Consolidated Fund of India and the expenditure incurred on investor awareness was met through normal budgetary procedure. The ROCs were not in a position to assess or determine delays made by the companies in the transfer of these funds nor was any system in place for identifying such companies which did not transfer the unclaimed dividends etc. to government account after the expiry of 7 years. ROCs thus had no control over the implementation of the provisions of Section 205(C) of the Act.

(Para 3.11)

- In Madhya Pradesh, 100 companies had not opened unpaid dividend account in designated scheduled bank under Section 205(A) of the Act for which they were liable to pay interest of Rs. 4.65 crore and penalty of Rs.14.15 crore. In ROCs, Delhi and Mumbai Rs.28.43 crore was kept under non interest bearing account which resulted in loss of interest of Rs.11.94 crore.

(Para 3.11.1)

- Internal controls were inadequate. During the years 2000-05 the inspections conducted by the ROCs under Section 209(A) were negligible. In 5 States against 392066 annual accounts received during 2002-03 to 2004-05, technical scrutiny was conducted in 4369 cases only.

(Para 3.12.1 & 3.12.2)

- No institutional mechanism for correlation/coordination of activities and information with data of statutory bodies such as SEBI, RBI etc. was in place. 303 companies were found working as NBFCs in Shillong, Orissa and Rajasthan without being registered with RBI. There was also variation in the number of NBFCs (1274) registered with ROC, Delhi and NBFCs (2438) at work as per RBI records.

(Para 3.12.3)

### **Chapter – III : An appraisal of the levy and collection of fees by the Registrar of Companies**

**3.1.1** Ministry of Company Affairs, earlier known as the Department of Company Affairs under the Ministry of Finance, was designated as a separate Ministry in May 2004. The Ministry is primarily concerned with the administration of the Companies Act 1956, other allied Acts and rules and regulations framed thereunder for regulating the functioning of the corporate sector. The Ministry has a three-tier organisational set-up - the ministerial secretariat at New Delhi, four Regional Directorates at Mumbai, Kolkata, Chennai and Noida (U.P) covering the Western, Eastern, Southern and Northern region respectively and 22 offices of Registrars of Companies (RoC) appointed under Section 609 (2) of the Companies Act, covering all the States and Union Territories.

**3.1.2** The Registrars of Companies function under the administrative control of Regional Directors and are vested with the primary duty of registering companies including foreign companies floated in the respective States/Union Territories and ensuring that such companies comply with the statutory requirements under the Act. Every company having a share capital is required to prepare and file with RoC, by the stipulated dates, returns containing particulars of its registered office, its members, debenture holders, its indebtedness etc. and other documents as stipulated in the Companies Act. The RoC charges and collects fee prescribed in Schedule X read with Section 574 and 611 of the Companies Act for filing various returns/documents. The Registrars are empowered to prosecute the defaulting companies for their failure to file the specified returns/documents for safeguarding the interests of the shareholders/ investors/depositors.

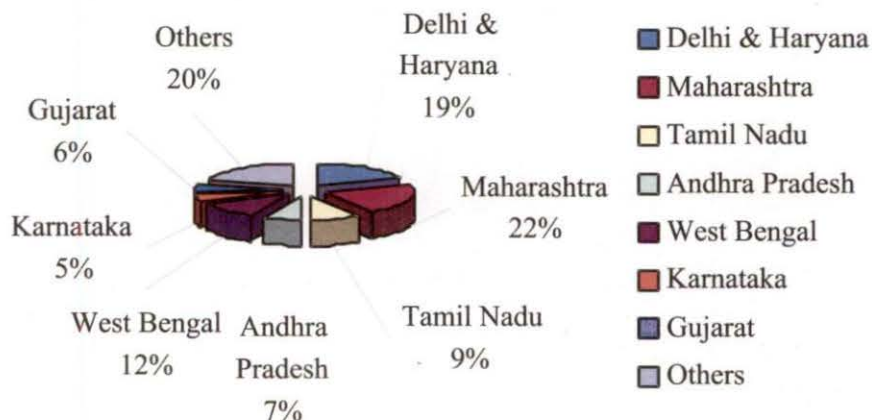
**3.1.3** The Ministry has launched an e-governance project from 18 March 2006 for providing easy and secure online access to all its services including registration and filing of documents throughout the country for all the corporates and others at any time and in a manner that best suits them.

**3.1.4** There were 6,79,649<sup>1</sup> companies registered under Companies Act as on 31 March 2005 in various States and Union Territories. 1,42,432 companies were added during 2000-01 to 2004-05. In addition, 1840 foreign companies as defined under Section 591 of the Companies Act were operating in the country as of 31 March 2005. The maximum concentration of the registered companies is in Maharashtra, Delhi, Tamil Nadu, Andhra Pradesh, West Bengal, Karnataka and Gujarat.

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<sup>1</sup> Public companies 78328, Private companies 6,01,321.





## 3.2 Law and procedure

**3.2.1** Section 166 of the Companies Act, 1956 (hereinafter referred to as the 'Act') provides for holding of Annual General Meeting (AGM) by every company. Defaulting companies are punishable under Section 168 of the Act with a fine.

**3.2.2** Every company is required to file an annual return and its Balance Sheet and Profit & Loss Account under Sections 159, 160 and 220(1) of the Act. Defaulting companies are punishable with a fine under Sections 162 and 220(3).

**3.2.3** Under Section 97 of the Act, if a company increases its share capital beyond the authorised capital, it has to file a notice with RoC in Form 5 of increase of capital. In the case of default, the company and each officer concerned with the default is punishable with fine.

**3.2.4** The fee structure for filing various returns/documents and for incorporation of companies is prescribed in Schedule X, read with Sections 574 and 611 of the Companies Act 1956. Additional fee from one to nine times of the normal fee prescribed under Schedule X of the Act, based on the period of delay is leviable under Section 611(2) for delays in filing returns/documents.

**3.2.5** Section 205C of the Act, 1956 provides for establishment of Investor Education and Protection Fund (IEPF) from 31<sup>st</sup> October 1998. Any unpaid/unclaimed dividend is to be transferred to unpaid dividend account of the company within 30 days from the declaration of the dividend and to the IEPF if it remained unpaid/ unclaimed for a period of seven years from the date of transfer to the unpaid dividend account.

**3.2.6** Under Section 383(A) of the Act, 1956, every company with paid up share capital of Rs.2 crore and above shall have a whole time Company Secretary. The company in default is punishable with fine under section 383A (1A).

**3.2.7** Section 209A(1) of Companies Act, 1956 empowers the RoC to undertake inspections of the books of accounts and other records of the companies.

**3.2.8** Under Section 621 of the Act, 1956 the RoC can prosecute the companies, which violate any provisions of the Act.

### **3.3 Scope of audit**

**3.3.1** Audit test checked the records of the regional directorates and offices of RoC for the years 2002-03 to 2004-05. Statistical data for the years 2000-01 to 2004-05, wherever found necessary, has been included in the report.

### **3.4. Audit objectives**

**3.4.1** The objective of the limited study is to assess whether there were proper systems and adequate mechanisms for:

- ensuring effective discharge of functions by Regional Directors and RoCs under various sections of the Companies Act
- levy and collection of fees and penalties as prescribed under Companies Act and rules framed there under
- invoking penal provisions of the Act against the defaulters
- co-ordination with RBI, SEBI and other authorities for efficient discharge of responsibilities under Companies Act and
- effectiveness of internal controls.

### **3.5. Audit analysis**

**3.5.1** The following analysis was adopted in examining the records and arriving at audit conclusions: -

- extent of application, levy and collection of fees and fines at prescribed rates
- time series analysis of outstanding fees
- progress of investigation and prosecution proceedings in cases of violation of the provisions of the act by defaulting companies
- effectiveness of internal control system
- submission of returns
- defunct companies and demands outstanding
- efficacy of inspections
- extent of reliability of the computer system/data.



### **3.6. Audit Methodology**

#### **3.6.1 Entry conference**

Before taking up the performance audit of the system of levy and collection of fees by the Registrar of Companies, an entry conference was organised with the Joint Secretary, Ministry of Company Affairs. Audit objectives, audit criteria and scope of audit were explained and the suggestions as well as the perceptions of the Ministry relating to the strengths and weaknesses of the system were discussed.

#### **3.6.2 Agencies involved**

- (i) Ministry of Company Affairs, New Delhi.
- (ii) Four Regional Directorates at Mumbai, Kolkata, Chennai and Noida.
- (iii) Registrar of Companies in States and Union Territories of Delhi, Punjab, J&K, Uttar Pradesh, Meghalaya (Shillong), Bihar, Kolkata, Orissa, Goa, Rajasthan, Gujarat, Mumbai, Madhya Pradesh, Karnataka, Andhra Pradesh, Kerala, Tamil Nadu and Pondicherry.
- (iv) Pay & Accounts Offices at Mumbai, Kolkata, Chennai and New Delhi.

#### **3.6.3 Modalities of conducting audit**

There are 22 offices of Registrar of Companies in the states and Union Territories. The audit of fees levied and collected by RoCs was conducted by 17 designated audit offices i.e. State Accountants General and Principal Directors of Audit/ Director General of Audit, Central Revenues. Following modalities were followed to arrive at audit findings.

- (i) Analysis of the computerised data using computer aided audit techniques, interactive data extraction and analysis (IDEA 2001).
- (ii) Verification of document files of companies including banking/non-banking companies.
- (iii) Test check of cash book with reference to challans and daily cash reports.
- (iv) Cross check of challans with bank reconciliation statements.
- (v) Scrutiny of correspondence files.
- (vi) Scrutiny of annual administrative reports and monthly statistical statements.
- (vii) Scrutiny of document files relating to non-functional companies.
- (viii) Verification of records relating to issue of default notices and launching of prosecutions.
- (ix) Scrutiny of fee register relating to inspection of document files/certified copies.

### 3.6.4 Exit conference

The audit findings were discussed with the Secretary and other senior officers of the Ministry in an exit conference held on the 19 September 2006. The Ministry appreciated the issues raised in the report and felt that these would help them in streamlining the systems especially as the Company Law and various aspects associated with it were currently under review. The Ministry was in broad agreement with the recommendations included in the report. Views of the Ministry as expressed in the meeting and additional replies given after the meeting have been appropriately reflected in the report.

### 3.7 Sampling

Samples from records covering the period from 1 April 2002 to 31 March 2005 were test checked. The number of companies selected was based on their authorised capital, nature of company such as private, banking, finance, IT companies and other risk prone companies. All companies with authorised share capital of Rs. 500 crore and above have been covered in audit. The sample size of companies having authorized share capital of less than Rs. 500 crore was selected on random basis. Out of 679649 companies registered, as on 31.3.2005, physical files of 9407<sup>2</sup> companies were test checked manually. Statistical information in this report is based on electronic database made available to audit.

### 3.8. Audit findings

#### 3.8.1 Major Sources of Revenue

ROC collects fees from companies and public at the rates stipulated in the Companies Act. The main areas of revenue collection are fees and additional fees for

- a) registration of new companies,
- b) increase in authorised capital,
- c) filing/ registration of documents,
- d) inspection of document files by public and supply of certified copies of documents to the public,
- e) amounts credited to Investor Education and Protection Fund (amount of unpaid dividend, application money, matured deposits and debentures lying unclaimed for 7 years) and
- f) fines levied on companies for violation of Companies Act.

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<sup>2</sup> in respect of 16 RoCs



### 3.8.2 Trends of revenue collected

The trend of revenue realised during-2000-01 to 2004-05 is given below:

(Rs. in crore)

Year	Nature of Receipts from	
	Regulation of Joint Stock Companies	Unclaimed/unpaid dividend and deposits of Companies
2000-01	433.43	0.48
2001-02	304.38	34.67
2002-03	324.08	115.17
2003-04	401.44	106.15
2004-05	473.75	99.53

There is no system of either forecasting the revenue or fixing the target for collection of revenue. The department had also not formulated specific plans for maximising collection of fees from companies. Non-fixing of targets led to the Ministry not being able to assess the performance of the different Registrars of Companies in maximising the collection of revenue.

The Ministry stated (October 2006) that it was not a revenue earning ministry and that it was not possible to forecast the collection of revenue as payment of fee by companies depended upon various events and their business decisions. Ministry agreed to prepare revenue estimates based on past trends.

Even though the major portion of the fee paid by companies arise from incorporation of new companies and increase in authorised share capital, all live and working companies under the jurisdiction of each RoC have to pay fees at the prescribed rates along with their annual returns and balance sheets. The Ministry may consider framing targets for each RoC on the basis of these fees which are definite in nature.

### 3.8.3 System deficiencies in the maintenance of records and database of companies

Data of companies registered with various RoCs is stored by each RoC in a computer system developed by NIC. The data is stored in five directories i.e. Name<sup>3</sup>, Receipt<sup>4</sup>, Diary<sup>5</sup>, Dore<sup>6</sup> and Coins<sup>7</sup>. The software is used for confirming

<sup>3</sup> The said programme facilitates to verify the availability of name.

<sup>4</sup> Fee as per Schedule X of the Companies Act, 1956 is received under this programme.

<sup>5</sup> Every document received by RoCs is given a distinct number under this programme.

<sup>6</sup> Under this programme every document registered is given a ledgerisation number.

<sup>7</sup> This programme maintains master details of every company registered with this office.

the existence of a company in records, collection of fees and also for generating periodic returns and reports. Audit analysis of this data revealed the following deficiencies.

- (i) Information regarding change in share capital from time to time was neither stored nor updated in the database due to which fees recoverable on increase in the authorised share capital were not ascertainable.
- (ii) The database does not indicate the correct authorised share capital of several companies. It was found from the database that some companies had filed Form 5 with the necessary fees but the database had not been updated. Manual receipts issued when computers could not be operated due to power failure and other reasons, were also not found updated in some cases. The software could not generate exception reports of companies that have not filed Form 23 and Form 5 though there was increase in authorised share capital as reflected in the balance sheets and other returns.
- (iii) There were various discrepancies in the data maintained on the basis of actual receipt of revenue/documents and main database of the system.
- (iv) There was lack of inbuilt validation checks to maintain data integrity. This was displayed in some cases in which the information about events such as filing of return etc. was found entered incorrectly (for example year 1999 had been entered as 2999) but the fee and additional fee had been recovered in accordance with rules indicating manual calculations.
- (v) Through the edit facility provided to the computer cash counter the authorised capital of any company could be altered to any extent without generating corresponding cash receipt /or any other kind of receipt.
- (vi) Maintenance of documents and their filing was not systematic as exhibited by the facts that (i) all the documents were not found in the respective files, (ii) documents of certain companies were found filed in document files of other companies etc.

The Ministry while accepting audit observations stated (October 2006) that there were constraints in the computer system developed and supported by NIC and maintenance of records under manual system was extremely difficult on account of increased volume of work during peak filing season as well as general shortage of staff. It further stated that to address these systemic constraints MCA21 e-Governance Project was implemented by it from March 2006.

Since legacy data of the existing system is also intended to be utilised on the MCA 21 e-governance project, Ministry may like to conduct a thorough review of the integrity and reliability of data so as to ensure that the errors in the earlier system do not affect the new project.

### 3.8.4 Constraints in conducting the limited systems appraisal

The Ministry of Company Affairs is implementing an e-governance project known as MCA-21 program. The document files of the companies in almost all the RoCs were at various stages of scanning for being added to the database of this new programme. Consequently, a large number of documents required by audit were not found filed in the relevant document files.

### 3.9 Deficiencies in implementation of Companies Act

#### 3.9.1 Striking defunct companies off the register

Section 560 of the Act, empowers the RoCs to strike the defunct companies off the register in case he has a reasonable cause to believe that these were not carrying on business or were inoperative. If a company has defaulted in filing with the RoC its annual accounts and annual returns for three or more consecutive financial years, the company is to be declared as defunct company. However, test check of the database of RoCs at Orissa, Andhra Pradesh, Delhi, Haryana and West Bengal and the document files of RoC, Shillong revealed that despite non filing of annual returns and balance sheet by 93408 companies for three years or more, only 4098 companies were struck off during the period under coverage. The state wise details are given below:

Sl. No.	Name of RoC	Number of companies which did not file Annual Return/Annual Accounts for 3 or more consecutive financial years	Prosecution launched
1.	Madhya Pradesh	6543	1437
2.	Orissa	1,487	NA
3.	Hyderabad	18,272	NA
4.	West Bengal	26,047	399
5.	Shillong	86*	NA
6.	Kerala	3208	NA
7.	Delhi and Haryana	37765	NA
8.	Gujarat	14938	NA
	<b>Total</b>	<b>108346</b>	

\* Indicates the result of document files test checked manually.

The Ministry replied (October 2006) that striking off names of the companies from the register under Section 560 of the Act had several legal implications and the process took 6-9 months. It further stated that a company could be struck off the Register only if it had no assets and liabilities.

Ministry may vigorously pursue for striking off the name of defunct companies so that they no longer enjoy the benefit of limited liability and owning of assets. Timely action on the part of Ministry would safeguard the interest of stakeholders and avoid further exposure to these companies by the public.

### 3.10 Short/non-recovery of fees and fines

#### 3.10.1 Non-levy of fine due to non-holding/delay in holding of AGM

In terms of Section 166 of the Act, every company is required to hold an Annual General Meeting (AGM). Not more than 15 months shall elapse between the date of one AGM and that of the next, provided that a company may hold its first AGM within a period of not more than eighteen months from the date of its incorporation. Default in holding a meeting, is punishable with a fine under Section 168 which may extend to Rs. 50,000/- in the first case and in case of a continuing default with a further fine which could extend to Rs.2,500/- for every day during which the default continues. No minimum penalty is prescribed under the Act. Further the defaulting companies are to be prosecuted following the procedures as prescribed under Criminal Procedure Code. As per Section 468 of the Criminal Procedure Code, the ROC is required to file prosecution case within 6 months of the due date of failure to hold AGM.

Test check of computerised database and manual checking of document files in 5 RoCs for the period 2000-01 to 2004-05 revealed poor monitoring and control for timely detection of non-compliance with above provisions due to which 2353 companies had either delayed or not held AGMs as indicated below.

(Rs. in lakh)

Name of RoC	No. of cases where AGM not conducted	Number of cases where AGM delayed	Period of delay (yrs)	Fine leviable
Uttar Pradesh	27	--	1	43.50
Madhya Pradesh	165	-	1 to 3	1311.40
Orissa	1960*	18	1 to 9	131837.00
Meghalaya	56	--	1 to 10	4465.80
Delhi and Haryana	125	2	1 to 5	517.82
<b>Total</b>	<b>2333</b>	<b>20</b>	<b>-</b>	<b>138175.52</b>

\*Indicates the result of analysis of the computerised data

Thus, Rs.1381.76 crore was recoverable as fine from 2353 companies under Section 168 due to delay in holding or non-holding of AGMs on the basis of maximum fine of Rs.50,000 in first case and Rs.2500 for every day of default. This was not recovered. Only 58, 189, 98 and 13 prosecution cases were launched in respect of all the 22 RoCs during the years 2000-01, 2002-03, 2003-04 and 2004-05 respectively. In 2001-02 no prosecution was launched against any company for delay/non-holding of AGM.



In RoC, Orissa, test check revealed that despite a large number of companies failing to file "Notes on AGM" in support of holding AGMs, neither were show cause notices issued nor was any prosecution launched. The RoC also did not exercise the power of inspecting the records of these companies. In RoC, Delhi, there were 35001, 38743, 41666, 46689 and 57533 companies which had not filed annual returns and balance sheet during 2000-01 to 2004-05 respectively. It can be presumed that these companies had also not held their AGMs. The RoC did not furnish any data or notices issued by it to the defaulting companies during 2000-01 to 2004-05. No prosecution was either launched by it during this period. Besides the fee outstanding against these companies, fine at maximum prescribed rate mentioned above amounting to Rs. 287.66 crore is also leviable. Due to non-prosecution of defaulting companies within six months, the recovery has become time barred resulting in loss of Government revenue.

The Ministry stated (October 2006) that the loss of Rs. 1669.42 crore as computed by audit was based on the maximum fine leviable under law which might not have been levied by the courts. It also stated that RoCs did not have any power to levy any fine or impose penalty and recourse to filing prosecution was not found to be an effective remedy as besides the long time taken in disposal of cases, the fines imposed by the courts were far below the litigation costs. The Ministry added that the Vaish Committee constituted for looking into this aspect had observed that courts were not in a position to handle such a large number of cases and in a very large number of cases even first summons had not been issued by courts for years. The Ministry stated that these systemic problems would be addressed in the new law as Companies Act 1956 is under comprehensive revision.

Audit has pointed out several cases in which even show cause notices as prescribed under the Act have not been issued by the RoCs. Further, calculation of the loss on the basis of maximum prescribed penalty has been made in the absence of any minimum penalty in the Act and to highlight the impact on revenues. Ministry may take expeditious action to correct the systemic issues including carrying out revisions as required to the Companies Act and fixing appropriate minimum penalties to act as an effective deterrent to non complying companies.

### **3.10.2 Non-realisation of fees due to non-filing of Annual Returns**

As per Sections 159 and 160 of the Act, 1956 every company shall, within sixty days from the day on which Annual General Meeting (AGM) is held, prepare and file with RoC annual return in the prescribed format along with filing fee. Default to comply with these provisions, attract payment of additional fee @ one to nine times of normal filing fee and fine under Section 162 which may extend to five hundred rupees for every day during which default continues.

Test check of the computerised and manual records of 15 RoCs revealed that during 2000-01 to 2004-05, annual returns were not filed in 904709 cases which resulted in non collection of fee of Rs. 25.42 crore and additional fee of Rs.207.21 crore. Besides, fine upto Rs.500 per day of default was also leviable.

