Report of the
Comptroller and Auditor General of India

for the year ended March 2013

Union Government (Commercial)
No. 13 of 2014
(Compliance Audit Observations)

CONTENTS

PREFACE

1. The accounts of Government Companies set up under the provisions of the Companies Act (including Companies deemed to be Government Companies as per the provisions of the Companies Act) are audited by the Comptroller and Auditor General of India (CAG) under the provisions of Section 619 of the Companies Act, 1956. The accounts certified by the Statutory Auditors (Chartered Accountants) appointed by the CAG under the Companies Act are subject to the supplementary audit by CAG whose comments supplement the reports of the Statutory Auditors. In addition, these companies are also subject to test audit by CAG.

2. The statutes governing some Corporations and Authorities require their accounts to be audited by CAG. In respect of five such Corporations viz. Airport Authority of India, National Highways Authority of India, Inland Waterways Authority of India, Food Corporation of India and Damodar Valley Corporation, the relevant statutes designate CAG as their sole auditor. In respect of one Corporation viz. Central Warehousing Corporation, CAG has the right to conduct supplementary and test audit after audit has been conducted by the Chartered Accountants appointed under the statute governing the Corporation.

3. Reports in relation to the accounts of a Government Company or Corporation are submitted to the Government by CAG under the provisions of Section 19-A of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971, as amended in 1984.

4. Instances mentioned in this Report are among those which came to notice in the course of audit during 2012-13 as well as those which came to notice in earlier years. Results of audit of transactions subsequent to March 2013 in a few cases have also been mentioned.

5. All references to 'Companies/Corporations or PSUs' in this Report may be construed to refer to 'Central Government Companies/Corporations' unless the context suggests otherwise.

6. The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

EXECUTIVE SUMMARY

I Introduction

1. This Report includes important audit findings noticed as a result of test check of accounts and records of Central Government Companies and Corporations conducted by the Comptroller and Auditor General of India under Section 619(3) (b) of the Companies Act, 1956 or the statutes governing the Corporations.

2. The Report contains 40 individual observations relating to 39 PSUs under 18 Ministries/Departments. The draft observations were forwarded to the Secretaries of the concerned Ministries/Departments under whose administrative control the PSUs are working to give them an opportunity to furnish their replies/comments in each case within a period of six weeks. Replies to 23 observations were not received even as this report was being finalized in April 2014. Earlier, the draft observations were sent to the Managements of the PSUs concerned, whose replies have been suitably incorporated in the report.

3. The paragraphs included in this Report relate to the PSUs under the administrative control of the following Ministries/Departments of the Government of India:

Ministry/Department (Number of PSUs involved)	Number of paragraphs	Number of paragraphs/ thematic studies in respect of which Ministry reply was awaited
1. Atomic Energy (UCIL)	1	-
2. Chemicals and Fertilizers (HOCL, RCF)	2	-
3. Civil Aviation (AIL)	1	1
4. Coal (CCL)	1	1
5. Commerce and Industry (MMTC, PEC, STCL)	2	2
6. Consumer Affairs, Food and Public Distribution (FCI)	1	1
7. Defence (HAL)	1	-
8. Development of North Eastern Region (NERAMAC)	1	-
9. Ministry of Finance (OICL, NIAC)	2	1
10. Mines (HCL)	1	1
11. Petroleum and Natural Gas	10	8

(BPCL, HPCL, GAIL, IOCL, ONGC)		
12. Power (NTPC)	1	-
13. Department of Public Enterprises (NALCO, BHEL, HUDCO, GAIL, NHPC, NTPC, PFC, PGCIL, SJVN, THDC, IOCL, ONGC, MECON, REC, BDL)	2	2
14. Road Transport and Highways (NHAI)	3	1
15. Department of Scientific and Industrial Research (CEL)	1	-
16. Shipping (SCL, DCIL, SCI)	3	-
17. Steel (KIOCL, MSTC, SAIL)	6	4
18. Textiles (NTC)	1	1
Total	**40**	**23**

4. Total financial implication of audit observations is ₹ 2946.39 crore.

5. Individual Audit observations in this Report are broadly of the following nature:

- Non-compliance with rules, directives, procedures, terms and conditions of the contract etc. involving ₹ 766.22 crore in seven paras.
- Non-safeguarding of financial interest of organisations involving ₹ 1854.97 crore in 22 paras.
- Defective/deficient planning involving ₹ 321 crore in eight paras.
- Non-realisation/ partial realisation of objectives involving ₹ 4.20 crore in three paras.

6. The Report also contains a para relating to recoveries of ₹ 115.53 crore made by eight PSUs and another para relating to corrections/rectifications carried out by four PSUs at the instance of Audit.

II Highlights of significant paras included in the Report are given below:

Central Coalfields Limited, a subsidiary of holding company Coal India Limited (CIL) did not recover washery charges from 'e-auction' consumers, unlike the practice followed by Bharat Coking Coal Limited, another subsidiary of CIL, leading to loss of opportunity to earn ₹ 418.58 crore during April 2008 to December 2012.

(Para No. 4.1)

The MMTC Ltd and PEC Ltd, both being trading members, since May 2011 and December 2010, respectively, on National Spot Exchange Limited (NSEL), dealt in trading in spot contracts for purchase and sale of agro commodities with physical delivery of commodities which were settled on T+2 and T+25 days, respectively. Pursuant to directions issued by the Department of Consumer Affairs, GOI, vide letter dated 12 July 2013, the NSEL changed the settlement procedure for the trades. All contracts being settled so far by delivery and payment beyond 11 days were to be settled with effect from 23 July 2013 on 'T+10' days basis. Subsequently, due to reduction in trade at NSEL there was a mismatch of obligations and as a result it suspended (31 July 2013) trading and postponed the settlement of all one day forward contracts.

An amount of ₹ 218.53 crore was still recoverable (November 2013) by MMTC Ltd. from NSEL for the trading period of 26 June 2013 to 26 July 2013 whereas PEC Ltd. was to recover ₹ 123.19 crore from NSEL for transactions falling between 25 June 2013 and 25 July 2013. The amount was recoverable due to the time gap between purchase payments and sales realization as per trade practice on the exchange. NSEL defaulted continuously in paying its dues to both the Companies from August 2013.

Audit observed that the Companies were trading and dealing on the NSEL which was a spot exchange under investment/financing mode where no effective delivery of goods was intended. Audit further observed that instructions for physical verification of stocks in NSEL warehouses were issued by MMTC Ltd. in December 2012 after 18 months of commencement of trading whereas PEC Ltd. did not do any physical verification of commodities at all. Neither of the Companies tried to ascertain the counter party details with whom they were entering into trade and there were no documents of title received either from NSEL or from counter party against the purchase of commodities.

Thus MMTC Ltd. and PEC Ltd. continued trading on the NSEL in spite of deficiencies which resulted in blocking of ₹ 341.72 crore of the two Companies. From the chain of events, recovery of the same appears remote.

(Para No. 5.1)

North Eastern Regional Agricultural Marketing Corporation Limited failed to upgrade its processing plants and wipe out its accumulated losses as envisaged in the revival scheme due to diversion of funds of ₹ 3.96 crore meant for meeting its capital expenditure towards working capital requirements and cash losses. Further the company could not achieve its main objective of providing marketing support to the farmers of the North-eastern region as it had to shift its focus from the procurement and sale of agro-horticultural products to supply of agricultural inputs under Government schemes due to shortage of working capital and lack of financial support from the Government.

(Para No. 8.1)

Indian Oil Corporation Limited awarded (Feb 2010) contract for Captive Power Plant to Bharat Heavy Electricals Limited on nomination basis at a price higher than the estimate by 17.41 *per cent* and relaxed General Conditions of Contract on price reduction for delay and mobilization advance. The extra cost attributable to the said relaxations was ₹ 194.10 crore, whereas the basic objective of timely completion of CPP by awarding the contract to BHEL on nomination basis at a higher value than estimates, remained unfulfilled.