(Rs. in lakh)

Name of RoC	No. of cases in which annual return was not filed	Normal fee not collected	Additional fee leviable @ nine times of normal fee for average delay of 2 years	Number of prosecution cases filed for default
Andhra Pradesh	18272	60.42	543.85	741
Bihar	21692	65.08**	585.72	688
Delhi & Haryana	220701	641.81	4105.28	583
Goa	3055	9.17**	82.53	1125
Gujarat	93134	279.40**	2514.60	NA
Kerala	24830	74.49**	670.41	6289
Madhya Pradesh	232*	0.35	2.30	NA
Maharashtra	195691	587.07**	5283.65	777
Meghalaya	534*	2.24	18.74	N.A
Orissa	7563	22.44	179.15	N.A
Punjab	47,939	143.82**	1261.85	N.A
Rajasthan	17640	33.54	254.63	N.A
Tamil Nadu	19280	57.84**	520.56	N.A
Uttar Pradesh	14*	0.04**	0.38	N.A
West Bengal	234132	564.64	4697.48	607
<b>Total</b>	<b>904709</b>	<b>2542.35</b>	<b>20721.13</b>	<b>10810</b>

\* Indicates result of cases test checked manually

\*\* As authorized capital of the company was not available, average normal filing fee of Rs.300/- was adopted for calculation.

Initiation of prosecution against defaulting companies in West Bengal, Maharashtra, Andhra Pradesh, Goa, Delhi and Haryana for which information was available, was very poor. As per records of the Ministry, prosecution launched by all the RoCs was 4170, 3460, 3657, 2626 and 3395 cases during the years 2000-01, 2001-02, 2002-03, 2003-04 and 2004-05 respectively which constituted about one per cent of the defaulting companies. Thus, the Ministry failed to perform its function of administering the Companies Act with consequent non realisation of revenue of Rs.232.63 crore.

The Ministry stated (October 2006) that filing fee and additional fees would be recovered as and when the companies in default come forward to file any document with the RoCs. Ministry should put in place a mechanism to ensure that notices are served in time on defaulting companies for recovery of revenue due to the Government. Ministry could also consider taking action to correct the systemic issues including carrying out revisions as required to the Companies Act.

### 3.10.3 Companies which availed of Company Law Settlement Scheme 2000 (CLSS) but failed to file annual returns later

Government of India launched a one time amnesty scheme namely CLSS in May 2000 for granting immunity to companies from prosecution for non filing of documents under the Act. Test check of the records of RoC, Orissa, Hyderabad and Tamil Nadu revealed that even after availing of this scheme, 3477 companies continued to default in filing their annual returns and balance sheets. Thus, lack of monitoring resulted in non-achievement of the objective of the Government to mainstream these companies despite foregoing substantial revenue of which, details relating to Rs.1.27 crore was only available (Table 5).

(Rs. in lakh)

RoC	No. of defaulting companies	Revenue foregone*
Goa	24	0.89
Hyderabad	57	NA
Kerala	676	NA
Orissa	399	125.80
Punjab	2321	NA
<b>Total</b>	<b>3477</b>	<b>126.69</b>

\* The fee forgone has been calculated as the difference between the amounts of additional fee recoverable had the scheme not been introduced and additional fee actually recovered.

The Ministry replied (October 2006) that steps for identification of such companies had been initiated and it would now be possible to monitor such companies with the implementation of MCA 21 e-Governance project. Ministry may review the functioning of amnesty schemes in the light of experience gained so that the objective of providing amnesty to defaulting companies is achieved.

### 3.10.4 Non realisation of fee from foreign companies

RoC, Delhi is the registering office for foreign companies. Every foreign company is required to submit every year Form 52 indicating its place of business in India and file three copies of the balance sheet within 9 months from the close of financial year to RoC, Delhi under Sections 593 and 594 of the Act, 1956. Section 601 of the act prescribes fee of Rs.5000/- for registration of each document. In case of violation of the aforesaid provisions, a fine of Rs.10,000/- and in case of continuing offence additional fine of Rs.1000/- for every day during which the default continues, is leviable.

Analysis of the computerised database of RoC, Delhi revealed that out of 1840 foreign companies, 1400 companies had not filed their balance sheet and Form 52 for which minimum fee of Rs. 1.40 crore and additional fee of Rs.5.60 crore was recoverable. Test check of files of 121 foreign companies examined manually in audit revealed that balance sheets and form 52 were not filed in 401 cases resulting in non recovery of fee and additional fee of Rs.1.83 crore. The

department had issued default notices to only 10 companies' under section 594 till 31.3.2005. Prosecutions were launched during 2000-01 to 2004-05 against 3 defaulting companies. Further, no technical scrutiny under section 234 of the Act and inspection under section 209A of the Act had ever been conducted.

The Ministry stated (October 2006) that the fee and additional fee would be recovered from the defaulting companies as and when they come forward for filing documents. It further stated that a large number of foreign companies had closed their branch offices in India without informing RoC and identification of these companies was being taken up on priority. Under the circumstances, Ministry should consider instituting a suitable control mechanism to monitor discharge of dues by foreign companies.

### 3.10.5 Non realisation of fees due to non-filing of Balance Sheet and Profit & Loss Account

Test check of the records including computerised database of various RoCs revealed that a large number of companies had not filed annual returns and balance sheets during 2000-01 to 2004-05 as required under section 220(1) of the Act which resulted in non collection of fee of Rs.25.87 crore and additional fee of Rs.211.18 crore as detailed below. Besides, maximum fine @ Rs. 500/- per day was also recoverable from the defaulting companies.

(Rs. in lakh)

Name of RoC	No. of cases where balance sheet and profit & loss a/c were not filed	Fees (Normal)	Outstanding maximum additional fee leviable for average delay of 2 years	No. of cases where prosecution was launched
Andhra Pradesh	18272	60.42	543.85	741
Bihar	22039	66.12#	595.08	688
Delhi and Haryana	220154	641.76	4098.75	566
Goa	3055	9.17#	82.53	1125
Gujarat	106821	320.46#	2884.14	NA
Kerala	23688	71.06#	639.54	6051
Madhya Pradesh	232*	0.35	2.30	NA
Maharashtra	196367	589.10#	5301.90	777
Meghalaya	570*	2.42	21.03	NA
Orissa	7256	21.52	171.63	NA
Punjab	47939	143.82#	1261.85	NA
Rajasthan	17640	33.55	254.69	NA
Tamil Nadu	19280	57.84#	520.56	NA
Uttar Pradesh	30*	0.09	0.81	NA
West Bengal	236234	569.70#	4739.65	607
<b>Total</b>	<b>919577</b>	<b>2587.38</b>	<b>21118.31</b>	<b>10555</b>

\* indicates result of cases test checked manually.

# As authorized capital of company was not known, average normal filing fee has been taken @ Rs. 300/- per balance sheet



In RoC, Delhi and Haryana, Punjab and J&K manual scrutiny of 101, 147 and 73 document files revealed that fee and additional fee of Rs.32.51 lakh were not recovered in 321 cases of non filing of balance sheet. As per the records of the Ministry, prosecution for default was launched against 4218, 3552, 3709, 2531 and 3529 companies only during the years 2000-01, 2001-02, 2002-03, 2003-04 and 2004-05 respectively which constituted only 2 per cent of the total defaulting companies.

The Ministry stated that the filing fee and additional fees would be recovered as and when the companies came forward to file any document. Ministry may take proactive measures to recover the fee payable apart from invoking penal provisions of the Act.

### 3.10.6 Non recovery of fee of Rs. 17.85 crore payable on increase in authorized share capital

Under Sections 97, 192 and 611 of the Act, a company has to file with the RoC, a notice of increase in its share capital in Form 5 and for registration of special resolutions authorising increase in share capital in Form 23 alongwith fee/additional fee at rates varying between Rs.100 to Rs.500 depending upon the authorised share capital of the company. The registrar based on Form 23 and Form 5, is required to make necessary alterations in the company's Memorandum or Articles or both. As per Section 97(3), for default in complying with this section, every company and its officer who is in default is punishable with fine, which may extend to Rs. 500 per day during which the default continues.

Test check of the records of RoC Andhra Pradesh, Shillong, Tamil Nadu, Rajasthan, Delhi and Haryana, Maharashtra, West Bengal and Bihar revealed that despite increase in share capital as reflected in the annual returns and balance sheets of various companies, no fees were collected till the date of audit as these companies did not file Form 5 or Form 23. Details are given below.

(Rs. in lakh)

ROC	No. of companies which did not file Form 5	No. of companies which filed only Form 5 and not Form 23	Amount of fee/ additional fee leviable
Andhra Pradesh	14	7	111.48
Bihar	11	8	227.93
Delhi and Haryana	21	28	496.11
Kerala	7	7	36.90
Maharashtra	52	246**	317.04*
Madhya Pradesh	2	-	144.16
Meghalaya	5	-	77.17
Rajasthan	10	-	15.14
Tamil Nadu	3	-	85.47
West Bengal	43	-	62.50
<b>Total</b>	<b>168</b>	<b>296</b>	<b>1573.90</b>

\* the fee/additional fee is calculated on the basis of average filing fee @ Rs.300 and additional fee @ Rs.1200/-.

\*\* indicates result of analysis of records in computer system.

Thus, filing fee/additional fee amounting to Rs.15.74 crore was not realised by the RoCs for non-filing of Form 5 and 23. Besides, a fine of Rs. 500 per day of default for non-filing of Form 5 was also not levied in these cases.

Further, Section 611(2) of the Act provides for payment of additional fee for delayed filing of Form 5. The rates of additional fee prescribed for belated filing of Form 5 is 2 per cent and 2.5 per cent per month of the fees payable for delay upto one year or exceeding one year respectively.

Analysis of the computerised data base and records maintained in the office of RoC, Orissa, Tamil Nadu, Andhra Pradesh, Rajasthan, Gujarat, Karnataka and West Bengal for the period 2000-01 to 2004-05 revealed short recovery of additional fee of Rs.1.07 crore involving 2771 cases of belated submission of Form 5 for increase in authorised share capital as per details given below.

(Rs. in lakh)

Table 8 : Short recovery of additional fees			
Sl. No.	Name of RoC	Number of cases of late submission of Form 5	Amount of additional fee short recovered
1	Andhra Pradesh	868	12.43
2	Gujarat	22	0.38
3	Karnataka	205	5.00
4	Rajasthan	469	3.32
5	Tamil Nadu	273	23.76
6	Orissa	27	0.96
7	West Bengal	907	61.15
	<b>Total</b>	<b>2771</b>	<b>107.00</b>

Besides cases of short recovery mentioned above, in RoC Tamil Nadu, fee/additional fee amounting to Rs. 10.70 lakh was not collected in 35 cases for belated filing of Form 5.

The short recovery for belated filing of form 5 was due to deficiency in software developed by NIC. According to the rule provision, delay upto 12 months is chargeable with 2 per cent additional fee and once it exceeds 12 months, it should be at 2.5 per cent for all the months including the first 12 months. But the software developed by NIC calculates additional fee as 2 per cent per month for the first year and 2.5 per cent per month for the remaining period of delay in case of delayed submission of more than one year. The adoption of incorrect interpretation of government orders has led to an error in application software developed by NIC.

Following interesting cases were noticed in the States:

- M/s AP State Minorities Finance Corporation received the share application money of Rs. 32.8 crore from Government of Andhra Pradesh in 1999-2000 over and above its authorised share capital of Rs. 5 crore. The corporation continued to receive the share application money subsequently every year up to 2003. Total share application money of Rs. 67.45 crore was received by the company upto 2003 as reflected in the balance sheets. However, no resolution for increase of authorised share capital was passed and the prescribed fee paid. Failure of ROC to conduct proper technical scrutiny of the balance sheets resulted in non collection of Rs. 39.43 lakh as fee and additional fee.
- M/s Eldeco Housing and Industries Limited (Uttar Pradesh) increased its authorised share capital from Rs. 1 crore to Rs. 2 crore and paid registration fee amounting to Rs. 51,000. However, as per the schedule enclosed with the balance sheet as on 31 March 1995, the authorised share capital of the company was Rs. 7.50 crore which was again increased to Rs. 10 crore as reflected in Form 29 and Form 30 filed on 8 October 1997. Despite increase in share capital and non-filing of Form 5 and non-payment of fee, no action was taken by RoC under Section 97 of the Act. This resulted in short recovery of fee of Rs. 19.73 lakh apart from fine.
- M/s Sujana Industries Ltd (Andhra Pradesh) increased its authorised share capital from Rs.10 crore to Rs.50 crore during the year 1995-96 which was reduced to Rs.25 crore on 31.12.98. There was no recorded evidence in the docket files for payment of fee of Rs.15 lakh for the increase in authorised share capital from Rs.10 crore to Rs.50 crore in 1995-96.
- The authorised share capital of M/s Charminar Granites Exports Limited (Andhra Pradesh) was Rs. 13 crore in March 1992. Form 23 and 5 filed by the Company on 12 April 1999 indicate that the authorised share capital of the company was reduced from Rs. 20 crore to Rs. 13 crore as per resolution passed in the AGM held on 26 March 1999. However, no records reflecting increase of the authorised share capital from Rs. 13 crore to Rs. 20 crore in the period 1992 to 1999 was available in docket files and no fee has been received as verified from the records. Failure of RoC to monitor the increase in share capital of the company resulted in non-recovery of filing and additional fee amounting to Rs. 11.46 lakh for the period April 1998 to October 2005.
- M/s Stiles India Limited (Andhra Pradesh) with a share capital of Rs.15 crore increased its authorised share capital to Rs.25 crore on 27.09.1996. Though Form 23 containing special resolution was filed with RoC, Form 5 was not filed and no fee was paid. The authorised share capital of the company was further raised to Rs.35 crore on 31.01.2001. While fees at the prescribed rates on increase of share capital in January 2001 was paid, additional fee payable amounting to Rs.6.88 lakh for delay from September 1996 to September 2005 was not recovered.

- M/s Deewan Tyres Limited (Uttar Pradesh) initially registered with authorised share capital of Rs.1.5 crore, increased this to Rs.2 crore in February 1985, Rs.2.5 crore in March 1987, Rs.5 crore in July 1989, Rs.8 crore in July 1993 and Rs.60 crore in March 1994. The company had not filed Form 5 in respect of increase in share capital from Rs.5 crore to Rs.8 crore and no action had been taken by RoC. There was also delay of more than one year (16.03.94 to 31.05.96) in filing of Form 5 in respect of increase in authorised capital from Rs.8 crore to Rs.60 crore for which additional fee should have been charged at the rate of 2.5 per cent of the enhanced fee instead of 2 per cent as calculated by RoC which resulted in short recovery of additional fee of Rs. 1.22 lakh.

The non/short realisation of fees and additional fees as discussed above was facilitated due to the failure of RoCs to scrutinise various documents filed i.e. the annual return, balance sheet, form 23 etc.

The Ministry stated (October 2006) that it was aware of the problem and had put in place the necessary system of linking Form 5 and Form 23 in MCA database and generation of exception statements would identify the defaulting companies. It further stated that the RoCs were being directed to examine the cases pointed by audit and take appropriate action for recovery of the short recovered fee. Cases pointed out by audit are only indicative and Ministry should review other cases also where share capital has been increased to verify if the corresponding fees have been collected as specified under the Act.

Ministry may also examine the controls provided in the new system so that the shortfalls and risks associated with earlier software do not recur in the new system.

### **3.10.7 Short collection of additional fees for belated submission of documents**

Section 611(2) of the Act provides for payment of additional fee for delayed filing of documents other than Form 5. Additional fee at the rate of one to nine times of normal fee depending upon the period of delay in filing of documents is recoverable for delay in filing other documents viz. resolutions, annual returns and balance sheet, Form 18, 23 etc.

Analysis of the computerised database and records maintained in the office of RoC, Orissa, Tamil Nadu, Andhra Pradesh, Kerala and West Bengal for the period 2000-01 to 2004-05 revealed that due to incorrect application of rates of additional fees, there was short recovery of additional fee of Rs.127.91 lakh involving 18080 cases of belated submission of documents other than Form 5 (Table 9).



(Rs. in lakh)

Sl. No	Name of RoC	No. of cases of late submission	Amount of additional fee short recovered
1	Andhra Pradesh	7146	42.71
2	Kerala	1570	18.83
3	Tamil Nadu	5033	47.32
4	Orissa	247	1.89
5	West Bengal	4084	17.16
	<b>Total</b>	<b>18080</b>	<b>127.91</b>

The Ministry stated (October 2006) that RoCs had been directed to re-examine the cases specifically pointed out by audit.

### 3.10.8 Non levy of fees and fines for non-appointment of whole time company secretary and non-submission of compliance certificate

Section 383(A) of the Companies Act, 1956, provides for appointment of a whole-time Company Secretary by every company with paid up share capital of Rs.2 crore and above. Companies not required to employ a whole-time secretary are required to file a compliance certificate from a Secretary in whole-time practice certifying that company has complied with all the provisions of the Act. Under Section 383A(IA) of the Act every company in default is liable to fine which could extend to Rs. 500 for every day during which default continues.

Test check of the computerised and manual records of RoCs, West Bengal, Rajasthan, Delhi, Haryana and Orissa for the period 2000-01 to 2003-04 revealed non levy of fee and additional fee amounting to Rs. 2.03 crore and fine of Rs. 2.28 crore under Section 383A (1A) of the Act as indicated below:

(Rs. in lakh)

RoC	Number of companies which did not		Fine leviable for non-appointment of company secretary	Fees and additional fees leviable for not filing of compliance certificate
	appoint company secretary	file compliance certificate		
Bihar	5**	2**	27.38	0.30
Delhi and Haryana	18**	--	152.32	--
Madhya Pradesh	--	16	--	5.16
Orissa	8**	6**	48.20	0.35
Rajasthan	--	807*	--	89.31
West Bengal*	--	5120*	--	107.52
<b>Total</b>	<b>31</b>	<b>5951</b>	<b>227.90</b>	<b>202.64</b>

\* indicates result of the analysis of data available in computer system

\*\* indicates result of documents test checked manually

RoC, Orissa and Bihar had failed to monitor violations under Section 383(A) as data base of 3733 out of the total of 7105 companies as on 31.03.05 was incomplete. The database did not have any information regarding paid up capital of these companies. In respect of another 150 companies with paid up capital of Rs. 2 crore or above, information on appointment of a full time Secretary was not available in the database. RoCs, Delhi and Punjab stated that their system did not identify the companies having paid up capital of Rs. 2 crore and above nor was it possible to ascertain if a qualified company secretary was appointed or not. In the absence of such a mechanism, the department could not levy any fine against the defaulting companies as prescribed in the Act.

The Ministry replied (October 2006) that there had been problems in maintaining and updating correct database regarding paid up capital due to which the provisions of Section 238 of the Act could not be applied. The Ministry added that a revised form had been introduced and all the related information would be available in the database by March 2007 and once this database became available, this aspect can be monitored effectively.

Appointment of a company secretary is a requirement of the Act with a view to strengthening corporate governance and protecting the interests of stake holders. As this is a crucial control mechanism, Ministry needs to take urgent steps to ensure adequate monitoring.

### 3.10.9 Non recovery of fee and fine due to non-enhancement of paid up capital

According to Sections 3(3) and 3(4) of the Companies Act, 1956, every private and public company existing on the date of commencement of the Companies (Amendment) Act, 2000, with a paid-up capital of less than one lakh rupees and less than five lakh rupees shall within a period of two years from such commencement, enhance its paid up capital to one lakh rupees and five lakh rupees respectively. The amendment came into force from 13.12.2000 and companies were to enhance their paid up capital before January 2003. Ministry in its circular No. 4/2002 dated 11.12.2002 had instructed the RoCs to prosecute companies which failed to comply with the provisions of the Act.

Test check of the computerised and manual records of RoCs, Delhi, and Orissa revealed that 934 companies had not complied with the above provisions.

Registrar of companies	Number of public companies with paid up capital of less than Rs. 5 lakh as on 31.3.2005	Number of private companies with paid up capital of less than Rs. 1 lakh as on 31.3.2005
Delhi and Haryana	870	781
Orissa	64	71
<b>Total</b>	<b>934</b>	<b>852</b>

Thus, there was a potential loss of revenue due to non-filing of Form 5 by these companies. The amount of fee recoverable in these cases could not be assessed due to non-availability of information (in the database) regarding the authorised and paid up share capital of these companies. Besides, one time fine of Rs. 5000/- and further fine of Rs.500/- per day after the first day of default was also leviable under section 629A of the Act against the defaulter companies. No prosecution was launched against any of these companies by the RoCs during 2000-05.

The Ministry stated (October 2006) that most of the companies that had been test-checked were defunct companies which were not interested in continuing their business and those RoCs had been advised to take suo moto action against defaulting companies.

### **3.10.10 Cancellation of receipts – suspected fraud**

The Receipt and Payment Rules stipulate that all the cancelled receipts are to be authenticated by the head of office. Further, all the cancelled receipts along with the counterfoils/office copy should be kept in the office records in original. However, in the RoC, Maharashtra, cancelled receipts had not been preserved. The reasons for cancellation were not properly recorded in the RoCs, Maharashtra, and Delhi. RoC, Mumbai stated that proper records of cancelled receipts would be maintained in future. Due to non-preservation of cancelled receipts, it could not be verified in audit whether the revised entries in the records which were initially made such as increase of authorised capital etc. were subsequently reversed or cancelled. In RoC, Kolkata 52 cash receipts for levy of registration fee of Rs. 52.36 lakh and additional fee of Rs. 46.62 lakh towards increase in authorised capital were cancelled. In all these cases the increased authorised capital was not revised to its earlier limit after cancellation of cash receipts. Thus, the records of RoC indicated increased authorised share capital even though corresponding registration and fee payable on additional share capital had not been recovered. The failure of the RoC to revise the authorised share capital to earlier limit even though cash receipts of Rs. 98.98 lakh were cancelled is fraught with the risk of misappropriation of government revenues.

The Ministry stated (October 2006) that it had taken note of the seriousness of the issue and the risk involved in such cancellations as pointed out by audit. RoCs had been instructed to examine each case of cancellation of receipts in the old system. Ministry also informed that Cash Assistant in Kolkata who was involved in fraudulent cancellation of receipts had been given major penalty.