(Para No. 11.3)

Foreign Trade Policy exempted the High Flash High Speed Diesel (HFHSD) from payment of excise duty under deemed exports for consumption in petroleum operations in eligible areas falling under petroleum exploration licence (PEL) / mining licence (ML), pre-NELP and NELP blocks, if such HFHSD was purchased through international competitive bidding(ICB). Oil and Natural Gas Corporation Limited (Company) purchased HFHSD during 2006-13 for its petroleum operations in the eligible areas without resorting to ICB by paying excise duty and later through ICB with an option to the supplier to quote at a price inclusive of excise duty, stating that refund of excise duties would be claimed by the company on which no refund was received by it from DGFT. Such lack of awareness on the part of the Company was not justifiable, particularly when its failure to avail of DEB in procurement of oil well cement under identical provisions had been highlighted in C&AG's Report No 11 of 2007. The Company was also aware as PMTJV was availing of such an exemption where the Company is having 40 *per cent* participating interest. The avoidable expenditure due to non-availing of deemed export benefit was ₹ 326.75 crore during 2006-13.

(Para No. 11.7)

NTPC Limited (Company) awarded contracts to M/s. FGUP "VO" Technopromexport, Russia (TPE) and M/s. Power Machines (PM) for Main Plant Package (Part-A and Part-B respectively) at Barh Super Thermal Power Project (Stage-I). The contracts stipulated price escalation for both foreign and indigenous materials, subject to a ceiling of 20 *per cent* of its contractual value. TPE approached the Company for extension of the contractual delivery schedule and removal of price variation ceiling of 20 *per cent* due to delay by the Company in accepting change of legal status of TPE. PM also pursued the Company with a similar request on the ground of inflationary trends in material cost and unfavourable exchange rates.The Company sought permission from Ministry of Power (MoP) for termination of the contract on grounds of infringement of contractual provisions and to complete the contract at the cost and expenses of TPE. MoP directed the Company not to terminate the contract with TPE and to revise the completion schedule by removing price variation ceiling of 20 *per cent* since 2005. The Company, accordingly, amended the contracts with TPE and PM, by removing the above price variation ceiling retrospectively and extending completion schedules. These amendments resulted in extension of undue benefit to the contractors for which the Company had to bear an additional expenditure of US$ 31.53 million (₹ 142.33 crore) and additional liability of US$ 3.51 million towards foreign materials supplied within the original contractual period. There was also denial of level playing field as removal of the important parameter on restriction to price variation conferred a post contractual advantage to TPE and PM.

(Para No. 12.1)

Five CPSEs's (NALCO, BHEL, HUDCO, GAIL and IOCL) leave rules/ policy for encashment of sick leave or of earned leave with HPL exceeding 300 days, on superannuation, violated the DPE guidelines and resulted in irregular payment of ₹ 138.58 crore during the period January 2006 to March 2013. Further, seven CPSEs (BHEL, NHPC, NTPC, PGCIL, THDC, SJVN, PFC) made irregular contributions of ₹ 23.42 crore on account of provident fund in respect of leave encashment to employees during 2008 to 2012 and did not adjust excess contribution amounting to ₹ 38.70 crore made prior to March 2008 in violation of the judgement (March 2008) of Hon'ble Supreme Court of India and instructions of Employees Provident Fund Organisation.

(Para No. 13.1)

Five CPSEs's (ONGC, MECON, RECL, BHEL and BDL) did not adhere to the DPE guidelines with respect to payment of PRP and made an irregular payment of ₹ 202.95 crore for the years 2008-09 to 2012-13.

(Para No. 13.2)

Against 45 days stipulated in National Highways Fee (Determination of Rates and Collection) Rules, 2008, for start of collection of toll from the date of completion, the toll collection at Allahabad Bypass project on NH-2 could be started after delay of about three years (November 2009 to July 2012) resulting in loss of revenue of ₹ 150.09 crore.