### **3.10.11 Non recovery of fees due to non-adherence to ceiling of minimum capital**

The guidelines issued by the Department of Company Affairs in March 1989 prescribe a ceiling of minimum capital for such companies which use key words

like 'Corporation', 'International', 'Globe', 'Asia' and 'Hindustan' etc. as part of their names. Analysis of the database revealed that 375 companies which were incorporated subsequent to the date of issue of the guidelines with these key words as part of their names had been registered by RoC, Kolkata with authorised capital less than the prescribed limit due to which the companies paid less registration fee. The registration fee recoverable as on April 2006 from these 375 companies on increase in capital to the required limit worked out to Rs. 271.38 lakh. Manual verification of 15 case files also revealed that in all 15 cases the authorised capital was less than the ceiling amount resulting in short payment of registration fee of Rs. 10.04 lakh.

The Ministry admitted (October 2006) the variations in adherence to its guidelines and different interpretations by various RoCs. It stated that the fee logic in the system would be suitably built in so as to give alerts at the time of incorporation of companies in such cases. It further stated that cases relating to RoC Kolkata would be investigated for appropriate action. Ministry may review all cases to ensure that revenues accruing to the government on this count are realised early.

#### **3.10.12 Non transfer of liquidation amount to General Revenue Account**

According to Section 555(8) of the Companies Act, 1956, any money paid into the companies liquidation account and remaining unclaimed thereafter for a period of 15 years is to be transferred to the General Revenue Account of the Union Government. Test check of the records of RoCs, Orissa, Punjab and West Bengal revealed that unpaid amount of Rs. 36.49 lakh had not been credited to Government accounts even after the stipulated period of 15 years.

The Ministry stated that necessary action for transferring the unpaid amount in liquidation account to general revenue account was being initiated.

#### **3.10.13 Compounding of fines**

According to Section 621A of the Companies Act, the Company Law Board is empowered to compound offences involving fines exceeding Rs. 50,000 per case. The compounding of offences involving fine of less than Rs. 50,000 per case is within the power of the Regional Director. Test check of 131 compounding cases considered by Company Law Board and 11 cases considered by Regional Director of Eastern Region, Kolkata for the years 2001-2002 to 2004-2005 revealed that in 80 per cent cases, fine imposed ranged between 0.01 to 14 per cent approximately of the maximum fines leviable under rules. In 88 out of 131 cases the fine imposed was below 1 per cent. It was also noticed that Regional Director Kolkata, adjudicated a case in November 2002 involving a maximum fine of Rs. 15.61 lakh which was not within his delegated powers.

The Ministry accepted (October 2006) that there was no provision for minimum penalty and fine under the Act and this shortcoming had been recognised and



addressing this weakness in the new Companies Bill was under its consideration. It further added that since the respective authorities decide the cases of compounding in their capacity as quasi judicial entities, the amount of fine levied by them could not be questioned. The Ministry further intimated that the case of acting beyond jurisdiction by the Regional Director Kolkata was being examined.

#### **3.10.14 Functioning of NBFCs in violation of stipulated requirements**

Under sub-section (1) of Section 45-1A of the RBI Act, 1934 a Non-Banking Financial Company (NBFC) can carry on the business of a non-banking financial institution only after obtaining a certificate of registration from RBI and must have a minimum net owned fund (NOF)<sup>8</sup> of twenty five lakh rupees.

Test check of records of RoC Orissa, Meghalaya, Madhya Pradesh and Rajasthan revealed that 303 non banking financial companies were functioning without certificates of registration from RBI. No action was taken by RoC for bringing these to the notice of RBI for prosecution/winding up of these companies under Section 45 MC of RBI Act and imposition of penalties.

Further, Section 58A(2) (b) of Companies Act, 1956, provides that no company shall invite any deposit unless an advertisement including therein a statement showing the financial position of the company has been issued by the company. Copy of the said advertisement or statement in lieu thereof is also to be filed with the Registrar under Section 70 of Companies Act, 1956. Default in refund of deposits of investors is to be treated as cognisable offence under Section 58AAA of the Act. All these non-banking finance companies are to be registered with RBI after which they are to submit regular return and accounts to the RBI.

Test check of records of the RoC, Orissa revealed that three companies had accepted public deposits without complying with the provisions of Companies Act, 1956, and non-banking companies (RBI) directives, 1987. In case of one company despite the fact of accepting deposits being qualified by the Auditor of company in its Report attached to the balance sheet filed with the RoC, penal provisions under the Act were not invoked by the RoC by way of issuing show-cause notice under Section 234 and filing prosecution cases so as to prevent that NBFC from collecting public deposits in violation of the provisions of Companies Act/RBI directions. Consequently, after collecting deposits of Rs. 6.45 crore from public and after showing continuous losses, these companies stopped filing returns with the RoC after the year 1999-2000. The RoC neither issued any show-cause notice for violation of Sections 159, 166, 220 and 58A(2)(b) of the Act nor were proceedings for prosecution launched.

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<sup>8</sup> Net Owned Funds (NOFs) of NBFCs is the aggregate of paid up capital and fee reserves, noted by (i) the amount of accumulated balance of loss (ii) deferred revenue expenditure and other intangible assets, if any, and further reduced by investments in share of (a) subsidiaries, (b) companies in the same group and (c) other NBFCs and loans and advances to (a) subsidiaries and (b) companies in the same group in excess of 10 per cent of owned fund.

The Ministry stated (October 2006) that the RoCs had been submitting a list of companies registered with them to RBI on monthly basis along with industry code as derived from their primary objects and that it was for the RBI to check if such companies had registered themselves with the latter. However, Ministry agreed to work on the development of an appropriate system in consultation with RBI. In view of the seriousness of the matter wherein audit has pointed out the case of a company accepting deposits in violation of RBI directions, Ministry should urgently put in place a system to safeguard stake holder's interests.

### **3.10.15 Non initiation of prosecution against the companies which filed their documents late by paying additional fees**

According to the instructions issued by the Ministry of Company Affairs vide circular No. 31/19/69; the payment of additional fee for delay in filing of documents did not exonerate the companies from the offence of not filing the documents within the stipulated time as specified in the Companies Act, 1956. None of the RoCs had, however, initiated prosecution against the defaulting companies.

The Ministry in its reply stated (October 2006) that keeping in view the large increase in the number of companies it was not feasible to follow the instructions to prosecute the defaulter companies. It added that it took considerable time and efforts of a resource starved ROC office to initiate prosecution. On the other hand the fines imposed by the courts were far less than the costs involved in prosecution proceedings. Therefore, the RoCs had not been initiating prosecution cases in the cases where statutory documents had been filed by the companies along with the additional fees.

Ministry may consider this aspect and put in place a suitable deterrent mechanism for non compliance if necessary by appropriately revising the Act.

### **3.11 Investor Education and Protection Fund (IEPF)**

As per Section 205C introduced as an amendment to the Companies Act, 1956 effective from October 1998, Investor Education and Protection Fund were to be set up for promotion of investor awareness and protecting the interest of small investors. Dividend, share application money, matured deposits etc. lying unclaimed/unpaid for 7 years with the companies were to be credited to this fund. Rules governing IEPF were issued vide Ministry of Law Justice & Company Affairs notification in October 2001. According to these rules, the unclaimed/unpaid amounts received were to be accounted initially under the Major Head-0075-Miscellaneous Services and thereafter transferred to the fund. All expenditure for the purpose of carrying out the objectives for which the fund was established was to be incurred under the functional expenditure head of the department and equivalent amount was to be shown as deduct entry by transfer of amount from the fund. Against total credit of Rs. 320.85 crore afforded under the

Major Head - 0075- Miscellaneous during the years 2002-03 to 2004-05 on account of unpaid dividend etc, Rs. 6.38 crore was spent by the Ministry for the education and protection of small investors during this period.

Test check of the records of the Ministry and RoCs revealed that no separate fund had been created as envisaged. The unclaimed amounts were being credited to the Consolidated Fund of India under the major head 0075 and the expenditure incurred on the objective of the funds was being met through normal budgetary procedures i.e. through demand for grants.

The Ministry replied (October 2006) that the current accounting procedure had been approved by the CGA and the Ministry of Finance. It added that the matter of reflecting the credit to the fund under Public Account as an interest bearing deposit was being taken up with the Ministry of Finance.

Further, as per the IEPF rules, all companies were required to furnish to RoCs annually a statement of amounts credited to the IEPF in Form 1 certified by a chartered accountant or the company secretary. It was seen in audit that Form 1 prescribed under the rules did not have provision for supply of information regarding the dates on which the unclaimed amounts fell due for transfer to the government account. In the absence of this information the RoCs were not in a position to assess or determine the delays made by the companies in the transfer of these funds. It was also seen that there was no system or mechanism in place in the RoCs for identifying such companies which did not either file Form 1 or transfer the unclaimed/unpaid dividend amounts etc. to unpaid dividend account and government account after the expiry of 30 days and 7 years respectively. Due to this, the RoCs did not have any control over the remittances of unclaimed amounts to the Government revenues by the companies. The possibility of these amounts having been retained by some companies can not, therefore, be ruled out. It was noticed in RoCs Delhi and Mumbai that an amount of Rs. 15.13 crore involving 460 cases was credited to government account during April 2004 to December 2005 after delays of 2 months to 388 months from the date they became due for payment. There is no provision under Section 205C of the Companies Act, 1956, for levy of penalty when delayed credit is made to IEPF. This section is required to be amended to incorporate provisions for charging of interest and penalty for delayed credit of specified amounts to government account.

The Ministry further stated that adequate measures such as certificate of CA/CS in Form I and inclusion of Balance Sheet item under the head 'liability' had been put in place as a safeguard against the possibility of retaining unpaid dividend amount. However, in Form 1 the CAs/CS are required to certify only the sums being transferred into the unpaid dividend account / IEPF. As this does not indicate whether all sums transferable have been credited into the relevant account, Ministry may put in place a mechanism to ensure the correctness and

completeness of transfers into the unpaid dividend account / IEPF apart from strengthening the deterrent provisions to safeguard against the delays in transfers.

### **3.11.1 Non/short credit of unpaid dividend etc.**

Under Section 205 A of the Companies Act, 1956, read with Rule 3 of IEPF Rules, any unpaid/unclaimed dividend is to be transferred to a special account called "unpaid dividend account" by the company within 30 days from the declaration of the dividend. The amount in the unpaid dividend account of the company and unpaid matured deposits, share application money received by the company and lying unclaimed/unpaid for 7 years from the date of their becoming due for refund along with interest accrued thereon were to be transferred to the Fund within 30 days of their becoming due for transfer to IEPF. In case of default, the company was to pay interest @ 12% p.a. and fine upto Rs. 5000/- for every day during which the default continued. Test check of records of various RoCs revealed following interesting points:

- In Madhya Pradesh, 100 companies had not opened unpaid dividend account in the designated scheduled bank. The companies deposited the unpaid dividend of Rs. 6.07 crore lying unclaimed for more than seven years direct to the government account for which they were liable to pay interest of Rs. 4.65 crore and penalty of Rs. 14.15 crore.
- In RoCs, Delhi, Rajasthan and Orissa, Rs. 58.35 lakh lying unpaid for 7 years had not been credited to the government account by the defaulter companies for which interest of Rs. 39.98 lakh and fine of Rs. 1.60 crore were recoverable.
- Scrutiny of records of RoCs, Delhi and Mumbai revealed that Rs. 28.43 crore in 819 cases pertaining to the period April 2004 to December 2004 was kept under a non interest bearing account with the bank. Had this amount been retained under interest bearing head with a bank, a minimum amount of Rs.11.94 crore could have been earned by way of interest at the rate of six per cent approximately.

The Ministry stated (October 2006) that RoCs were being advised to look into the delays in depositing the unpaid amounts to the fund and recover the interest wherever payable. The Ministry added that specific cases mentioned by audit would be taken up for examination and appropriate action.

### **3.11.2 Reconciliation of receipts**

The credits relating to unpaid dividends etc. were to be reconciled at two levels i.e. at the level of ROC who was to reconcile the figures of remittances with the concerned Pay & Accounts Office (PAO) on monthly basis and furnish an



abstract of such receipts received during the month to the Ministry. The latter was to prepare a consolidated abstract of receipts and reconcile the credits on quarterly basis with the figures of the Principal Pay & Accounts Office. Test check of records of RoCs, Delhi, Punjab, Orissa, Uttar Pradesh, West Bengal and Andhra Pradesh revealed that reconciliation was not conducted at any stage by the RoCs. The Ministry had also failed to conduct the reconciliation despite the variation of Rs.16.12 crore during the years 2002-03 to 2004-05 between the figures of credits as per the Ministry's records and the records of the Principal PAO. Ministry had also not maintained the consolidated abstract of receipts required to be prepared on quarterly basis. In absence of such reconciliation, the amounts purportedly deposited by companies in the government account could not be verified.

The Ministry agreed to take up reconciliation of these accounts with PAOs and Chief Controller of Accounts (October 2006).

### 3.12 Internal controls

In the background of very large number of companies being handled by the RoCs and the complexities of company law in respect of the need for filing of various forms and returns and levy of penalties for non-compliance with the provisions of Companies Act, a sound system of internal control including prescribing and preparation of various MIS reports for monitoring and review of records of each company was necessary. Some of the weaknesses and inadequacies of internal control are discussed in the following paragraphs.

#### 3.12.1 Inspection

In order to ensure compliance of the registered companies with the provisions of Companies Act, 1956, Section 209A (1) of this Act provides for the inspection of books of accounts and other papers of the companies by the Registrar of Companies or any officer of Government on its behalf and the person making an inspection has been vested with the power of a civil court. The year wise position of inspections carried out during 2000-01 to 2004-05 is given below.

Year	No. of functioning companies	No. of companies actually inspected	Percentage
2000-01	569100	221	0.04
2001-02	589246	244	0.04
2002-03	612155	150	0.02
2003-04	641512	109	0.02
2004-05	679649	181	0.03

The percentage of inspections actually carried out was thus insignificant which resulted in non-identification of various defaulter companies.

The Ministry stated (October 2006) that inspection under Section 209A could not and should not be taken up as a matter of routine. It added that very high number of inspections could also become counter-productive in the growth of corporate sector. The inspections were done by the Inspection Wing attached to the office of the Regional Directorate and thus due to the paucity of the staff, the Ministry was able to carry out only a limited number of inspections in a year.

Ministry, however stated that it would strengthen the inspection wing in each of the Regional Directorate. Ministry could also consider developing and adopting a scientific methodology for identifying companies for inspection based on an analysis of risk prone sectors.

### 3.12.2 Technical scrutiny

Every ROC is required to conduct technical scrutiny of annual return and balance sheet and other documents filed by the companies for ensuring that the companies complied with the provisions of the Companies Act, 1956. In case of any violation noticed, the ROC is required to issue show-cause notice and take penal action against defaulter companies.

Test check of records for the years 2002-03 to 2004-05 of ROC West Bengal, Goa, Andhra Pradesh and Delhi revealed that against 392066 annual accounts received, technical scrutiny was done in 4369 cases only which constituted barely one per cent of the number of annual accounts received as indicated below :

Sl. No.	RoC	No. of annual accounts received	Technical scrutiny conducted	Percentage coverage
1.	Andhra Pradesh	44485	160	0.36
2.	Delhi and Haryana	207648	207	0.10
3.	Goa	6085	120	2.36
4.	West Bengal	133848	3882	2.90
	<b>Total</b>	<b>392066</b>	<b>4369</b>	<b>1.12</b>

Ministry stated (October 2006) that the technical scrutiny of the desired number of companies had not been taken up due to fact that the registry function in the RoC offices took most of the time of the limited number of officers. Ministry had started the MCA 21 project and electronic filing of documents and registration for stronger enforcement mechanism.

### **3.12.3 Non-correlation and co-ordination of activities**

A joint mechanism between SEBI and Ministry of Company Affairs was envisaged in the Finance Minister's Budget speech on 27 February 1999 for taking stringent action against unscrupulous promoters who raised money from investors and misused them. Accordingly, a Central Co-ordination and Monitoring Committee (CMC) co-chaired by Secretary, Ministry of Company Affairs and Chairman, SEBI was set up. The CMC is assisted by four task forces, one each corresponding to a region falling under the jurisdiction of the Regional Director of the Ministry of Company Affairs. The main responsibility of these task forces was to identify the companies which have disappeared; or which have misutilised funds mobilised from investors and suggest appropriate action in terms of Companies or SEBI Act. It was noticed that only 16 meetings of CMC were held till 05.01.2006 in which 114 vanishing companies, had been identified.

It was further seen in audit that no institutional mechanism for correlation/coordination of activities, information and data with statutory bodies such as SEBI, RBI etc. was in place in RoCs, Orissa, Goa, Hyderabad and Maharashtra. 303 companies were found working as NBFC in RoCs, Shillong, Orissa and Rajasthan without registration with RBI. RoCs did not have separate database, based on principal business of companies such as NBFCs, banks, insurance etc. As per the computerised data provided by ROC Delhi, 1274 non-banking companies were registered with it as on January 2006 whereas data provided by RBI indicated that 2438 non-banking financial companies were at work. Thus, the ROC had failed to identify the companies which were working as NBFCs without registration with RBI and the foreign companies though registered with RBI were not registered with RoC, Delhi.

Ministry stated that it has been decided to make it mandatory for RoCs to scrutinize 100 percent of the balance sheets of companies that have gone into public issues to monitor the end-use of funds and deployment thereof. Ministry further stated that there was proper coordination between various agencies. However, mismatches between the figures provided by RBI vis-à-vis that provided by RoCs indicates the need for improved co-ordination.

### **3.12.4 Non reconciliation of receipts with Pay & Accounts Office**

RoCs received fees in cash and by demand draft or cheque over the counters which were deposited in the designated branches of Punjab National Bank. As per the provisions of the General Financial Rules, reconciliation of receipts remitted to banks was to be carried out at the end of every month and differences, if any, between figures remitted and actual credit to government account was to be reconciled with the bank as well as with PAO.

It was noticed in audit that despite variation between the amount deposited by RoCs and amount credited to Government account as per the records of PAO,

reconciliation had not been conducted by RoCs at Delhi and Haryana, West Bengal, Maharashtra, Uttar Pradesh, Andhra Pradesh, Goa and Punjab. RoC, Mumbai had also not reconciled the variation of Rs. 4.69 crore for the years 2000-01 to 2004-05 between its records and the accounts of PAO. Reconciliation was also not done by the Ministry despite variation of Rs.73.87 crore during 2002-03 to 2004-05 between the figures of receipts of fee as per Ministry's records and records of Principal Pay and Accounts office. The absence of such reconciliation is fraught with the risk of the revenues received by RoCs not being properly accounted. There is also the risk of misappropriation of public funds.

The Ministry has stated (October 2006) that necessary steps would be taken to reconcile the receipts with respective PAOs.

### **3.12.5 Internal audit**

The internal audit of the RoCs is conducted by Principal Pay & Accounts Office of the Ministry of Company Affairs. It was seen that in internal audit of 15 units which include the offices of two Regional Directors and 13 RoCs, 386 paras were raised, which have been pending for 4 years.

The Ministry replied (October 2006) that the field offices had been directed to get the audit paras settled expeditiously

### **3.13 Conclusion**

The Ministry had failed to perform its primary function of administering the Companies Act, 1956, especially in the area of identification of defaulting companies and launching prosecutions against them. Despite large number of defaulting companies, inspection under Section 209A was conducted by RoCs in only 0.03 per cent cases. This resulted in non identification of defaulter companies and non levy of fees amounting to Rs.517.96 crore. Reconciliation of fees recovered and credited to government accounts as per the records of RoCs was not conducted. The database of Registrar of Companies was not reliable as it had not been updated. Planning of maximising the revenue was found deficient as out of 391066 annual accounts received in four RoCs during 2002-03, 2003-04 and 2004-05, only 4369 accounts were subjected to technical scrutiny due to which the defaulter companies were not identified. There was very little co-ordination between the Ministry and statutory bodies such as SEBI, stock exchange and RBI.

The Ministry in its reply stated (October 2006) that there have been deficiencies, largely systemic, which had been duly recognised and addressed by launching the MCA 21 e-governance project and considering revision of Company Law.



### Recommendations

- Data base of all the companies should be complete and reliable. It should match with the receipt data base.
- The department should evolve proper system for identification of defaulter companies, monitoring the recovery of outstanding fees and additional fees from defaulting companies to maximise the realisation of revenue.
- More attention should be given to the technical scrutiny of all the documents and returns filed by the companies. It will facilitate early recovery of fees from defaulter companies.
- The percentage of regular inspection of companies should be increased to ensure effective compliance of the Act by companies.
- The limitations faced by the Department in pursuing prosecution cases in the courts of law should be suitably addressed in the Companies Act which is under revision.
- Special emphasis should be given to strengthen the mechanism of prosecution which include issuing of show cause notices to the defaulting companies and pursuing prosecution cases.
- Immediate attention should be given to reconciliation of figures of revenue collected depicted in the books of the banks and PAOs.
- Minimum limit of penalty leviable per day for continued default under Sections 162, 168, 220(3) and 383(A) of the Act may be prescribed.
- Presently, additional fee for delay over two years is fixed at nine times of the normal fee irrespective of the years of default. Additional fee in proportion to the delays involved beyond two years should be prescribed for discouraging wilful default by companies.
- To protect the interest of investors, coordination between ROC, Ministry and statutory bodies such as SEBI, RBI and Stock Exchange may be strengthened.
- Internal control systems and internal audit need to be strengthened.

# **CHAPTER IV**

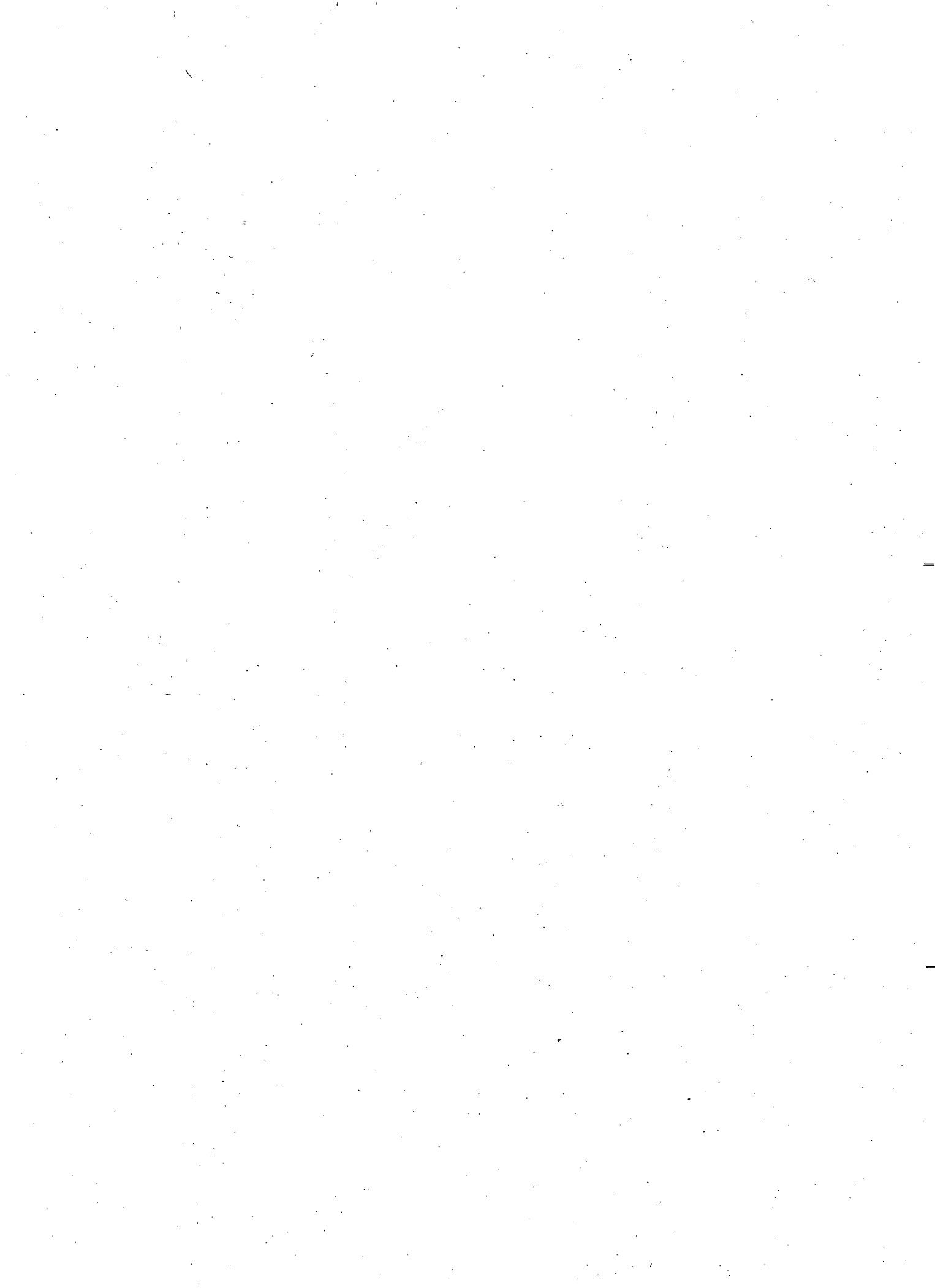
## **BADARPUR THERMAL POWER STATION**



## Chapter Summary

- The Ministry of Power set up the Badarpur Thermal Power Station (BTPS) in 1967 to meet the growing demand of power in the northern region. It has an installed capacity of 705 MW as on January 1990. The Ministry in April 1978 entrusted the National Thermal Power Corporation (NTPC) with the management, operation and maintenance of BTPS.  
(Para 4.1)
- During 2000-05, there were no surplus receipts available with government after adjusting the expenditure requirements of BTPS.  
(Para 4.5)
- The average cost of coal for generation of one unit of electricity in BTPS was higher than the other NTPC power stations by 16 to 403 per cent.  
(Para 4.6.1)
- BTPS had to incur extra expenditure on coal of Rs 133.92 crore per year on an average for poor quality of coal.  
(Para 4.6.1)
- The transit and handling loss of coal in BTPS were 531 per cent more than the CERC norm and 236 per cent more as per tariff norm. BTPS suffered loss of Rs 146.42 crore during 2000-01 to 2004-05.  
(Para 4.6.2)
- During adjustment of missing coal wagons during 2000-01 to 2004-05, BTPS received coal worth Rs. 19.58 crore against coal worth Rs. 29.83 crore expected to be received. This led to loss of Rs. 10.25 crore to BTPS.  
(Para 4.6.2)
- Expenditure on O&M of BTPS during 2000-01 to 2004-05 worked out to Rs.758.27 crore against recovery of Rs. 152.63 crore through tariff.  
(Para 4.7)
- MW:Man ratio in BTPS was 1:2.52 as against 1:0.91 in NTPC. The generation per employee per year in BTPS was 3.07 million units against 6.73 million units in NTPC power stations.  
(Para 4.7.1 and 4.7.2)
- As of March 2005, outstanding dues of BTPS from its clients stood at Rs.10863.57 crore.  
(Para 4.8.1)
- BTPS paid Rs 16.70 crore to NTPC as share of profit even though there was no actual element of profit.  
(Para 4.8.2)





## CHAPTER-IV: STUDY OF SOME ASPECTS OF RECEIPTS AT BADARPUR THERMAL POWER STATION

### 4.1 Introduction

The Ministry of Power (Ministry) set up the Badarpur Thermal Power Station (BTPS) in 1967 to meet the growing demand of power in the northern region. It had an installed capacity of 720 MW in December 1981 which was de-rated to 705 MW in January 1990. The Ministry in April 1978 entrusted the National Thermal Power Corporation (NTPC) with the management, operation and maintenance of BTPS. Although BTPS was set up to provide power in the northern region, since April 1987, the entire power is being supplied only to Delhi. BTPS was taken over by NTPC from 1 June 2006.

### 4.2 Organizational setup

BTPS is fully owned by the Government of India, Ministry of Power and managed by NTPC as Manager and Agent of the Ministry. NTPC is entitled to management fees calculated at 1/8<sup>th</sup> percent of the net annual sale proceeds of energy subject to ceiling of Rs. 5 lakh per year. NTPC is also entitled to 10 percent of the net annual profit earned by BTPS in a year, after adjusting for depreciation and interest.

### 4.3 Scope of audit

The performance of BTPS was reviewed for the period from 2000-01 to 2004-05 to assess the efficiency and economy of its functioning with consequent impact on its receipts. As the revenue generated is set off against grants received from Government for expenditure (both capital and revenue), audit also attempted to examine any inefficiencies in the expenditure management of BTPS, thereby impacting the revenues available to Government of India.

### 4.4 Audit objectives

The audit of the records of BTPS for the period 2000-01 to 2004-05 was conducted with the following main objectives:

- To assess if non tax revenues due to the government were collected and managed effectively.

Compare selective performance indicators of BTPS with other thermal power stations managed and owned by NTPC and its impact on expenditure.

#### 4.5 Non tax Receipts from BTPS

The receipts of BTPS are accounted for under the major head 0801 as non tax receipts in the Consolidated Fund of India. Government in turn released grants to BTPS to meet its capital and revenue expenditure. The details of the receipts from BTPS and the matching grants released as provided by PAO were as under:

(Rs. in crore)

Year	Receipts	O&M Grants	Capital outlay#
2000-01	886.36	884.99	10.59
2001-02	991.05	988.15	27.31
2002-03	1051.44	1049.21	3.42
2003-04	1037.86	1033.58	-Nil-
2004-05	*1386.05	1381.40	-Nil-

# Represents the amount released by Government for Capital expenditure and renovation and modernisation

\* Receipts during 2004-05 included Rs.197.97 crore on accounts of interest on securitised dues of DVB.

It may be seen from the Table that almost no surplus is available with Government as non tax receipts on account of sale of power from BTPS after adjusting the expenditure requirements of BTPS.

Sale of power is the single major contributor of receipts and accounts for more than 99 percent of the total receipts of BTPS. The balance receipts are other miscellaneous receipts.

(Rs. in crore)

Year	2000-01	2001-02	2002-03	2003-04	2004-05
Sale of power	883.99	987.15	1048.21	1032.58	1183.43
Other receipts	2.37	3.90	3.23	5.28	*202.62
<b>Total</b>	<b>886.36</b>	<b>991.05</b>	<b>1051.44</b>	<b>1037.86</b>	<b>1386.05</b>

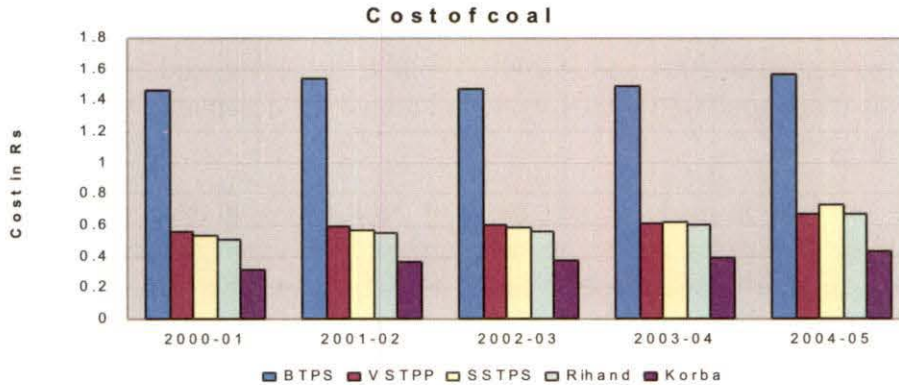
\*include Rs. 197.97 crore on account of interest on securitised dues of Rs 1885.45 crore.

#### 4.6 Expenditure Management

The two major items of expenditure of BTPS were coal charges and Operation and Maintenance (O&M) costs, which accounted for 83.14 per cent and 15.21 per cent respectively of the total expenditure of BTPS.

#### 4.6.1 Deficient coal management

##### *Cost of coal to generate one unit of electricity*



It may be seen from the above chart that the cost of coal consumed to generate one unit of electricity at BTPS was higher than that of other rail fed thermal power stations of NTPC by Rs. 0.21 to Rs.1.15 (**Appendix-1**). As a result, the average cost of coal for generation of one unit of electricity in BTPS was higher than the other NTPC power stations by 15.55 percent to 403.22 percent.

It was noticed that BTPS had in a petition before CERC attributed the higher costs to the poor quality of coal received along with low heat rate on account of poor water as a result of which more than 20 percent of designed coal was being fired in the boilers to achieve full load. Audit calculated the magnitude of expenditure owing to 20 percent of extra coal being fired above the designed limit to be Rs.133.92 crore per year on an average.

#### 4.6.2 Excessive transit and handling losses

As per norms of the Central Electricity Regulatory Commission, the permissible limit of normative transit and handling losses of coal for rail fed power stations is 0.8 percent of the total quantity of coal handled. The tariff approved for BTPS also restricted the permissible limit of handling and transit losses to 1.5 percent of the coal cost. However it was observed in audit that in BTPS, the transit and handling losses were higher than both these norms. The coal loss was to the extent of 531 percent more than CERC norms and 236 percent more as per tariff norms. In terms of monetary value these losses amounted to Rs.146.42 crore over the five year period (**Appendix-2 & Appendix-3**).

It was noticed by audit that loss owing to theft of coal accounted for more than 50 percent of the total loss during transit. Ministry stated in March 2006 that almost all long distance thermal power stations receiving coal from West Bengal and Bihar coalfields were facing acute problems of short receipt of coal on account of theft in transit particularly in railway yards adjacent to collieries (**Appendix-4**).



The Ministry further stated that the matter was taken up with coal companies and railways to check theft at coal loading points and railway yards and to provide adequate police personnel to well known theft prone yards. Ministry also stated that transit losses had declined over the past year. However audit noticed that BTPS had formally taken up the matter of high rate of theft with Railways only through two letters in 2004 and in 2005. While transit losses did decline in 2004-05 in comparison to 2003-04 they were still above the acceptable norms by more than 227 percent.

Payment for coal is made on the basis of bills received from coal suppliers. However, coal wagons are sometimes diverted to other thermal stations by Railways. Similarly, some coal wagons consigned to other power stations are diverted by Railways to BTPS. Monthly adjustment of missing wagons with those diverted into BTPS is made with Railways. Audit analysis of such adjustments during 2000-01 to 2004-05 revealed that as against coal worth Rs.29.83 crore expected to be received and paid for, coal worth Rs 19.58 crore only was actually received. The net losses sustained on account of difference in the quantity and value of the coal during 2000-05 amounted to Rs.10.25 crore.

The Ministry stated in March 2006 that this was a uniform phenomenon for all thermal stations and as per the policy of railways, wagons are diverted from one power station to other station depending upon requirement of each power house and at the end of every month reconciliation of missing wagons was done with the railways. However the reconciliation is done only on a wagon to wagon basis by the railways and not on the quality, quantity and price of the coal that has been diverted. The policy in operation regarding reconciliation of diverted wagons had thus resulted in loss of Rs. 10.25 crore to BTPS.

#### 4.7 Excess O&M expenses

As per the provisions of the last tariff approved by Ministry for BTPS in April 1987, O&M expenditure was to be limited to 2.5 per cent of the current capital cost of the plant, which worked out to 6.31 paise per unit per kwh. Audit observed that the actual O&M expenditure incurred by BTPS was much higher than the scale mentioned in the tariff as detailed below.

(Rs. in crore)

Year	Actual	Recovered through tariff	Excess of expenditure over recovery
2000-01	153.42	29.83	123.59
2001-02	154.64	30.27	124.37
2002-03	166.17	30.27	135.90
2003-04	153.58	30.93	122.65
2004-05	130.46	31.33	99.13
<b>Total</b>	<b>758.27</b>	<b>152.63</b>	<b>605.64</b>

Consequent upon excess expenditure over the prescribed limit, BTPS could collect only Rs.152.63 crore during 2000-05 through tariff as against actual O&M expenditure of Rs.758.27 crore leaving a shortfall of Rs.605.64 crore. This

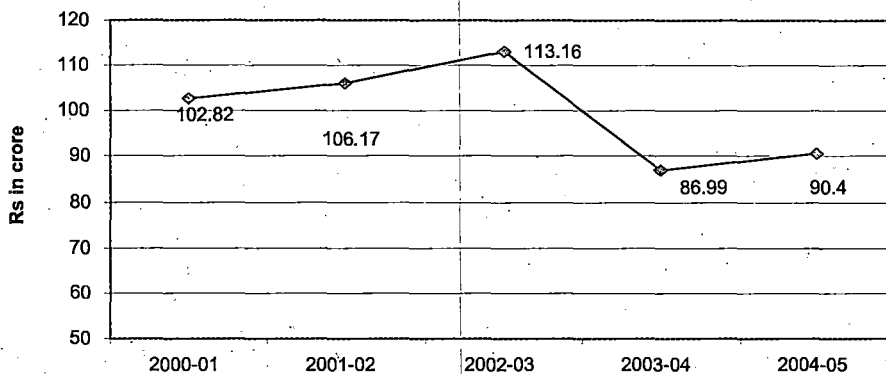
shortfall was borne by Government of India through the O&M grants released to BTPS. In November 2001, Ministry advised BTPS to bring down the operation and maintenance expenses as well as establishment expenses by at least 10-15 per cent. BTPS was again advised (May 2002) to take austerity measures and make all efforts to reduce the O&M expenditure.

The Ministry stated in March 2006 that BTPS was constantly making efforts to bring down the expenditure by reducing manpower. Audit observed however that although the manpower decreased by 490 during 2000-01 to 2004-05, O&M expenditure did not decrease proportionately and varied between 12.95 per cent and 16.66 per cent of the total expenditure during the period.

#### 4.7.1 Cost on employee

The major component of the O&M expenditure which accounted for 48-65 percent of the total expenditure during 2000-05 related to cost of manpower. Expenditure incurred on employees including their salaries, perquisites and incentives during the period 2000-01 to 2004-05 was Rs.499.54 crore.

**Total cost on employees**



Audit attempted to compare the number of persons employed per megawatt of power generated at BTPS and other NTPC power stations through data obtained from BTPS and NTPC. MW : Man ratio at BTPS during 2000-01 to 2004-05 ranged between 1 : 2.52 to 1 : 3.21 while for NTPC it was 1 : 0.91 to 1 : 1.095. Audit analysis revealed that generation per employee was much lower at BTPS than at NTPC owned power stations as shown below:

(In million units)

Table-4 : Generation per employee		
Year	At BTPS	At other NTPC owned stations
2000-01	2.28	6.11
2001-02	2.39	6.23
2002-03	2.79	6.58
2003-04	3.04	7.11
2004-05	3.07	6.73

#### 4.7.2 Excess man power

In August 2001 Ministry had observed that there was an increase of about 93 percent in the strength of executives compared to 1978 and advised NTPC / BTPS to take necessary steps for reduction of staff strength in all categories which was also supported by a study made by a consultant appointed by NTPC. NTPC informed audit in 2002 that the consultant had recommended strength of 256 executives, 187 supervisors and 844 workmen was adequate for BTPS. BTPS however failed to comply with the instruction of the Ministry and it was observed that while the number of supervisors and workmen had reduced over the last five years, the number of executives increased from 345 in 2002-03 to 359 in 2004-05.

Year	Executive	Supervisor	Workmen	Total
2000-01	369	321	1576	2266
2001-02	395	288	1519	2202
2002-03	345	267	1280	1892
2003-04	344	250	1189	1783
2004-05	359	228	1189	1776

The Ministry stated in March 2006 that the present composition of executive manpower was based on a pattern similar to that of NTPC. However, even after incurring substantial expenditure of Rs. 17.57 crore on reduction of manpower through VRS, the manpower cost at BTPS ranged between 8.97 percent and 10.85 percent of the cost of generation as against 3.50 percent to 5.40 percent in NTPC owned stations.

Even though MW : Man ratio at BTPS decreased from 1:3.21 in 2000-01 to 1:2.52 in 2004-05 it was still higher than the 1:0.91 ratio prevailing across NTPC at the same period. BTPS also incurred additional expenditure of Rs. 8.74 crore during 2000-01 to 2004-05 on hiring services of contract labour and supervisors including deputy managers, senior service engineers, foremen and technicians for operation and maintenance works. Ministry stated (March 2006) that the comparison of BTPS with other projects of NTPC is not in order. For an old power station like BTPS, hiring services of contract labour and supervisors for operation and maintenance works became essential to maintain generation level. The reply needs to be viewed against the existing high manpower costs of BTPS and the recommendations of the consultant who had suggested a much lesser workforce to operate the plant.

#### 4.7.3 Irregular incentives

As per Government of India order dated 25 June 1999 payment of perquisites and allowances may be upto a maximum of 50 percent of the basic pay by public

enterprises. But BTPS paid perquisites in excess of the prescribed ceiling of 50 per cent of the basic pay during 2000-01 to 2004-05 which ranged between Rs.4.81 crore and Rs.12.86 crore as detailed below:

(Rs. in crore)

Year	Basic Pay	50% of the basic pay	Payment made	Excess payment
2001-02	29.68	14.84	23.42	8.58
2002-03	21.01	10.50	23.36	12.86
2003-04	26.57	13.29	18.09	4.81
2004-05	26.15	13.08	19.11	6.04

Note: Perquisites include overtime, ex-gratia/bonus, canteen subsidy, other benefits, conveyance, staff quarters security, children education facilities and hiring of buses for staff.

Further no ex-gratia or bonus is payable to those employees who draw a salary exceeding Rs.3500 per month as per DPE OM dated 20 November 1997. Audit noticed that although after the last pay revision effective from January 1997, all employees of BTPS exceeded the eligibility limit of salary upto Rs. 3500 per month prescribed for payment of productivity linked bonus/ex-gratia, an expenditure of Rs.6.07 crore was incurred during 2000-01 to 2004-05 on payment of bonus/ex-gratia.

Ministry stated in March 2006 that the incentives for the employees were being given as per laid down policy of NTPC and the same was applicable to all the projects of NTPC. The reply is not tenable as BTPS as well as NTPC being departmental/public sector undertakings the payment of incentives in contravention of laid down policy was irregular.

#### 4.8 Other issues

##### 4.8.1 Non-recovery of outstanding dues

Delhi Electricity Supply Undertaking (DESU) later renamed Delhi Viduyt Board (DVB) and Delhi Transco Limited (DTL) was the sole client of BTPS. The position of outstanding dues of BTPS from these power purchasing authorities as of March 2005 is given in Table 7.

(Rs. in crore)

Sl. No.	Name of Debtor	Period of dues	Total
1.	DESU	Upto 23.2.1997	10005.88
2.	DVB	24.2.1997 to 30.6.2002	784.25*
3.	DTL	1.7.2002 to 31.3.2005	71.38
4.	Dues from State Electricity Boards	Prior to 1989	2.06
	<b>Total</b>		<b>10863.57</b>

\* After excluding Rs.1885.45 crore already securitised by Government.



The Ministry stated in March 2006 that dues of DVB had already been securitized in February 2004 and that they were in the process of settlement of dues of DESU. The reply is not acceptable as only Rs 1885.45 crore of DVB dues were securitised leaving a balance of Rs 784.25 crore as of March 2005. Further, consequent upon non recovery of dues from DESU, Government of India had to provide financial support of Rs.1712 crore to BTPS during DESU's existence. Further BTPS had accumulated dues to Railways and coal suppliers on its failure to recover energy dues as shown below (March 2005).