(Para No. 14.1)

The Sethusamudram ship channel project proposed to create a shipping channel along the territorial waters of India linking the Palk Bay and the Gulf of Mannar. The project envisaged reduction in the journey time for ships sailing between the east and west coasts of India and other countries. Sethusamudram Corporation Limited (SCL) was incorporated in December 2004 as a special purpose vehicle for the project and Tuticorin Port Trust (TPT) was nominated as nodal agency for undertaking the pre-project activities.

The Supreme Court of India passed an interim order in September 2007 directing that "the dredging activity may be carried out, but the alleged Adams Bridge/Rama Setu shall not be damaged in any manner." The entire dredging work in Adams Bridge area was suspended from September 2007 onwards. The case is at present sub judice. Dredging work however continued at Palk Strait till Dredging Corporation of India (DCI) withdrew their dredgers in July 2009. Thereafter, there has been no activity in the project and an expenditure of more than ₹ 800 crore has been incurred on dredging partial quantity.

The Project was conceived and approved on the basis of traffic projections which were not entirely realistic. The project was approved in May 2005 at a cost of ₹ 2427.40 crore with debt equity ratio of 1.5:1. Equity through private placements and debt from the market as envisaged in the note to the Cabinet Committee on Economic Affairs never materialised. The revised cost of ₹ 4,504.09 crore as of December 2008 had not been approved and this could undergo further escalation.

Dredging was the principal activity of the project. For the purpose of dredging, the stretch was divided into four Works A, B, C & D.

Ministry of Shipping took the approval of the Cabinet Committee on Economic Affairs in May 2005 to award the Work 'D' on nomination basis to DCI in the interest of starting the project at the earliest. Not only the contract was awarded on nomination basis but even the rates were not finalised.

It was also noticed that due to lack of adequate soil data, the first round of international competitive bidding for Works A, B and C did not bear any fruit. DCI did not participate in the first round of bidding due to shortage of dredgers. In the second round, they participated as consortium with Dredging International for Work C at Palk Strait and A-B section at Adams Bridge area.

Audit noted that TPT did not update the old estimates which were prepared in November 2004 even in the second round of bidding in February 2006. This resulted in unrealistic evaluation of the reasonability of the rates obtained in the second round of bidding. The second tender was also dissolved in July-August 2006 on grounds of high rates quoted by tenderers.

Despite DCI's constraints in terms of the manpower, technology and equipment for executing dredging work in Adam Bridge area, the Ministry submitted the note for Cabinet Committee on Economic Affairs on 19 September 2006 seeking approval to the proposal of nominating DCI for dredging in all the sections within the revised escalated dredging cost of ₹ 2171.40 crore. The Ministry awarded the entire work of dredging to DCI on nomination basis in October 2006. Thus the Ministry nominated DCI for Work D in June 2005 and for all the remaining segments viz. Works A, B and C in October 2006 and the method of determination of rates payable was "prevailing market rates".

DCI chartered dredgers through Transchart, the chartering wing of Ministry of Shipping. Transchart issued the specifications given by DCI to various agents, brokers and shipping companies and obtained their quotes. No tendering was resorted to and the price discovery process was based on negotiations by DCI with suitable dredgers and lacked transparency. Also the dredgers were engaged without finalising the basic information for technical specifications and without analysing the reasons as to why the two attempts at international competitive bidding in which international firms had participated had failed.

The dredging completed was only 20 *per cent* of the target of in-situ quantity of 48 million cum to be dredged in Adams Bridge area. This should also be viewed in the light of the fact that DCI also had confirmed in its letter dated 16 September 2006 that for work in the Adams Bridge area, it had no equipment or manpower other than one CSD Aquarius. Dredger Aquarius also failed.

Between February and September 2007, an in situ quantity of 9.52 million cum was dredged in the northern side of Adams bridge area and dumped in the channel alignment between chainage 30-35 km. Such dumping was unauthorised.

The decision to dump the dredged material in the channel alignment itself was a violation of the conditions imposed in the environmental clearance. Dumping in a site that has not been assessed for environmental impact cannot rule out serious disturbances to the marine eco system there. It has been estimated that nearly 5 million cum out of 9.52 million cum of dredged and dumped material needs to be re handled. Therefore, further threat of disturbances to the eco system looms large.

Work D in Park Strait area to be completed in July 2007 was completed in January 2009. For Work C in Park Strait area, only 38 *per cent* of the dredging work was completed by July 2009, when the work was stopped.

For Adams Bridge area interim survey, though stipulated in the MOU between DCI and SCL, was not done by DCI for the period between February and September 2007 and the dredged materials were dumped in the alignment itself.

After suspension of dredging work in July 2009 in Palk Strait area, NHO conducted survey in August/September 2009 and certified a dredged quantity of 18.9 million cum, as against dredged quantity of 21.43 million cum assessed by DCI in its survey in January 2009. This was due to the siltation process.

The rate structure for DCI considered four *per cent* additional quantity, on the basis of Detailed Project Report (DPR), to cater to siltation and over-dredging. However, the siltation was later assessed to be 10 *per cent* per annum by an expert engaged by DCI.

Thus, preparation of DPR was not accurate.

(Para No. 16.1)

National Textile Corporation's decision to conclude the sale of land of Bharat Textile Mills, Mumbai (September 2010) at a rate lower than the sale concluded a week earlier for an adjacent land, without exercising the option of negotiation as per BIFR guidelines, resulted in loss of opportunity to earn ₹ 156.97 crore more from sale of land.

(Para No. 18.1)

CHAPTER I: DEPARTMENT OF ATOMIC ENERGY

Uranium Corporation of India Limited

1.1 Loss due to non-recovery of by-product

Delay in setting up of By-product Recovery Plant for magnetite by Turamdih mill resulted in a loss of ₹ 13.47 crore during the period from March 2009 to November 2013.

Uranium Corporation of India (Company), appointed M/s. Development Consultants Pvt. Limited (DCPL) as consultant for setting up a Uranium ore mine at Turamdih (1982) in the district of Singhbhum East, Jharkhand. The Detailed Project Report (DPR) prepared (1984) by DCPL was approved by the Government of India (GOI) in April 1989, after the environment and forest clearances. The project work was started accordingly but in May 1992, the activities of Turamdih mines were shelved by GOI after reviewing the overall nuclear power programme. The Company again received approval during 2001 from GOI for re-opening Turamdih mine. The Company re-engaged DCPL for updating the Detailed Project Report of the Turamdih Process Plant and its Board of Directors approved the updated report in December 2002. The construction work of the Uranium plant commenced from September 2003. The trial run of the plant began in June 2007 and the plant was commissioned at a cost of ₹ 343.27 crore in March 2009. The ore fed in the plant for production of uranium also contained magnetite. The Company decided (November 2011) to invest a sum of ₹ 20 crore for setting up a By-product Recovery Plant to recover magnetite from the tailings[♥] generated from Turamdih mill which was approved (May 2013) by GOI.

In this connection, Audit observed the following:

- The Company had already commissioned a uranium plant at Jaduguda in 1968 in Singhbum belt of Jharkhand, the ore from which contained 3.2 *per cent* magnetite. Thus, the Company constructed a magnetite recovery plant in 1982 and further upgraded it in 1984. Later in 2003, the ore mined out from Turamdih mine was used in the Jaduguda mill.

- The delayed decision of setting up a magnetite recovery plant resulted in a loss of ₹ 13.47 crore due to non- recovery of magnetite from the tailings of Turamdih Plant during the period, March 2009 to November 2013. National resources would continue to be wasted and the Company would continue to suffer losses for not being able to sell magnetite till commissioning of the magnetite recovery facility, though it has a good market.