(Rs. in crore)

S.No.	Name of Creditors	Dues payable
1.	Railways	629.21
2.	Coal suppliers	437.97
3.	Interest dues of coal companies as per Umpire award	321.00
<b>Total</b>		<b>1388.18</b>

#### **4.8.2 Inflated Accounting of Profits to favour NTPC**

As per agreement between the Government and NTPC during handing over of the plant, NTPC is entitled to 10 percent share of net profit of BTPS. In September 1990 NTPC requested for payment of its share of profit. Ministry stated (January 1991) that the profit of BTPS was only in books of accounts and stated that until NTPC credits the Government account with net profits earned there would be no payments made. Audit observed that BTPS showed profit in the Revenue and Expenditure Account by inclusion of unearned incomes relating to interest on outstanding dues, interest on securitised dues of DVB, miscellaneous receipts etc. and credited NTPC with 10% share of profits so arrived at. NTPC was paid Rs.16.70 crore during 2003-04 and 2004-05 by BTPS without prior approval of the Ministry.

#### **4.9 Conclusion**

The study revealed that due to excess coal and O&M expenditure coupled with huge outstanding dues, BTPS was unable to generate any actual profit affecting the government revenues.

#### **Recommendations**

- Manpower may be restructured to an essential minimum and measures be taken to reduce the O&M expenditure of BTPS.
- Ministry should consider measures to contain the high cost of coal used at BTPS.

**Appendix-1**  
(Para 4.6.1)

**Average cost of coal per unit of generation**

(Figures in Rupees)

Name of Power Station	2000-01	2001-02	2002-03	2003-04	2004-05
BTPS	1.46	1.54	1.47	1.49	1.56
NCTPP Dadri	1.20	1.22	1.29	1.28	1.35
VSTPP	0.56	0.59	0.60	0.61	0.67
SSTPS	0.53	0.57	0.58	0.62	0.73
RSTPS	0.70	0.72	0.72	0.73	0.74
Unchahar	0.85	0.93	0.91	0.92	-
TTPS	0.40	0.43	0.41	0.38	-
Korba	0.31	0.36	0.37	0.39	0.43
Rihand	0.51	0.55	0.56	0.60	0.67
TSTPP	0.31	0.31	0.32	0.38	-
Tanda	1.16	1.26	1.28	1.13	1.29
Farakka	0.72	0.77	0.81	0.87	-
Kahalgaon	0.67	0.80	0.88	0.90	1.04

**Appendix-2**  
(Para 4.6.2)

**Coal losses in excess of norms**

Year	2000-01	2001-02	2002-03	2003-04	2004-05
Coal quantity billed (MT)	3684234	4138405	3481736	3684808	3963828
Transit and handling losses (MT)	191186	192323	162274	216170	194528
Percentage of loss	5.19	4.64	4.66	5.87	4.91
CERC norms	0.8%	0.8%	0.8%	0.8%	0.8%
Percentage to CERC norms	649	580	582	734	614
Average above CERC norms	531.8%				
Loss as per tariff norms	1.5%	1.5%	1.5%	1.5%	1.5%
Percentage to tariff norms	346	309	310	391	327
Average above tariff norms	236.6%				

**Appendix-3**  
(Para 4.6.2)

**Coal losses (norms versus actual)**

Year	2000-01	2001-02	2002-03	2003-04	2004-05	2004-05*
Quantity billed (MT)	3684234	4138405	3481736	3684808	3963828	3963828
Permissible loss as per tariff (MT)	55263	62076	52226	55272	59457	31710
Actual loss (MT)	191186	192323	162274	216170	194528	194528
Extra loss (MT)	135923	130247	110048	160898	135071	162818
Excess loss (Rs. in crore)	27.68	28.26	23.93	36.04	30.51	36.78

\* As per CERC regulation notified in March 2004

**Appendix-4**  
(Para 4.6.2)

**Coal losses (Transit and Handling)**

Year	Quality billed (Lakh MT)	Transit loss due to theft etc. (Lakh MT)	Stone less than 200mm (MT)	Stone more than 200mm (MT)	Windage losses at BTPS (MT)	Coal mill rejects (MT)	Total quantity of loss (Lakh MT)	Percentage	Percentage of loss due to theft to total loss
2000-01	36.84	1.11	12930	8908	55264	3195	1.91	5.19	58.00
2001-02	41.38	1.11	8725	9034	61662	1967	1.92	4.64	57.68
2002-03	34.82	0.88	11044	10682	51850	1157	1.62	4.66	53.94
2003-04	36.85	1.36	14060	9882	53392	2685	2.16	5.87	62.98
2004-05	39.64	1.07	15584	9748	58594	3798	1.95	4.91	54.90

# **CHAPTER V**

## **DEPARTMENT OF SPACE**





## Chapter Summary

- The Space Commission constituted in 1972 formulates the space program and policies which are implemented by Department of Space through Indian Space Research Organisation. Major sources of revenues of DoS are from Indian National Satellite System, Indian Remote Sensing Satellites and projects undertaken on behalf of individual customers.

**(Para 5.1 & 5.2)**

- There was lack of uniformity in application of rates charged for television transponder and department rates ranged from Rs. 1.80 crore to Rs. 5.76 crore.

**(Para 5.6.2)**

- Non enforcement of contractual obligations on VSAT operators resulted in non recovery of Rs. 2.69 crore.

**(Para 5.6.3)**

- Out of revenues from Indian remote sensing satellites (IRS) of Rs. 23.96 crore received during the period under review, only Rs. 9.03 crore was credited to departmental revenue head while Rs.3.52 crore was spent for departmental expenditure and Rs.11.41 crore retained in the deposit head at the centres.

**(Para 5.8.1)**

- NRSA retained Rs.19.46 crore due to be passed on to the DoS.

**(Para 5.8.3)**

- Revenue of Rs.13.77 crore was retained by the individual centres in their deposit heads in respect of completed projects.

**(Para 5.8.2)**

- There was a loss of Rs.76 lakh due to non-provisioning of administrative overheads in projects.

**(Para 5.8.4)**

### Recommendations

- Department should re-examine the price structure mechanism in the case of lease of television transponders and rationalise rates so as to avoid the use of differential pricing and to maximise revenue generation.
- Department should review the existing arrangements with ACL in order to safeguard the interest of Government revenues.
- Ensure proper accountal and receipt of revenues due to Government.



## CHAPTER-V : ISSUES RELATING TO RECEIPTS OF DEPARTMENT OF SPACE

### 5.1 Introduction

Department of Space (DoS) has the primary objective of promoting the development and application of space science and technology to meet the developmental needs of the country. The programmes of the DoS are committed to meeting the objectives of providing national space infrastructure through its remote sensing and satellite projects in the area of telecommunication, broadcasting, meteorology, education and satellite imagery.

#### 5.1.1 Organisation

The Indian Space Research Organization (ISRO) was set up under Department of Atomic Energy in August 1969. With the constitution of the Space Commission and the Department of Space (DoS) in 1972 to formulate and implement space policies, the Indian space program was formalized. The Space Commission formulates policies, which are implemented by DoS through ISRO. DoS have nine establishments, four autonomous bodies and two companies through which it carries out its activities. Antrix Corporation Limited (ACL), a wholly owned government company established in 1992, markets the space products and services and the income derived is shared between DoS and Antrix Corporation. The organizational structure of the Department is given in Appendix-1.

As per the Satellite Communication policy of 2000 (SATCOM), DoS was designated as the nodal administrative ministry for all matters relating to satellite systems in India. They were to allocate the available capacity to users on a commercial basis. However, in so far as the operating licenses were concerned, licensees were to seek approvals from the concerned administrative ministries; for example, Department of Telecommunications (DoT) for telecom services and Ministry of Information and Broadcasting for television / radio broadcasting. INSAT capacity was to be made available on a 'for profit' basis consistent with government policies in the concerned user sectors.

As per the performance budget (2005-06) of DoS, the department is committed to making efforts towards "operating their systems on corporate lines in a progressive manner with emphasis on aggressive marketing, competitive pricing and financially self-sustaining systems".

### 5.2 Revenue generation

Major sources of revenue to DoS are from the (i) Indian National Satellite (INSAT) system which provides services in the areas of telecommunications, broadcasting and meteorology etc.(ii) Indian Remote Sensing Satellite (IRS) system providing services in areas of resource survey and management on which DoS earns data access fee and royalty and (iii) other projects undertaken on behalf of individual customers.



These receipts of DoS are accounted as 'non tax receipts' in the Finance Accounts under the Major Head of Account 1425 Other Scientific Research (sub head Miscellaneous Receipts). Other receipts of DoS include amounts received as recoveries of loans; interest and dividends; employee contributions towards Pension, Medical, Housing, Social Security and Welfare, etc which are credited to the respective major head of account.

### 5.3 Audit Objectives

Audit sought to examine

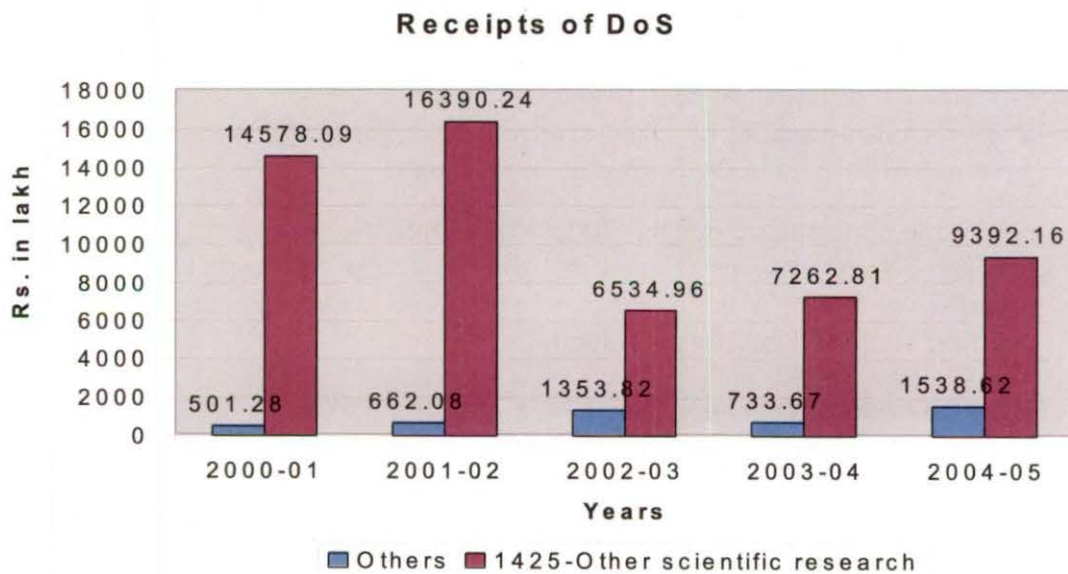
- whether there existed a proper procedure for estimation of receipts accruing to the DoS and achievements thereon
- adequacy of rules and procedures for realizing revenues including pricing of products
- recovery and accounting mechanisms; and
- adequacy of internal control mechanisms for ensuring proper collection and accounting of receipts

### 5.4 Scope of Review

The review presents the results of test check by audit for the period from 2001-02 to 2004-05 with reference to receipts under Major Head of Account: 1425 Other Scientific Research through a test check of records at all the nine establishments of DoS & Antrix Corporation Limited (ACL)\*.

### 5.5 Non-Tax Revenue of DoS

#### 5.5.1 Trend of Revenues



\* The records of ACL were also test checked as substantial receipts of DoS are collected through this organisation.

Revenues of DoS over the years 2000-01 to 2004-05 are given below (Table 1).

(Rs. in lakh)

No	Description	2000-01	2001-02	2002-03	2003-04	2004-05
1	0049-Interest receipts	281.27	345.42	409.78	414.61	535.77
2	0050-Dividends from public sector undertakings	135.00	121.00	705.00	47.00	474.00
3	0071-Contribution and recovery towards pension & other retirement benefits	83.53	193.91	237.11	268.73	526.74
4	0210-Medical & Public health	0.53	0.75	0.64	0.59	0.77
5	0215-Housing	0.89	0.94	1.23	1.18	1.29
6	0235-Social Security & welfare	0.06	0.06	0.06	1.56	0.05
7	Total (1 to 6)	501.28	662.08	1353.82	733.67	1538.62
8	1425-Other scientific research	14578.09	16390.24	6534.96	7262.81	9392.16
9	<b>Grand Total (7 &amp; 8)</b>	<b>15079.37</b>	<b>17052.32</b>	<b>7888.78</b>	<b>7996.48</b>	<b>10930.78</b>

Receipts under the major head 1425-Other scientific research during 2000-01 and 2001-02 include sums of Rs. 102.72 crore received on account of insurance claims from INTELSAT for INSAT 2E. Further, receipts for the year 2001-02 were higher on account of charges of Rs.80.16 crore received for tracking support provided to foreign satellites in that year. Dividends showed fluctuation over the five years examined in audit due to variation in profits of ACL, a public sector undertaking under DoS. The sharp increase under the major head 0071 during 2004-05 was on account of transfer of Government contribution to Contributory Provident Fund (CPF) due to exercise of option by technical and scientific employees to migrate from CPF to General Provident Fund.

### 5.5.2 Issues in budgeting

As per Government Financial Rules, estimates in the annual budget shall be realistic based on trends, policy decisions, business plan of the institution as well as accruals for the past three years. Wherever necessary, item wise break-up has to be provided to highlight individual items of significance.

It was noticed in audit that while DoS was receiving significant revenues from communication satellites and remote sensing satellites, all the income was being combined and depicted in one lump sum under the Sub head – 800 - Other Miscellaneous Receipts. DoS was therefore not in a position to analyse variations in the individual contribution of these significant activities and to project realistic budget estimates accordingly. While analyzing the receipts arising out of different activities, audit observed that approximately 46 percent of the receipts over the period 2000-01 to 2004-05 came from lease of transponders and IRS system, the remaining arising out of miscellaneous items such as technology

transfers, sale of scrap, etc and also incomes which were to be credited to other heads of account such as income tax and housing. Non inclusion of item wise break up in respect of significant revenue sources in the estimates was indicative of inadequacies in preparation of budget estimates.

### 5.5.3 Undue Variation

Budget estimates, actual receipts and percentage of variation\* under the head 1425 Other Scientific receipts during the period 2000-01 to 2004-05 are given below.

(Rs. in lakh)

Year	2000-01	2001-02 <sup>*</sup>	2002-03	2003-04	2004-05
Budget Estimate	4211	3711	5240.06	6031.8	6338.8
Actual	4305.52	8373.66	6534.96	7262.81	9392.16
Variation	94.52	4662.66	1294.90	1231.01	3053.36
% of Variation	2	125	25	20	48

It may be seen from the above table that budget estimates were understated during the years 2001-02 to 2004-05 by amounts ranging from 20% to 125 % indicating deficiencies in budgeting.

### 5.5.4 Revenue from INSAT

Revenue from INSAT is generated from two segments (i) from leasing of transponders for television operations and (ii) leasing of transponders for communication operations, referred to as VSAT. As of October 2005, the department owned 144<sup>¶</sup> transponders spread over seven communication satellites of which 70 are being used by government entities such as DoT, DD and AIR. As per the arrangement between DoS and ACL, while individual contracts in respect of lease of transponder capacity were entered into by DoS, ACL was designated as the Contract Manager. No Memorandum of Understanding or agreement between DoS and ACL laying down specific responsibilities of both entities was made available to audit. However in an internal note of August 2003, it was stated that ACL as the contract manager would carry out activities such as:

- Monitoring, billing and collection of dues as per the terms of individual contracts
- Accounting for the revenues and expenses incurred in respect of these contracts and working out cost to be transferred with respect to the revenue and
- Providing appropriate marketing services.

\* Circular No. F.2 (25)-B(D)/2001 dated 3<sup>rd</sup> October 2001 by Ministry of Finance

<sup>\*</sup> Receipts for 2000-01 and 2001-02 are exclusive of insurance receipts and receipts from tracking which are one time receipts.

<sup>¶</sup> 28 for television operations, 104 for VSAT and other operations and 12 are held as spare.

It was decided in this internal note that revenue thus realized would be shared between DoS and ACL in the ratio of 80:20 for VSAT and 85:15 for television transponders. In the documents produced to audit there were no instructions as to the mechanism by which DoS was to ensure proper billing and collection on its behalf by ACL, the correctness of the accounting for amounts received by ACL, etc. While there are no specific delegation of power in DoS with regard to receipts, as per para 12.4 of the Delegation of Financial Powers, for trading operations, approval of the Member (Finance) was necessary in cases where the value of the transaction exceeded Rs. One crore. However, it was noticed that the internal note of August 2003 laying down the revenue sharing arrangements between DoS and ACL had not been approved by the Member (Finance). DoS stated that it is in the process of obtaining the approval from Member Finance (July 2006).

## 5.6 Audit Findings

### 5.6.1 Price fixation of transponders

In July 2003, DoS took over VSAT accounts from DOT. As the pricing structure for VSAT transponders had already been fixed by DOT, DoS decided to follow those rates and made some partial modifications in 2004. In respect of television transponders, price fixation was done independently by DoS through a standing committee set up for this purpose. The committee fixed a minimum floor price of Rs. 2.5 crore per unit<sup>◊</sup> in July 2002 based on the life expectancy of the satellites, taking into account return on investment and marketing charges. The committee also authorized the marketing of transponders through commercial negotiations on a case-to-case basis at a suitable price above the floor price depending upon the needs and circumstances in each case. The floor rate fixed in 2002 has not been revised and Department stated that the present selling rate of INSAT transponders was in the range of Rs.2.5 - Rs.3.5 crore per unit for Government users and in the range of Rs.3.5 - Rs.5 crore per unit for private users.

### 5.6.2 Application of floor rates

Audit scrutiny of the contracts for the lease of television transponders revealed that different rates had been applied for different users, (private users and public sector), ranging from Rs.1.80 crore to Rs.5.76 crore per unit (Appendix-2). Reasons for variations in rates were not available in the records produced to audit.

It was noticed that two domestic companies had been charged at Rs.1.80 crore and Rs.1.93 crore respectively which was below the floor price of Rs.2.5 crore and resulted in revenue loss of Rs.12.96 lakh<sup>△</sup>. Further, although the department had stated that lease rate was in the range of Rs.3.5 - Rs.5 crore per unit for private users, it was observed that in respect of four companies, the rates fixed were below the price of Rs.3.5 crore impacting revenue to the tune of Rs.2.20 crore.

<sup>◊</sup> Per 36 MHz transponder usage per year

<sup>△</sup> Revenue loss has been computed on proportional basis for a period of 5 months as the contract is ongoing for the other company.



In its reply DoS stated that lease charges were fixed based on various factors such as the capacity leased, duration, footprint of satellite, power of satellite beam, etc. and that therefore charges varied from case to case. Further, there were also social needs and the requirement of competitive pricing vis-à-vis foreign satellites which needed to be taken into account while deciding the rates. DoS stated that one of the companies, which had been charged a rate below the floor rate, was an autonomous organization under the government and the reduced price was approved in view of the social obligations of the organization. In respect of the other company, it was stated that they had a unique requirement for a specific period and were seriously considering the use of foreign satellites who offered capacity on hourly basis. Hence, a differential rate had been worked out. DoS further stated that rates had been rationalized in a majority of cases and that lower rates were being charged as a deliberate marketing strategy in order to bring in high profile channels.

The reply of the department stating that rates had been rationalized in a majority of the cases is not tenable as audit observed that as many as 26 different rates had been applied to the 46 cases test checked, and reasons for variations in individual cases were not found recorded. Further, audit noticed that while the pricing structure for VSAT operations took into account different technical parameters such as capacity leased, duration, and power of the satellite beam etc, this procedure was not extended to lease of television transponders. The reply of the department regarding the need to fight competition from foreign satellites is to be viewed against the fact that INSAT transponders are in high demand as indicated by the full utilization of existing capacity, and almost complete advance booking for INSAT 4A.

#### **5.6.3 Non-adherence to contractual obligations involving revenue of Rs.2.69 crore**

Prior to July 2003 when VSAT operations were being managed by DOT, licensees were required to furnish bank guarantees to cover their financial obligation while entering into a contract for allotment of transponder. Consequent to a request from VSAT Providers Association of India for reducing their financial burden, the requirement of bank guarantee was dispensed with by DoS, and instead a system of quarterly advance payment was agreed to. The contract further provided for penal interest, withdrawal of lease capacity and termination of the license in case of default by the licensee to fulfil contractual obligations. Audit examined ten VSAT contracts and inadequacies found in two are detailed below.

#### **5.6.4 DoS leased transponders for VSAT operations to a company for the period from 1 July 2003 to 31 March 2006. Licencee was to make quarterly advance payment of Rs.47.32 lakh, 30 days before the commencement of every quarter.**

Audit scrutiny revealed that the company had defaulted in making advance payment from the quarter beginning October 2003 (which was due in September 2003) and defaulted continuously thereafter. However, the leased capacity was neither withdrawn nor was any action taken to terminate the contract in spite of repeated defaults by the licensee. Lease capacity was withdrawn only from 01.01.2005, by which time the licensee had accumulated arrears of Rs.1.99 crore. Department stated that the licensee was facing financial constraints and reminders had been issued for recovery of dues. Failure to enforce corrective action in time as envisaged in the contract jeopardized the interest of government revenue to the tune of Rs.1.99 crore. Department stated that the licensee was facing financial constraints and reminders had been issued for recovery of dues. Department needs to review the terms and conditions for leasing out VSAT transponders so as to safeguard interests of government revenue especially as the system of financial guarantees has been done away with.

**5.6.5** Another company was allotted space segment capacity for VSAT operations from 1 July 2003 to 31 March 2006. Audit scrutiny revealed that this company had been allowed to uplink although it had not obtained clearances from DoT and Standing Advisory Committee on Radio Frequency Allocation (SACFA) under DoT. Lack of proper scrutiny on the part of DoS resulted in a licensee being allowed to uplink and operate without relevant clearances. Further as per terms of the contract, the company was to make quarterly advance payment, 30 days before the commencement of every quarter. Audit scrutiny however revealed that the company was making partial payments from June 2004 onwards and that too after a delay ranging from four to ten months, thereby attracting penal interest for defaults at 18 per cent per annum of the unpaid sum. No action was taken to levy the penal interest or to withdraw the license and to terminate the contract. In the meantime DoT cancelled the VSAT license in January 2005 due to gross violation of licensing conditions by the company. The revenue of DoS pending recovery at January 2005 amounted to Rs 70.35 lakh. Failure to take timely action jeopardized the interests of government revenue to the extent of Rs 70.35 lakh.