[♥] ***Tailings are materials left over after extraction of valuable minerals from ore.***

The Ministry in its reply (December 2013) *inter-alia* stated that:

- The inference of presence of magnetite on economically recoverable scale in the entire Singhbhum Thrust Belt spread over 150 km is incorrect. The economical recovery of any metal in a confined zone would depend upon proportionate distribution of various minerals and its form. Turamdih process plant was commissioned in 2009. The presence of magnetite in the mineralogy of ore fed to Turamdih Process Plant was ascertained in 2011.

- It is necessary to confirm the availability of magnetite in the mining zone as well as in the solid stream after leaching (called tailings). This necessitated actual commissioning of the plant so that sample from the operating plant for a larger period could be collected for sampling and analysis. This gives confidence for the economical justification of the commercial investment in true working condition.

The Ministry's reply is not acceptable as:

- The Company was aware about the presence of magnetite in Singhbhum Thrust Belt and was also extracting magnetite from its Jaduguda plant since 1982.

- The ore mined out from Turamdih mine was used in the Jaduguda mill between 2003 to 2009 which establishes the fact that the Company was aware about the magnetite content in Turamdih Ore since 2003.

- The trial run of complete process stream of Turamdih plant was started in June 2007 and commissioned in March 2009. Given the fact that Turamdih Ore was being used in Jaduguda mill since 2003, the reply that the presence of magnetite in the mineralogy of ore fed to Turamdih Process Plant was ascertained in only 2011 is not justified.

- GOI report which was published in 1937 titled "Mineral deposits of Eastern Singhbhum and surrounding areas" stated that magnetite was the most abundant material in the area and was present in almost every rock of Singhbhum. Further, the study report prepared in 1977 by the Company mentioned presence of magnetite in mineralised shear zone of Singhbhum Thrust Belt.

- From various studies undertaken since 1937, the Company was well aware of the presence of magnetite on an economically recoverable scale in the entire Singhbhum Thrust Belt. After detailed studies regarding the good demand for magnetite from coal washeries, economically recoverable scale etc, the Company set up a full scale magnetite recovery plant at Jaduguda in 1982. The Company failed to benefit from the knowledge and experience gathered over a very long period of time and take prompt decision to invest in the by-product recovery plant at Turamdih in order to reap the maximum possible benefit out of the investment.

Thus, delayed decision to set up the by-product recovery facility at Turamdih led to a loss of ₹ 13.47 crore, which could have been avoided with proper planning.

CHAPTER II: MINISTRY OF CHEMICALS AND FERTILIZERS

Hindustan Organic Chemicals Limited

2.1 Irregularities in transfer of autonomous management of HOC school to Mahatma Education Society

Hindustan Organic Chemicals Limited extended irregular and unauthorised favors to Mahatma Education Society for expanding its activities and also failed to recover lease rent of ₹ 6.54 crore

Hindustan Organic Chemicals Limited (HOC) established (October 1966) a school to provide education to the wards of the employees. The school was run by HOC from 1966 to 1974. Thereafter the management of the school was transferred to Deccan Education Society, Pune (DES) on a 40 years lease from 1974 onwards. However, the management of the school was taken back as notice for termination was served by DES (May 2000).

HOC, initiated the tendering process (August 2000) to entrust the autonomous management of the school to a suitable institution. The Board of Directors decided (March 2006) to transfer the management of the HOC school to Mahatma Education Society (MES) selected through tendering process. HOC entered (October 2006) into a lease agreement with MES effective for 30 years from 1 June 2006. The agreement provided for payment of ₹ 14.50 lakh per annum as lease rent for school building/premises and school ground (14.23 acres) and that MES would take over the liability of teaching and non-teaching staff entirely (estimated saving of ₹ 13.50 lakh per month).

Subsequently, MES requested (October 2007) for grant of permission to start degree /professional courses like Polytechnic, Engineering, Management, etc. and also requested for allotment of 40–50 acres of land adjacent to the school premises for constructing new buildings for starting the courses. The Board of Directors decided (30 October 2007) that it was not in favour of releasing any further land for putting up separate structures for the school purposes as such a course of action would involve many legal problems at a later stage. The Board, however, felt that any idle buildings which the Company felt may not be in a position to put into use in the coming years may be detained to the school management to provide facilities for starting additional degree/professional courses at its own cost. The Board, however, while confirming (24 January 2008) the minutes of their meeting held on 30 October 2007 modified the minutes and recorded that MES may start up degree/professional courses only within the existing premises of HOC school and that no additional land will be made available to MES.