Department replied that it was the sole responsibility of the customer to obtain all permits and licenses. It was DoT which issued the license and DoS was to provide space segment capacity only. Reply is not tenable since the contract stipulates that the licensee shall obtain all clearances necessary for the performance of its obligations subject to the satisfaction of DoS. Department needs to review its practices and strengthen its internal controls so that all license requirements are met by the customer before providing him uplinking capacity.

## **5.7 Issues relating to ACL**

### **5.7.1 Agreements between ACL & DoS Centres/NRSA**

While the revenues received by ACL from lease of INSAT transponders are passed on to DoS directly, in respect of revenue from the IRS system as also individual projects taken up by different centres, as per an internal circular of June

2001 further modified in February 2002, the amounts are sent to individual centres and National Remote Sensing Agency (NRSA). These organizations in turn credit the amounts received into their deposit head and subsequently transfer the same into revenue head. The IRS revenue consists of amounts payable on account of data access fee, royalty and software. The commission paid to ACL for services rendered in connection with the IRS system was fixed at 60 per cent of all the components from April 2002.

#### **5.7.2 Loss of interest due to delayed receipt of INSAT revenue from ACL**

While ACL was expected to remit INSAT receipts to DoS at the end of every financial year, it was observed by audit that during the period from 2001-02 to 2004-05, ACL transferred revenue of Rs. 166.83 crore to DoS with a delay ranging from 5 months to 14 months after closure of accounts of the financial year. The delay in transfer of receipt resulted in loss of interest of Rs. 8.90 crore (Appendix-3). Further, as per Receipt and Payment Rules (Rule 6) all Government receipts shall be paid in full for inclusion in Government accounts. Audit noticed that in contravention of these provisions, ACL was allowed to deduct its commission charges from the revenues collected prior to remitting the amounts to DoS. This also resulted in lack of transparency in the payment of commission charges to ACL as these amounts were not included in the budget of DoS. ACL also retained an amount of Rs.1.23 crore on account of penal interest for the years 2003-04 & 2004-05 levied on behalf of DoS in various contracts, which should have been remitted to DoS. The department while accepting views of audit, stated in July 2006 that ACL would henceforth remit revenues to DoS on quarterly basis.

#### **5.7.3 Short-realization of Rs 2.40 crore**

Master Control Facility, Hassan (MCF) an ISRO Centre, took up a specific project of establishing and monitoring the performance of American Asian Pacific satellite Ku-band transponder in April 2001. Apart from the capital cost, a monthly operational charge of Rs. 12.00 lakh was payable to MCF once the project become operational. For this project, ACL was to be paid a commission of 25 per cent on the operational charges.

In February 2002, ACL submitted a proposal to DoS seeking an increase in its revenue share from 25 to 60 per cent on the grounds that MCF was carrying out activities such as maintenance etc. which would not require substantial cost reimbursement. Audit scrutiny revealed that this proposal was acceded to by DoS without making any reference to MCF which had entered into the contract with ACL, and thereby foregoing Government revenue of Rs. 2.40 crore.

DoS replied that the increased share of ACL was due to the fact that the amount realised was more than that projected by MCF. But the fact remains that ACL neither had any manufacturing activity nor any other related activity which called

for increased revenue share. This further reinforces the audit contention pointed out earlier that the department does not have a proper budgeting mechanism.

#### **5.7.4 Apportionment of IRS revenue between DoS and ACL**

DoS as on March 2001 permitted ACL to retain 20 per cent of revenue received towards data access fee and royalty in respect of IRS system; and 50 per cent towards software. However, based on a request made by ACL, the portion of revenue retained was revised (December 2001) to 60 percent for all components (data access fee, royalty and software) to be applicable from April 2002 onwards. The justification for the sharp increase in the portion of revenue retained by ACL was attributed to the requirement of ACL to increase its earning to build up adequate resources. Audit scrutiny revealed that there was no costing of overheads or any other special services provided by ACL to DoS which called for a revision of revenue share. Incidentally, it may be pointed out that ACL had neither any manufacturing nor any other related activity, which called for increased revenue share especially when their post tax profit of Rs 6.00 crore in 2000-2001 increased to Rs.39.43 crore in 2004-05. While this decision reduced the revenues of DoS to the extent of Rs. 23.35 crore (Appendix-4), no approval was taken from the Member (Finance) as seen in the files made available to audit.

DoS replied that the increased share was in recognition of the efforts required to be placed by ACL for marketing globally and was in line with international standards. But the fact remains that the department had not obtained approval from the Member (Finance) for foregoing substantial and recurring revenue. Department agreed (July 2006) to review the sharing of revenues with ACL in consultation with Member (Finance).

#### **5.8 Accounting Issues**

##### **5.8.1 Revenue of Rs. 3.52 crore used for departmental expenditure**

In keeping with the internal policy of the department, during the period under review, ACL transferred IRS revenue of Rs.23.96 crore to ISRO centres. Of this amount, only Rs.9.03 crore was credited to the departmental revenue head. An amount of Rs.3.52 crore was utilized for departmental expenditure and the balance of Rs.11.41 crore (Appendix- 5) was retained by the individual centres in their deposit heads without crediting it to Government account.

Audit observed that as per Rule 6 of the Receipt and Payment Rules, moneys received by ACL on behalf of DoS should have been transferred to the department directly and not to individual centres. Retention of Rs. 11.41 crore in deposit head was also in contravention of laid down accounting rules as revenues realised from IRS were for data access fee, royalty, software and services provided, which cannot be treated as deposit works. Further, revenue of Rs.3.52 crore had been utilized for departmental expenditure without the authority of budgetary sanction by Parliament.



DoS stated that henceforth ACL would credit all revenue payable to ISRO on quarterly basis and avoid diversion of revenue in future (July 2006).

### 5.8.2 Non-credit of revenue of Rs. 13.77 crore into Government Account

As per the circular issued by DoS in July 2001, the un-spent balance of deposit projects which are completed shall be credited to Government account immediately after completion of the project. Audit scrutiny revealed that revenue had been retained by individual centres in their deposit heads though projects had been completed as shown in Table below:

(Rs. in crore)

SI No	Name of unit / centre	Amount
1	Space Application Centre	3.52
2	Master Control Facility	1.80
3	SHAR	7.87
	<b>Total</b>	<b>13.19</b>

Similarly audit scrutiny revealed that VSSC, Trivandrum had retained an amount of Rs. 58 lakh of which Rs.29.13 lakh related to recovery of liquidated damages and Rs. 28.76 lakh related to transfer of technology receipts. Retention of government revenue was in contravention of Government Financial Rules.

DoS replied that an amount of Rs.10.85 crore had since been credited to Government account.

### 5.8.3 Retention of IRS Revenue by NRSA of Rs.19.46 crore

NRSA is an autonomous body entrusted with receipt, archival, processing of the raw remote sensing satellite data into saleable products, and the sale of satellite data products within India. Data access fee and royalty which are payable to access DoS owned satellites form part of the sale price of satellite data products.

During the period under review, NRSA had received a sum of Rs.17.97 crore (Rs.14.46 crore from ACL and Rs.3.51 crore\* on own sales) and Rs.1.49 crore towards data access fee and royalty. However these sums were retained by NRSA and were not passed on to DoS, resulting in non-receipt of revenue to the extent of Rs 19.46 crore by the department.

Department replied that these revenues had been retained by NRSA to improve internal accruals. As these receipts are generated using outputs from DoS, a

\* NRSA have stated that data access fee charged by them ranges from 2 to 12 per cent of the sale value. In the absence of absolute figures loss of revenue has been computed @ 3 per cent of total sales

transparent and equitable arrangement should be put in place between NRSA and DoS to ensure appropriate receipt of monies due to Government.

#### **5.8.4 Loss of revenue of Rs.76 lakh due to non provisioning for overheads.**

As per DoS rules, overhead charges shall be charged to the deposit projects. Overhead charges for projects costing more than Rs. 5 crore were to be charged @ 7 per cent of the project cost while those costing less than Rs. 1 crore were to be charged @ 12 per cent.

Audit scrutiny of costing relating to three projects carried out for outside agencies revealed that overhead charges were not factored into the project cost, involving a revenue implication of Rs. 76 lakh (Appendix-6). DoS replied that audit observations would be taken into account for implementation in future projects.

#### **5.8.5 Non-maintenance of Demand Collection Balance Register**

As per para 12.7 of Civil Accounts Manual, the department shall raise the demands for their receipts and maintain a Demand Collection Balance Register (DCB) to watch the receipt of the demands raised. However such DCBs were not maintained either at DoS or at its centres. There was therefore no system in place by which the correctness and timeliness of remittance of receipts could be monitored. Lack of adequate control mechanisms resulted in the following lapses:

- (i) Royalty receivable by DoS *vis a vis* that actually received from ACL was reviewed in audit. Audit scrutiny revealed that as against Rs.3.57 crore transferable into Government account, only Rs.3.12 crore had been transferred. An amount of Rs.0.45 crore is pending reconciliation. DoS agreed to reconcile the pending amount.
- (ii) ISTRAC, a DoS centre had made advance payment to National Aeronautics and Space Research, USA, towards science aeronautics and technology support for IRS-1C mission. After completion of the project, NASA in September 1998 intimated ISRO through their technical liaison unit that an amount of US \$ 49176.33 was refundable to ISTRAC/ISRO. Audit scrutiny however revealed that, ISTRAC received the amount in April 2004 i.e. after a lapse of five and a half years. Failure on the part of the centre to pursue the refund resulted in loss of interest to the tune of Rs.8.80 lakh (@ 8 per cent and exchange rate @ Rs.40 per US\$). DoS replied that continuous efforts had been made since January 2004 to realise the amount. Though the amount was receivable in September 1998 itself, Department initiated follow up action only in January 2004. Department may review its mechanism for collecting outstanding revenues.

Department stated that instructions are being issued to centres / units to maintain Demand Collection Balance Register (July 2006).

#### **5.8.6 Outstanding dues of Rs. 610.05 crore**

ICC and Space Commission had decided in May 2002 to charge all users including government entities such as DoT/ BSNL, Doordarshan and All India Radio for the use of transponder capacity with retrospective effect from April 2001. Consequently, DoS was required to quantify the amount payable by the user departments based on the allocation of transponders and its usage. Audit noticed from examination of records that while DOT/BSNL owed a sum of Rs.317.02 crore to DoS for the period from August 2001 to March 2004, actual demands were yet to be raised by DoS (November 2005). Doordarshan also owed a sum of Rs. 293.03 crore for the period from April 2001 to March 2004. When audit sought to verify the correctness of the rates applied, the amount realizable and that realized no connected records were made available, and department replied (December 2005) that arrangements were yet to be finalized.

DoS replied that they were vigorously pursuing the recovery of past dues with the concerned departments.

#### **5.9 Conclusion**

The Review revealed several lapses in the system of accounting, which had resulted in either loss, or non-credit of revenues into government accounts. This was largely attributable to non-adherence of DoS to General Financial Rules of the Government leading to utilization of government revenues for departmental expenditure, retention of government revenues, inadequacies in budget estimation, etc.

Audit study also revealed that the mechanism for price fixation for lease of transponders was inadequate, with variations noticed in several cases. Further, the method of revenue sharing between the department and ACL did not ensure maximisation of Government receipts.

DoS agreed to look into the observations/recommendations made by audit by a high level committee for streamlining the system (July 2006).

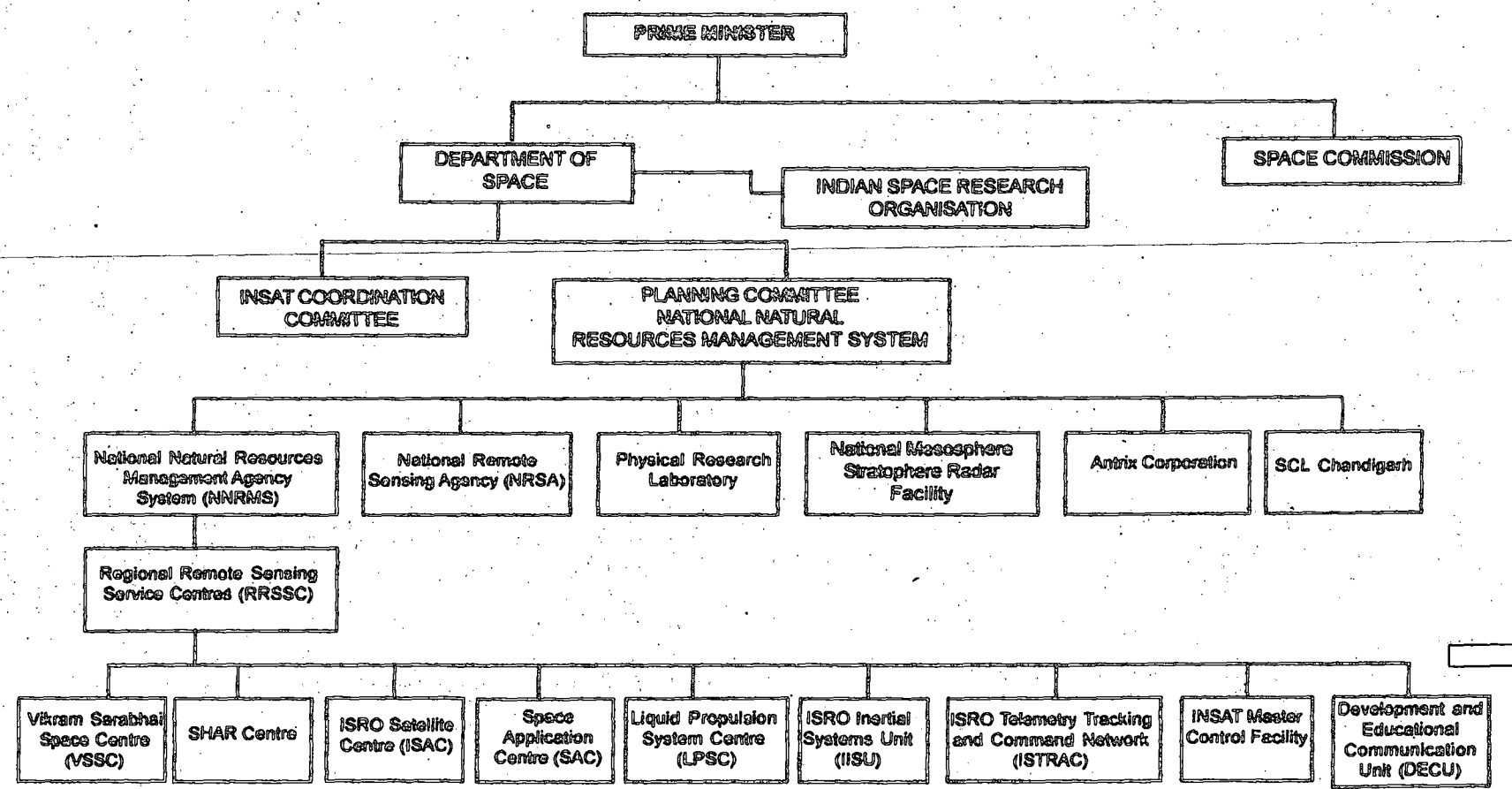
#### **Recommendations**

- Ensure proper accountal and receipt of revenues due to Government
- Re-examine the price structure mechanism in the case of lease of television transponders and rationalise rates so as to avoid the use of differential pricing and to maximise revenue generation.
- Review the existing arrangements with ACL and NRSA in order to safeguard the interest of Government revenues.



### Appendix-I Organisational Chart

Para 5.1.1





**Appendix-2**  
(Para 5.6.2)

**Pricing of television transponders**

No	Description	Frequency	Number of companies	Rate charged per 1 Unit in Rs. Crore
1	Domestic Commercial companies	4.5 MHZ	12	4.8
			2	5.76
			2	4.32
			1	3.87
			1	3.60
		9 MHZ	2	4
			2	4.8
			1	4.6
			1	4.32
			1	3.60
		3 MHZ	1	1.93
			1	4.82
		36 MHZ	2	4.33
			1	4.8
		6 MHZ	1	4
			1	4.33
		8 MHZ	1	4.52
			1	5.18
		13.5MHZ	1	4.59
			1	4.32
		10 MHZ	1	3.02
			1	4.8
		16 MHZ	1	1.80
			1	2.67
		15.5 MHZ	1	3.00
			1	5
		432MHZ	1	3.50
1	4.8			
144MHZ	1	4.75		
	1	4.5		
216MHZ	1	4.5		
	1	4.5		
4MHZ	1	4.5		
	1	4.5		
2	International Customer	36 MHZ	1	4
3	Doordarshan	36 MHZ	1	4.13

**Appendix-3**  
( Para 5.7.2)

**Delayed receipt of dues from ACL**

(Rs. in lakh)					
Year.in which service was Provided	Year of actual receipt	Month of payment	Amount	Delay in transfer (in months)	Interest chargeable @ 8 % <sup>^</sup>
2001-02	2002-03	December 2002	0.68	8	0.03
2002-03	2003-04	October 2002	10.27	6	0.41
2003-04	2004-05	November 2004	328.00	7	15.31
		November 2004	1200.00	7	56.00
		December 2004	302.62	8	16.14
	2005-06	May 2005	2884.68	14	269.24
		May 2005	5082.06	8	271.04
2004-05	2005-06	September 2005	1500.00	5	50.00
		September 2005	225.00	5	7.50
		September 2005	200.00	5	6.67
		October 2005	2800.00	6	112.00
		October 2005	2150.00	6	86.00
<b>Total</b>			<b>16683.31</b>		<b>890.34</b>

<sup>^</sup> RBI lending rate is 6 % and a penal interest of 2% above the rate works out to 8%

**Appendix-4**  
(Para 5.7.4)

**Apportionment of IRS revenue between DoS and ACL**

(Rs. in lakh)

Year	Access Fee from ACL			
	Received	Transferable	Transferred	Difference
2000-01	1354.55	1083.64	1083.64	0
2001-02	1328.19	1062.55	796.91	265.63
2002-03	1206.02	964.82	482.41	482.41
2003-04	1292.99	1034.39	517.19	517.19
2004-05	954.07	763.25	381.62	381.62
<b>Total</b>	<b>6135.82</b>	<b>4908.65</b>	<b>3261.77</b>	<b>1646.85</b>

Year	Royalty from ACL			
	Received	Transferable	Transferred	Difference
2000-01	119.55	95.64	95.64	0
2001-02	130.00	104.00	78.00	26.00
2002-03	257.71	206.17	103.08	103.08
2003-04	134.17	107.34	53.67	53.67
2004-05	42.61	34.09	17.04	17.04
<b>Total</b>	<b>684.04</b>	<b>547.24</b>	<b>347.43</b>	<b>199.79</b>

Year	Software charges from ACL			
	Received	Transferable	Transferred	Difference
2000-01	402.25	201.12	201.12	0
2001-02	1109.02	554.51	443.60	110.90
2002-03	2730.84	1365.42	1092.33	273.08
2003-04	21.91	10.95	8.76	2.19
2004-05	577.76	288.88	231.10	57.77
<b>Total</b>	<b>4841.78</b>	<b>2420.88</b>	<b>1976.91</b>	<b>443.94</b>

Year	Imagery charges from ACL			
	Received	Transferable	Transferred	Difference
2000-01	38.20	19.10	19.10	0
2001-02	219.11	109.55	87.64	21.91
2002-03	6.23	3.11	2.49	0.62
2003-04	34.19	17.09	13.67	3.41
2004-05	182.09	91.04	72.83	18.20
<b>Total</b>	<b>479.82</b>	<b>239.89</b>	<b>195.73</b>	<b>44.14</b>

Year	Total Loss
2000-01	0
2001-02	424.45
2002-03	859.20
2003-04	576.48
2004-05	474.66
<b>Total</b>	<b>2334.79</b>

**Appendix-5**  
**(Para No. 5.8.1)**

**Revenue utilised for departmental expenditure**

(Rs. in crore)

ISRO UNITS	2000-01	2001-02	2002-03	2003-04	2004-05	Total	Amount transferred to 8443	Amount transferred to 1425	Utilised for Department expenditure	Held in deposit
ISTRAC	4.42	2.60	1.81	1.90	1.42	12.15	12.15	9	2.52	0.63
ISAC	3.69	2.14	0.94	0.79	0.76	8.32	8.32	0	1	7.32
SAC	1.13	1.17	0.40	0.16	0.64	3.49	3.49	0.03	0	3.46*
<b>Total</b>	<b>9.24</b>	<b>5.91</b>	<b>3.15</b>	<b>2.85</b>	<b>2.82</b>	<b>23.96</b>	<b>23.96</b>	<b>9.03</b>	<b>3.52</b>	<b>11.41</b>

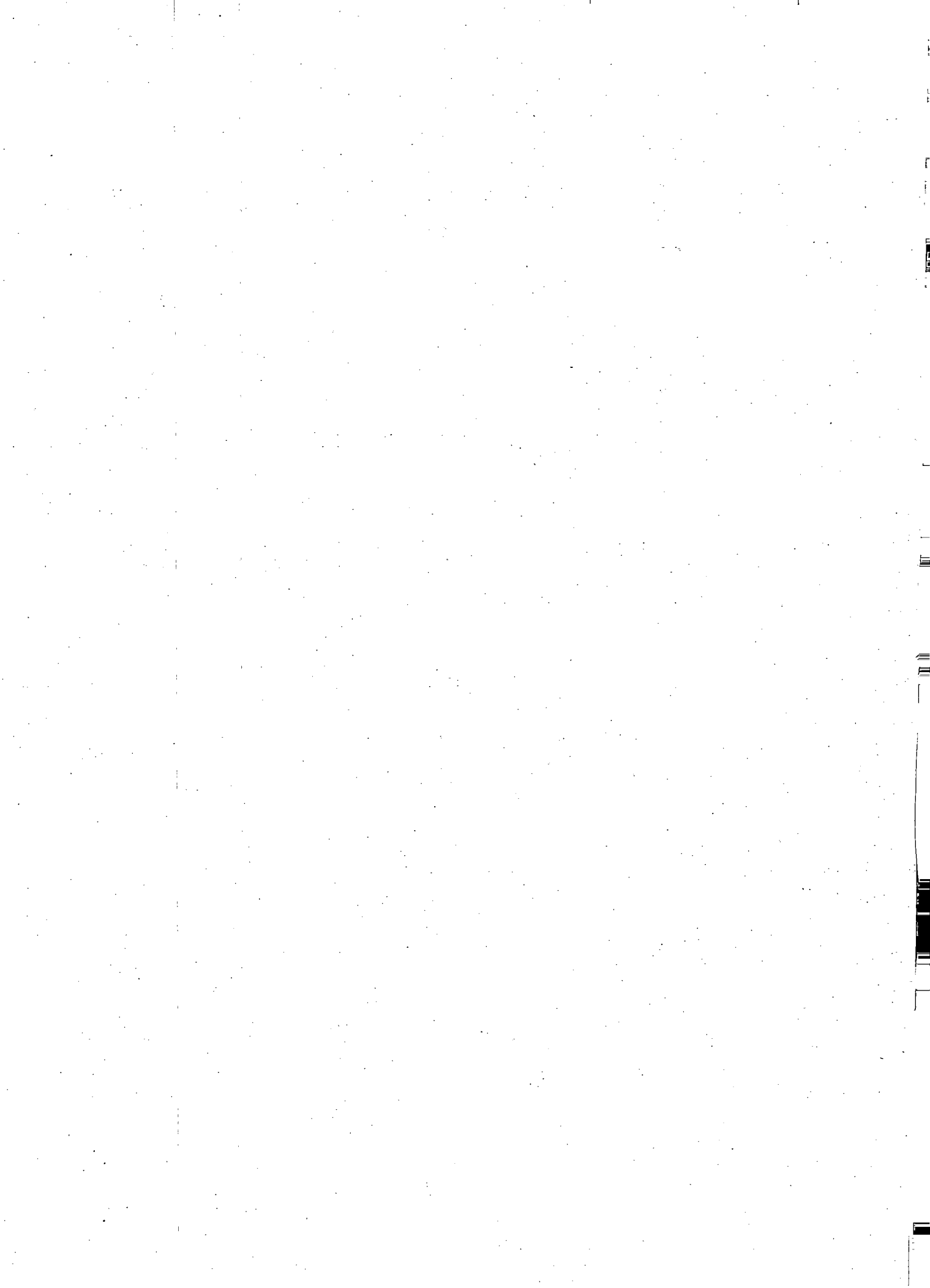
**Appendix- 6**  
**(Para No.5.8.4)**

**Non provisioning for overheads.**

(Rs. in crore)

No	Name of the Project	Project undertaken by	Client	Overheads		
				Cost of Project Rs.	%	Amt of loss
1	Doppler Weather Radar Project	RDC/ISRO	Indian Metrological Department	9.00	7	0.63
2	Supply of Triaxial Magnetometers	LEOS/ISRO	ADA through ACL	0.55	12	0.066
3	Supply of Triaxial Magnetometers	LEOS/ISRO	HAL through ACL	0.55	12	0.066
<b>Total loss</b>						<b>0.762</b>





# **CHAPTER VI**

**DEPARTMENT OF ATOMIC  
ENERGY**

CHAPTER VI

DEPARTMENT OF ATOMIC  
ENERGY

## Chapter Summary

- There were substantial variations between budget estimates and actual receipts of 232 per cent in dividend, 63 per cent in power and 56 per cent in interest receipts during 2000-01 to 2004-05.

**(Para 6.4.1)**

- Receipts of DAE decreased to Rs.2876.05 crore in 2004-05 from Rs.3558.74 crore in 2000-01. Decrease of non tax receipt was due to revised pricing policy of heavy water implemented in January 2004.

**(Para 6.4.1 and Para 6.5)**

- The decision of DAE to supply heavy water to four nuclear power stations at subsidised rates led to reduction in non tax receipts by Rs.400.02 crore during 2000-01 to 2004-05.

**(Para 6.6.4)**

- The changes in the costing and determination of pool price of heavy water would entail estimated reduction of receipts between Rs.120.02 crore and Rs.420.00 crore per annum during 2003-08.

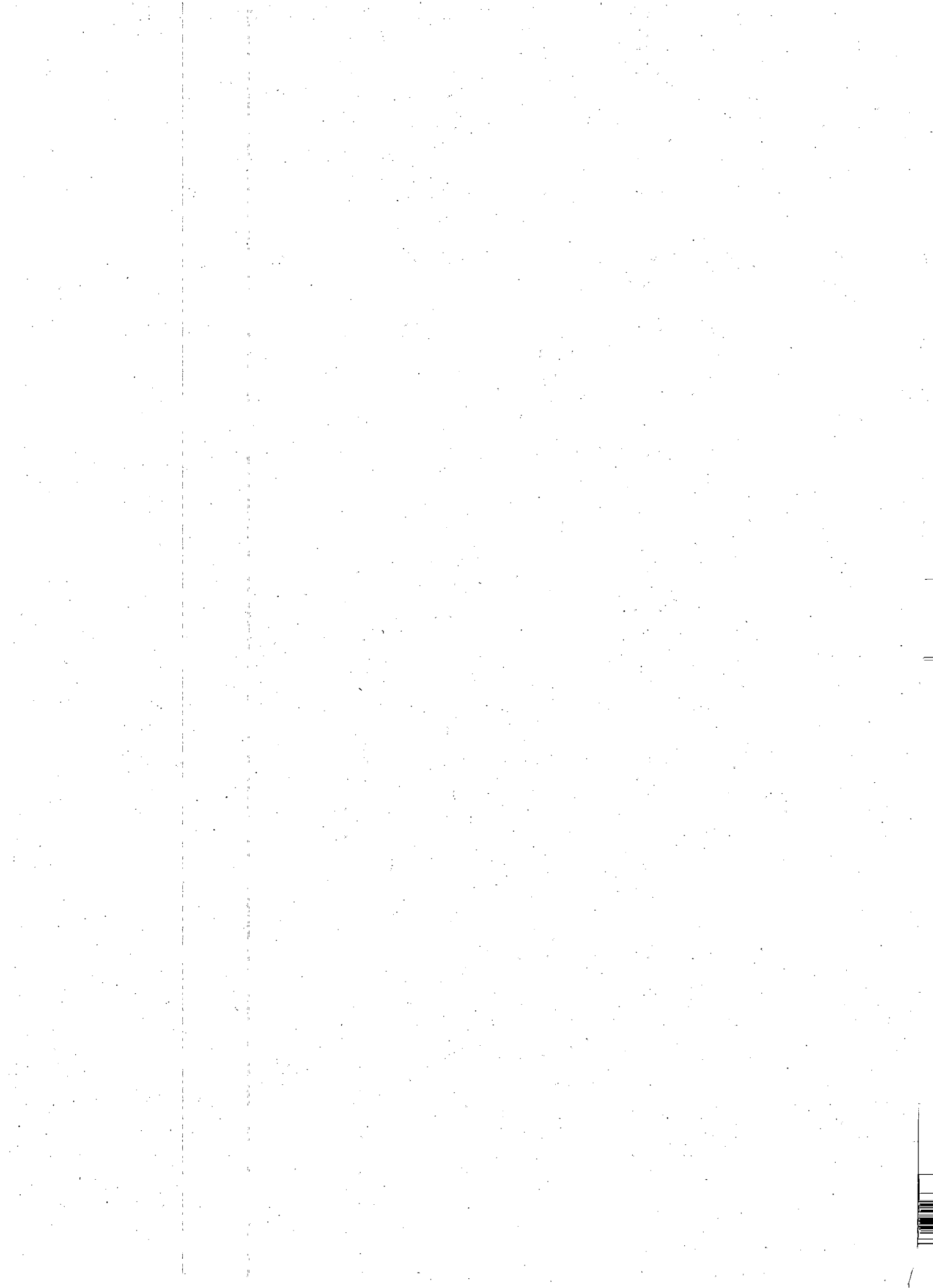
**(Para 6.6.3)**

- While a major reason for reducing pool price was stated to be the need to make the cost of nuclear power more competitive, audit observed that the cost of heavy water alone was not a significant factor in the increase in nuclear tariff.

**(Para 6.6.3)**

- There was under realisation of dividend from three PSUs viz NPCIL, IREL and ECL.

**(Para 6.6.1)**





## CHAPTER-VI: EXAMINATION OF MAJOR RECEIPTS FROM DEPARTMENT OF ATOMIC ENERGY

### 6.1 Introduction

The Department of Atomic Energy (DAE) aims at harnessing nuclear energy for power generation and developing nuclear and other advanced technologies for use in health care, agriculture, industry, research and other areas. It has five research and development centres, two Boards for promotion of research in nuclear sciences and higher mathematics, three industrial units, five public sector undertakings, eight autonomous institutions and three service organisations. The organizational structure and the mandate of the DAE on which its programmes are based are indicated in Appendix-I and Appendix II respectively.

### 6.2 Scope of Audit

DAE receives non tax receipts from interest, dividend, power, industries and minerals and atomic energy research. Three major components of the receipts of DAE during the period 2000-05 were reviewed, viz., interest, dividend and power. Records maintained at DAE Secretariat and two industrial units were test checked.

### 6.3 Audit objectives

The review was conducted to ascertain adequacy of measures and internal controls for maximizing the levy, collection, and accountal of non-tax receipts and assess any impact on revenue due to irregularities or system inadequacies.

### 6.4 Trend of non-tax revenue

6.4.1 The non-tax receipts of the department varied between Rs.2876.05 crore and Rs.3711.72 crore during the period 2000-01 to 2004-2005 as indicated in the table below:

(Rs. in crore)

Details of total non tax receipts	Year				
	2000-01	2001-02	2002-03	2003-04	2004-05
Budget Estimates	3066.48	3302.83	3414.16	3168.59	3202.48
Actual receipts	3558.74	3711.72	3203.37	3647.07	2876.05
Variation	(+)492.26	(+)408.89	(-)210.79	(+)478.48	(-)326.43
Percentage of variation	16.05	12.38	(-)6.17	15.10	(-)10.19

Total non tax receipts of the department declined from Rs.3558.74 crore in 2000-01 to Rs 2876.05 crore in 2004-05 amounting to reduction of 19 percent in non tax receipt revenues over the five year period. Overall variation between budget estimates and actuals during 2000-01 to 2004-05 was in the range of (-) 6.17 and 16.05 percent. Large variations were noticed between the budget estimates and actuals in some cases, as in interest (56.42 percent in 2003-04), dividend (232.42 percent in 2004-05) and power (63.05 percent in 2004-05) details of which are indicated in Appendix III. The magnitude of variations between budget estimates and actuals indicated inadequacies in preparation of budget estimates.

#### 6.4.2 Interest receipts.

Interest receipts of the DAE fall under three categories

- (i) interest amount payable on Government capital invested in departmental undertakings viz. Nuclear Fuel Complex (NFC), Heavy Water Management Board (HWB) and Rajasthan Atomic Power Station-I (RAPS-I),
- (ii) interest on loans to public sector undertakings of DAE viz. Nuclear Power Corporation of India Limited (NPCIL), Indian Rare Earth Limited (IREL), Uranium Corporation of India Limited (UCIL), Electronic Corporation of India Limited (ECIL) and
- (iii) interest on loans to Government servants and other interest receipts.

Interest receipts during 2000-05 was in the range of Rs.780.32 crore to Rs.1153.37 crore and, as a percentage of the total non-tax receipts of the department, increased from 25.34 percent in 2000-01 to 40.10 percent in 2004-05 (Table 2).

(Rs. in crore)

Head	2000-01	2001-02	2002-03	2003-04	2004-05
Total non tax receipts	3558.74	3711.72	3203.37	3647.07	2876.05
Interest receipt	901.89	914.92	780.33	1086.82	1153.37
Percentage of interest income to total non-tax receipt	25.34	24.65	24.36	29.80	40.10

#### 6.4.3 Dividend

DAE received dividend from its PSUs viz NPCIL, UCIL, IREL and ECIL towards the return on investments on share capital made by the department. The dividend receipts during 2000-05 were in the range of Rs. 63.88 crore to

Rs.544.51 crore and its share of the total non-tax receipts was between 1.80 to 18.93 percent as indicated in Table 3.

(Rs. in crore)

Heads/Particulars	2000-01	2001-02	2002-03	2003-04	2004-05
Total Non tax receipt	3558.74	3711.72	3203.37	3647.07	2876.06
Dividend receipt	63.88	80.81	106.73	282.27	544.51
Percentage of dividend to total non-tax receipt	1.80	2.18	3.33	7.74	18.93

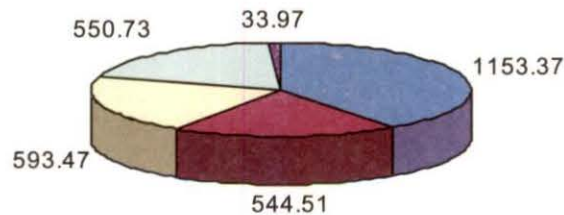
#### 6.4.4 Power

Receipts from sale of power from RAPS-I, lease charges of heavy water, and lease charges of fuel were the major components under the head "Power". Total receipts under this head declined from Rs.1877.92 crore in 2000-01 to Rs.593.47 crore in 2004-05. The overall share of receipts under this head also declined from 52.77 percent of the total non tax receipts in 2000-01 to 20.63 percent in 2004-05 as detailed in the table below.

(Rs. in crore)

Head	2000-01	2001-02	2002-03	2003-04	2004-05
Total non tax receipts	3558.74	3711.72	3203.37	3647.07	2876.06
Receipt from Power	1877.92	1845.81	1486.43	1512.54	593.47
Percentage of income from power to total non-tax receipt	52.77	49.73	46.40	41.47	20.63

**Components of receipts in 2004-05(Rs in crore)**



■ Interest ■ Dividend □ Pow er □ Industries and Mineral ■ Atomic Energy Research

## **6.5 Reasons for decline in Non tax receipts**

The decline in the overall non tax receipts was due to the revised pricing and accounting policy of the Heavy Water Pool notified by the DAE in January 2004. Supply of heavy water is managed by the Heavy Water Board (HWB), a departmental undertaking of DAE. HWB acquires the heavy water from various heavy water plants into the Heavy Water Pool, which comprises "assigned" stock which is assigned for use by NPCIL in its reactors and "unassigned" stock which is heavy water retained by HWB and not required for immediate use by NPCIL. The pool price of heavy water is calculated taking into account both the assigned and unassigned stock available with HWB and lease charges levied on NPCIL based on the pool price so calculated, to be paid in perpetuity. Prior to January 2004, interest was charged on the unassigned stock of heavy water with HWB at the rates notified by the Ministry of Finance from time to time, treating it as government capital. The revised pricing method provided inter alia that interest should not be charged on the unassigned stock of heavy water and that the payment of heavy water be determined in such a way that the price was recovered in 40 years at net purchase value (NPV) instead of in perpetuity. Audit comments on the revised policy are discussed later in the report.

## **6.6 Audit Findings**

### **6.6.1 Under realisation of dividend due to non-insistence of minimum dividend as per Government instructions**

The Ministry of Finance in an order in June 1996, stipulated that Government nominees on the Board of Directors should insist on declaration of minimum dividend of 20 per cent on share holding or minimum dividend payment of 20 percent of Post-Tax Profits (PTP) whichever was higher in respect of profit making PSU's. DAE in September 1997 informed the Ministry that it would not be practicable to insist on 20 percent equity on share holding and requested to change the phrase '20 percent of equity or 20 percent of post-tax profit, whichever was higher' to '20 percent of equity or 20 percent of post-tax profit, whichever was lower' or simply '20 percent of post tax profit' on declaration of minimum dividend. The Ministry did not accept DAE's request and instructed in November 1998 to comply with the existing guidelines on this subject issued in August 1998, which stipulated that in case minimum dividend of 20 percent of its share holding was not possible, having regard to the disposable profits, profit making PSUs must ensure that the dividend pay out constitute at least 20 percent of post-tax profit. The Ministry further held in July 2001 that dividend receipts constituted the major component of non-tax revenue of the Government and substantial shortfall in non-tax revenue caused adverse implications on budgetary projections and fiscal deficit. In view of the fiscal imbalance in Government finances and the voluntary adoption of a region of fiscal responsibility, the Finance Ministry reiterated that there was an onus on each Department to ensure realisation of the receipts from dividend from PSUs strictly in accordance with the instructions in force. The Ministry again reiterated the above instructions in September 2004.

**6.6.2** The details of equity holding at the end of the year, post tax profit during the year, dividend realised and reserve and surplus of the profit making PSUs of the Department during 2001-05 are given at **Appendix IV**. DAE did not ensure payment of 20 percent dividend on equity holding from NPCIL, IREL and ECIL leading to forfeiture of non-tax receipts to the extent of Rs.3491.73 crore during 2000-01 to 2004-05. It was also observed by audit that the general reserves of both NPCIL and ECIL had increased substantially during this period. In the case of NPCIL general reserves grew from Rs.0.75 crore in 2000-01 to Rs. 3000.75 crore in 2002-03 and to Rs.6000.75 crore in 2004-05. ECIL's reserves increased from, Rs.20.53 crore in 2001-02 to Rs. 175.95 crore in 2004-05. IREL also showed general reserves of Rs.129.64 crore for the year 2003-04.

In its reply of March 2006 DAE stated that dividend was not insisted upon as per the norms of the Ministry of Finance as the PSUs required fund for future projects and to discharge various liabilities. DAE also stated that of the reserves shown by NPCIL an amount of Rs. 2647 crore was in the form of power bonds issued by various beneficiary states and was not available for current expenditure. However, in the light of the substantial reserves available with all these PSUs and the fact that equity from DAE to these undertakings increased from Rs.4730.15 crore in 2000-01 to Rs.9410.72 crore in 2004-05, non insistence on dividend to be paid to Government as per norms did not appear justified. Further, the dividend realised from the three public sector undertakings also fell short of the minimum prescribed by the Ministry of Finance of 20 percent of post tax profit in respect of NPCIL (2000-03), IREL (2000-02), ECIL (2000-04) resulting in short realisation of dividend of Rs.328.98 crore (42.35 percent), Rs.7.17 crore (49.97 percent) and Rs.26.09 crore (56.23 percent) respectively.

The Ministry of Finance, however, in March 2006 while according post facto relaxation for payment of less dividend by the PSUs in the previous years, advised DAE for payment of dividend at 20 percent of profit after tax for UCIL, ECIL and IREL and 30 percent of profit after tax for NPCIL. Ministry's decision to provide relaxation to DAE for payment of less dividend in the previous years led to additional financial assistance to the PSUs apart from diluting its earlier stand on payment of dividend.

**6.6.3 Lack of justification for the procedural changes made in the costing/pool prices of heavy water**

The procedural changes in the costing and determination of pool price of heavy water were made sequential to a proposal from NPCIL stating that the high cost of heavy water was pushing up nuclear power tariff thereby rendering it less competitive. NPCIL stated that as approximately 25 to 40 percent of the cost of nuclear power is on account of the charges for heavy water, capitalization of interest on unassigned heavy water should be discontinued. NPCIL also requested for payment by instalments for the value of inventory of assigned heavy water as against payment of lease charges in perpetuity.



Atomic Energy Commission (AEC), in a meeting of May 2002, considered a proposal made by the Dept of Atomic Energy for reviewing the costing method of heavy water and the accounting and pricing of the Heavy Water Pool. The AEC constituted a Committee to review the matter, consisting of representatives of the Ministry of Finance, the Controller General of Accounts, and the DAE. The Committee decided that the Chief Advisor (Costs) of the Cost Accounts Branch, Dept of Expenditure would undertake a detailed study of the existing costing/pricing method of the heavy water pool. In his report (January 2003), the Director (Costs) opined that the element of interest charged on unassigned heavy water inflated the pool price of heavy water and that this should be discontinued. He was also of the view that the reduced lease charges already in operation for new units of NPCIL at Kaiga I&II and RAPS III&IV resulted in an indirect subsidy to these units, and stated that all units of NPCIL should be charged uniform price/lease charges. It was also pointed out that dues outstanding from NPCIL for lease charges and loss of heavy water should be recovered and remitted to Government accounts.

The Committee considered the report of the Cost Accounts Branch and recommended interalia (August 2003) that interest should not be charged on the unassigned heavy water being carried consciously for strategic reasons, and that payment towards assigned heavy water be recovered over 40 years at NPV. It was expected that these proposals would reduce the non tax receipts of the Government and would result in reduction by amounts ranging between Rs.120.02 crore and Rs. 420 crore per annum for the period 2003-2008.

Audit comments on the revised costing procedure are as follows:

Cost of nuclear power includes cost of inputs of heavy water and nuclear fuel apart from financial charges such as return on equity, interest on loan etc. Analysis of the components of heavy water lease charges over two five year periods of 1996-2001 and 2001-2006 for three power plants revealed that the heavy water price taken for working out the tariff for the period 2001-06 was increased to Rs.15461/kg from Rs.8785/kg reckoned for the tariff calculation for the period 1996-2001 in respect of all these plants. Even though there was an increase of 76 percent in the heavy water price/kg reckoned for tariff calculation for the period 2001-2006 in respect of these three power plants in comparison to the heavy water price/kg reckoned for tariff calculation for the period 1996-2001, the percentage increase on the component of heavy water lease charges to the total tariff ranged between 1.95 percent and 6.45 percent as depicted at Serial no.6 of the table in **Appendix V**.

DAE stated in March 2006 that the changes in the costing of pool prices were made consciously in the Department with a view to securing the country's energy security; and that concerns raised at various fora about the high cost of nuclear power was merely incidental. It further stated that the costing procedure was considered by a committee including a representative of the Ministry of Finance



and that Ministry of Finance was consulted while implementing the recommendations relating to the revised costing policy. DAE clarified (March 2006) that tariff for the atomic power stations was revised after a period of five years and that the revised tariffs included built in adjustment charges to reflect the fuel and heavy water price variations. However, analysis of the pre adjusted tariffs made available by DAE also indicated that, despite an increase of 53.46 percent, 42.95 percent, 29.22 percent tariff of the three power plants respectively from 1996 to 2001, the corresponding increase in the heavy water component was only 5 percent, 6 percent and 7 percent during this period, further establishing the fact that high cost of nuclear power was not due to heavy water component alone.

DAE stated (March 2006) that the basic purpose of changing the costing methodology of heavy water was to make nuclear power competitive with other forms of energy, to ensure the country's future energy security in a manner that was both environment friendly and generated sufficient internal surplus for DAE to be self reliant for future power projects, while also ensuring reasonableness in terms of the cost to the customers.

The reply from DAE is to be viewed against the fact that as per figures published by the Ministry of Power, nuclear power accounted for less than three percent of the total energy generation in the country in 2005-06. In fact over the last ten years total installed capacity of nuclear energy as a percentage of total installed capacity of energy production in the country has remained largely static at between 2-3 percent. Further, since the increase in nuclear tariff was not attributable to the cost of heavy water alone, it is considered that the reduction in lease charges would not be a significant factor in making nuclear power more competitive. The revised costing policy amounted to an implicit subsidy on nuclear tariff while the reduction of the receipt due to Government is estimated at Rs.1264.12 crore for the period 2003-08.

#### **6.6.4 Foregoing revenue of Rs.400.02 crore due to subsidised rate of heavy water**

DAE had in June 2000, notified the rate of heavy water to be supplied to four reactors (Kaiga I&II, RAPS III&IV) of NPCIL whose commissioning had been delayed, at a lower rate so as to maintain the unit energy cost from these nuclear stations at an appropriate level. The Cost Accounts Branch in its report had observed that the reduced lease charges applicable for Kaiga I&II and RAPS III&IV amounted to an indirect subsidy to these units and recommended that all units of NPCIL should be charged the same rates. The decision to levy lease charges at reduced rates for Kaiga I&II and RAPS III&IV resulted in a reduction in the non tax receipts of Government of Rs.400.02 crore during the period 2000-01 to 2004-05, as detailed in the table below. The report of the committee set up to review the costing of heavy water did not contain any recommendation on the concessional pricing already extended to these plants.

(Rs in crore)

<b>Table 5 : Loss to Govt on account of reduced rate of lease charges</b>				
<b>Year</b>	<b>Kaiga-I</b>	<b>Kaiga-II</b>	<b>RAPS-3</b>	<b>RAPS-4</b>
2000-2001	17.88	22.56	23.76	12.76
2001-2002	28.36	24.15	24.89	28.55
2002-2003	29.23	25.16	24.05	33.01
2003-2004	14.68	11.20	10.57	16.38
2004-2005	14.68	11.20	10.57	16.38
<b>Total</b>	<b>104.83</b>	<b>94.27</b>	<b>93.84</b>	<b>107.08</b>
<b>Total loss from four plants</b>			<b>400.02</b>	

DAE stated in October 2005 that the price of the heavy water inventory of Kaiga I&II and RAPS III&IV was notified at a lower rate than that of other units in 1999 with the approval of the AEC, a competent authority to deal with important matters of policy relating to development, use and control of atomic energy. DAE further stated in March 2006 that the revised pricing methodology was approved by AEC and the Finance Minister.

The reply is to be viewed in the light of the fact that AEC was vested with powers to sanction proposal for capital expenditure upto Rs.50 crore only when it decided in November 1999 to issue heavy water at reduced rates, whereas the reduction in lease charges to these four reactors involved relinquishment of Government revenue of between Rs 52.83 crore and Rs.111.45 crore annually. Scrutiny of records made available to audit also revealed that the proposal that went to the Finance Ministry did not separately discuss the issue of the existing reduced rates for four power plants and no specific decision of the Finance Minister was sought on this aspect.

#### **6.6.5 Short recovery of Rs.153.30 crore from NPCIL on account of heavy water lease and loss charges**

Short recovery of heavy water lease charges and heavy water loss/make up charges from NPCIL has been pointed out by audit earlier in para 3.2 of the Report No.5 of the Comptroller and Auditor General of India for the year ended March 2004, and also while certifying the proforma accounts of the DAE in December 2004. However it was noticed by audit that the dues recoverable from NPCIL for the period 1993-94 to 2002-03 amounting to Rs. 153.90 crore had not been paid by NPCIL so far even though its reserves stood at Rs.6000.75 crore as at the end of March 2005.

In the Action Taken Note, DAE stated (January 2006) that according to a consensus reached between DAE and NPCIL the short recovery of Rs 130.87 crore would be recovered in a span of 40 years with nine percent interest at an annual payment /recovery of Rs 12.17 crore by assigning the short recovery of Rs.130.87 crore to the pool price of the new reactors. DAE further stated that this



arrangement would ensure realisation of Rs 486.80 crore in 40 years, against Rs.130.87 crore. As this proposal has the effect of postponing realisation of Government revenues, it is considered by audit that this matter needs further examination and approval at appropriate levels.

#### 6.7 Conclusions

Test check of records of DAE and its units revealed that its policies and procedures did not accord due consideration for the revenue requirements of Government.

#### Recommendations

- Effect realisation of dividend due to Government as per norms.
- Examine measures to rationalise the overall costing/pricing of components of nuclear tariff without affecting revenues due to Government.

New Delhi

Dated: 7th December 2006

*Sudha Krishnan*

(SUDHA KRISHNAN)

Principal Director of Receipt Audit  
(Direct Taxes)

Countersigned

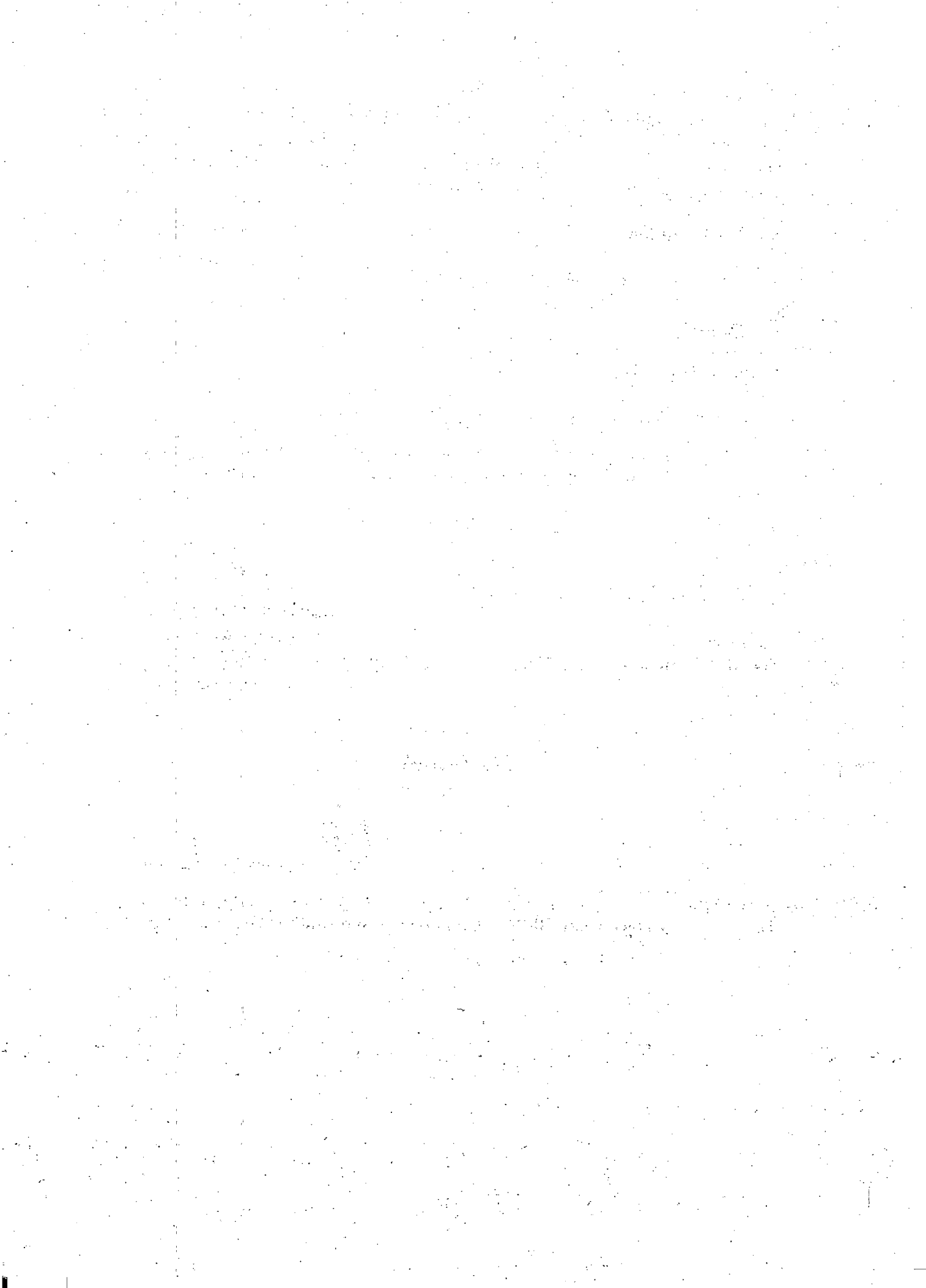


(VIJAYENDRA N. KAUL)

Comptroller and Auditor General of India

New Delhi

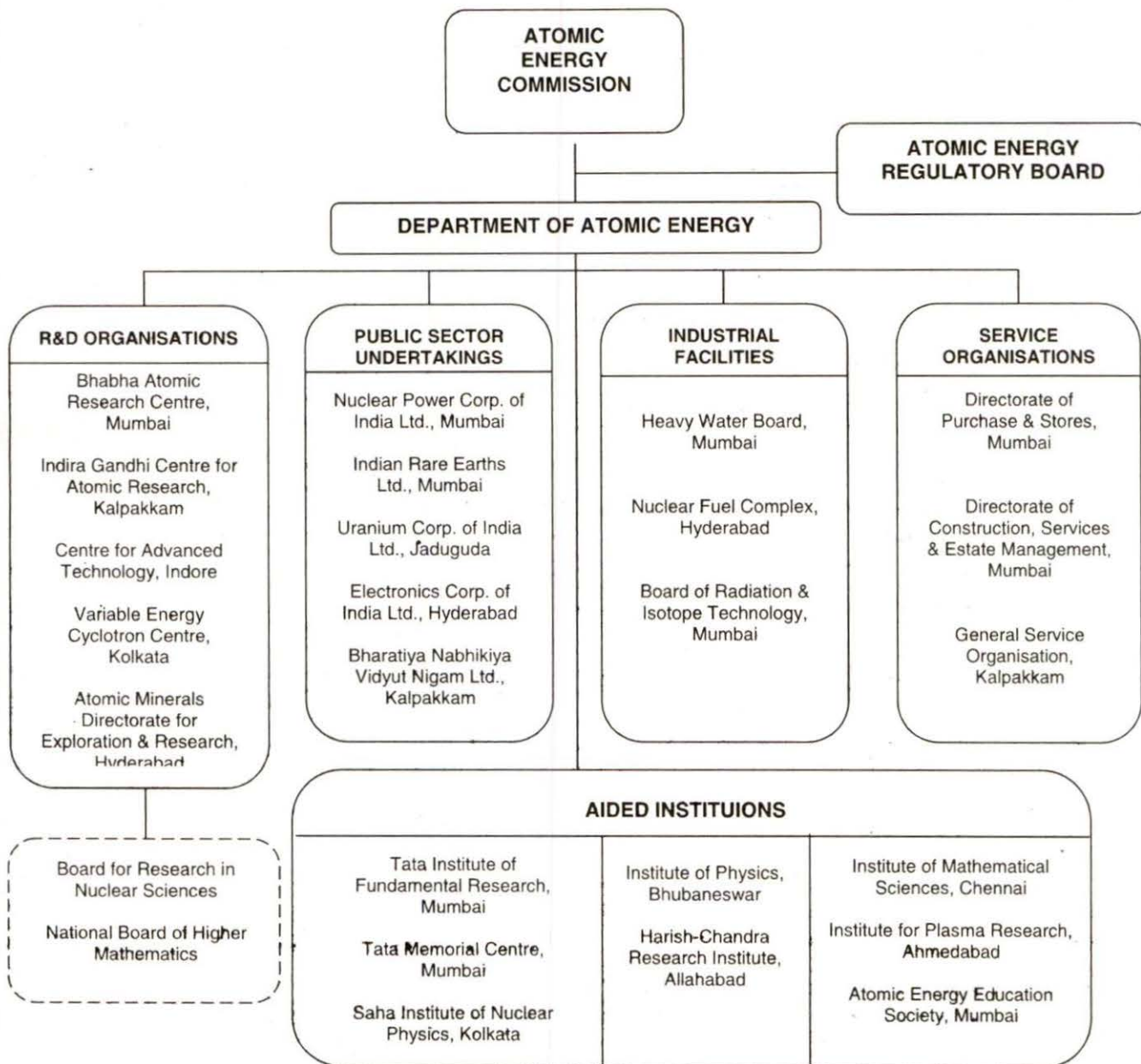
Dated: 7th December 2006





**Appendix I**  
(Para 6.1)

**DAE Organisation Chart**



**Appendix II**  
**(Para 6.1)**

**Mandate of DAE**

- Increasing the share of nuclear power through deployment of indigenous and other proven technologies, and also develop fast breeder reactors, and thorium reactors with associated fuel cycle facilities;
- Building and operation of research reactors for production of radioisotopes and carrying out radiation technology applications in the field of medicine, agriculture and industry;
- Developing advanced technologies such as accelerators, lasers, supercomputers, advanced materials and instrumentation, and encouraging transfer of technology to industry;
- Support to basic research in nuclear energy and related frontier areas of science; Interaction with universities and academic institutions; support to research and development projects having a bearing on DAE's programmes; and International cooperation in related advanced areas of research, and
- Contribution to national security.

**Appendix III**  
**(Para 6.4.1)**

**Budget Estimate Vs Actual Receipt**

(Rs. in crore)

Head of Account	Realisation against BE	2000-01	2001-02	2002-03	2003-04	2004-05
0049- Interest	B.E	937.69	964.09	1102.98	694.79	749.26
	Actual	901.89	914.92	780.33	1086.82	1153.37
	Variation	(-)35.71	(-)49.17	(-)322.65	(+)392.03	(+)404.11
	Percentage of variation	3.81	5.10	29.25	56.42	53.93
0050- Dividend	B.E	50.59	56.41	88.96	117.96	163.80
	Actual	63.88	80.81	106.73	282.27	544.51
	Variation	(+)13.29	(+)24.40	(+)17.77	(+)164.31	(+)380.71
	Percentage of variation	26.27	43.25	19.98	139.29	232.42
0801- Power	B.E	1387.73	1571.94	1385.65	1538.72	1606.44
	Actual	1877.92	1845.81	1486.43	1512.54	593.47
	Variation	(+)490.19	(+)273.87	(+)100.78	(-)26.18	(-)1012.97
	Percentage of variation	35.32	17.42	7.27	1.70	63.05
0852- Industries & Minerals	B.E	670.77	688.73	811.99	794.13	656.40
	Actual	691.13	844.18	801.47	735.38	550.73
	Variation	(+)20.36	(+)155.45	(-)10.52	(-)58.75	(-)105.67
	Percentage of variation	3.04	22.57	1.30	7.40	16.10
1401- Atomic Energy Research	B.E	19.79	21.66	24.58	22.99	26.58
	Actual	23.92	26.00	28.41	30.06	33.97
	Variation	(+)4.13	(+)4.34	(+)3.83	(+)7.07	(+)7.39
	Percentage of variation	20.86	20.04	15.58	30.75	27.80
<b>Total</b>	B.E	3066.48	3302.83	3414.16	3168.59	3202.48
	Actual	3558.74	3711.72	3203.37	3647.07	2876.05
	Variation	(+)492.26	(+)408.89	(-)210.79	(+)478.48	(-)326.43
	Percentage of variation	16.05	12.38	6.17	15.10	10.19

**Appendix IV**  
(Para 6.6.2)

**(A) Short realisation of dividend**

(Rs. in crore)

Name of PSU	Year	Equity holding at the end of the year	20 percent dividend realisable on Equity holding	Post Tax profit during the year	20 percent dividend realisable on post - tax profit	Actual dividend realised	Short fall in realisation of dividend w.r.t. 20 percent of	
							Post tax profit	Equity holdings
1	2	3	4	5	6	7	8 (6-7)	9 (4-7) #
<b>NPCIL</b>	2000-01	4562.93	912.58	824.99	165.00	76.84	88.16	(748.15)*
	2001-02	5415.81	1083.16	1549.42	309.88	101.53	208.35	(981.63)*
	2002-03	7065.31	1413.06	1509.25	301.85	269.38	32.47	1143.68
	2003-04	8278.47	1655.69	2604.16	520.83	520.99	nil	1134.70
	2004-05	9178.47	1835.69	1704.59	340.92	741.51	nil	1094.18
<b>Total</b>							<b>328.98</b>	<b>3372.56</b>
<b>IREL</b>	2000-01	85.97	17.19	33.49	6.69	3.35	3.34	13.84
	2001-02	85.97	17.19	38.33	7.66	3.83	3.83	13.36
	2002-03	85.97	17.19	16.48	3.30	3.30	nil	13.89
	2003-04	86.37	17.27	21.07	4.21	6.32	nil	10.95
	2004-05	86.37	17.27	24.00	4.80	5.07	nil	12.20
<b>Total</b>							<b>7.17</b>	<b>64.24</b>
<b>UCIL</b>	2000-01	424.82	84.96	3.03	0.61	0.61	Nil	
	2001-02	427.82	85.56	5.88	1.17	1.25	Nil	
	2002-03	462.82	92.56	4.81	0.96	3.10	Nil	
	2003-04	542.82	108.56	9.79	1.96	3.50	Nil	
	2004-05	678.32	135.66	29.25	5.85	6.00	Nil	
<b>Total</b>							<b>Nil</b>	<b>Nil</b>
<b>ECIL</b>	2000-01	81.25	16.25	11.81	2.36	Nil	2.36	(11.81) <sup>@</sup>
	2001-02	81.25	16.25	69.29	13.85	0.13	13.72	(16.12) <sup>@</sup>
	2002-03	129.88	25.97	53.25	10.65	6.49	4.16	19.48
	2003-04	36.88	27.38	97.68	19.54	13.69	5.85	13.69
	2004-05	145.88	29.18	37.13	7.42	7.42	Nil	21.76
<b>Total</b>							<b>26.09</b>	<b>54.93</b>
<b>Grand Total for NPCIL, IREL and ECIL for the period 2001-04</b>							<b>362.24</b>	<b>3491.73</b>

\* Considering the General Reserve of only Rs.0.75 crore during 2000-02, shortfall in the dividend with reference to 20 percent equity holding of NPCIL is for these two years ignored.

@ Considering the Nil, smaller general reserve of ECIL during 2000-02, shortfall in the dividend with reference to 20 percent equity holding is omitted.

# Short realisation of dividend is restricted to amount at Col.4

**(B) General Reserve**

(Rs in crore)

Year	NPCIL	IREL	UCIL	ECIL
2000-01	0.75	48.22	29.02	Nil
2001-02	0.75	82.71	49.72	20.53
2002-03	3000.75	114.19	43.99	72.41
2003-04	5000.75	129.64	49.81	162.72
2004-05	6000.75	147.86	72.23	175.95



**Appendix V**  
**(Para 6.6.3)**

**Component of heavy water lease charges to tariff**

Nuclear Power Station	MAPS		Increase in 01-06 over 96-01	NAPS		Increase in 01-06 over 96-01	KAPS		Increase in 01-06 over 96-01
	96-01	01-06		96-01	01-06		96-01	01-06	
01. Effective period of tariff									
02. Notified tariff rate in paise /kwh	128.78	210.51	81.73	164.27	252.56	88.29	236.49	272.00	35.51
03. Heavy water price/Kg taken for tariff	8785 (as on 1.4.96)	15461 (as on 1.4.01)	6676	8785 (as on 1.4.96)	15461 (as on 1.4.01)	6676	8785 (as on 1.4.96)	15461 (as on 1.12.01)	6676
04. Notified percent of Heavy Water lease charges	12%	12%	Nil	12%	12%	Nil	12%	12%	Nil
05. Component of Heavy Water lease charges included in the tariff in paise/Kwh	32.77	57.67	24.90	29.86	52.56	22.70	30.43	52.56	22.13
06. Percentage of component of heavy water lease charges to total tariff	25.45%	27.4%	1.95%	18.18%	20.81%	2.63%	12.87%	19.32%	6.45%
07. Component of Heavy water make-up charge included in the tariff	13.11	23.07	9.96	9.95	17.52	7.57	10.14	17.52	7.38
08. Percentage of component of heavy water make-up charges included in the tariff	10.18%	10.96%	0.78%	6.05%	6.94%	0.89%	4.28%	6.44%	2.16%
09. Cost of fuel (UO <sub>2</sub> )/Kg taken for tariff	6870 (as on 10-6-96)	15495 (as on 1-4-01)	8625	7694 (as on 1.6.96)	15495 (as on 1-4-01)	7801	8228 (as on 1.4.96)	15495 (as on 1-4-01)	7267
10. Component of Fuel charges included in the tariff in paise/Kwh	21.57	48.65	27.08	23.74	47.81	24.07	25.39	47.81	22.42
11. Percentage of component of fuel charges to total tariff	16.75%	23.11%	6.36%	14.45%	18.93%	4.48	10.74%	17.5%	6.76