Audit examination revealed that even before the Board took its decision, the Chairman and Managing Director of HOC granted permission (26 October 2007) to MES for construction of new buildings on the vacant area of the educational complex at the latter's own expense. The lease rent in respect of the new buildings was to be fixed later.

Thereafter, on 29 October 2007, a corrigendum to the letter was issued stating that the permission granted would be subject to approval of the Board. Although the Board decided against the grant of permission to construction of new buildings, HOC did not withdraw its letter and unauthorizedly allowed MES to construct new buildings over approximately 1 acre of vacant land in the educational complex.

Audit further observed that there was considerable delay in fixing of lease rent in November 2011. The rent fixed was ₹ 1.73 crore per annum from September 2010 onwards and rent for academic year 2009-10 for the professional courses started during construction period was 50 per cent of ₹ 1.73 crore i.e. ₹ 86 lakh per annum from June 2009 to August 2010. Rent fixed by HOC was disputed (November 2011) by MES on various grounds and the latter did not pay the lease rent of ₹ 6.54 crore (for the period from June 2009 to March 2014) so far (March 2014).

In addition, HOC allotted its vacant residential quarters to be used by MES as hostel. According to the tender issued by HOC, residential accommodation was to be provided for the teaching/non-teaching staff in vacant quarters. However, while entering into lease agreement, HOC permitted MES to start residential school and sports academy in the existing school building and allotment of residential accommodation to staff and students subject to availability at prevailing rates. Accordingly, on a request by MES, HOC allotted 56 residential quarters (covering about 27640 sq. ft) outside the school campus at rates being charged from others who hired quarters from HOC for residential purposes. The Management failed to gain advantage from the commercial exploitation of the vacant quarters by MES for the latter's utilization as hostel for its students.

The Ministry, based on a complaint, directed (December 2011) HOC to review the entire arrangement and if required, to revoke the lease agreement with MES. Accordingly, the Board of Directors constituted (March 2012) a Board level sub-committee to go into the entire issue including scrutiny of Board papers to determine whether the decision of the then CMD were duly authorised by the Board. The Ministry (October 2012) again expressed concern on inaction of the Board and sought final report by 16 November 2012. The sub-committee of the Board (June 2013) decided that the final decision would be taken after conclusion of the departmental enquiry proposed by the Ministry. Neither the HOC Management nor the Ministry had taken any decision despite the lapse of two years.

HOC stated (December 2013) that as there was no space available in the old buildings of HOC School for conduct of degree/professional courses, MES was required to construct the new buildings for the same as per the norms of AICTE and UGC, within the existing premises of the educational complex of HOC. It was further stated that the Company did not lease its land to MES but only leased buildings/premises. The Company saved ₹ 19 lakh per month (₹ 2.28 crore per annum) which would have otherwise been incurred by HOC in running the school.

The reply is not acceptable as allowing MES to construct new buildings in an area admeasuring about 1 acre in the educational complex, amounted to leasing of land to MES. Also the contention that the Company made a saving of ₹ 19 lakh per month is not relevant as the arrangement was as per the agreement with MES, which was finalised through tender.

The Ministry, in its reply (January 2014), endorsed the views of HOC that there were no irregularities in the arrangements with MES. However, it directed HOC (December 2011) to get the matter probed and decided (October 2012) to conduct a departmental enquiry. Thus, the stance of Ministry was self-contradictory.

HOC school had 1267 students prior to transfer of the management to MES. After the transfer of management, it had (October 2013) 926 school students and 20 new engineering/management courses catering to 3409 college students. The constructed area in the educational complex increased from 1.308 acres prior to transfer to 2.301 acres. Thus, the transfer of management of HOC school gradually turned into a private commercial venture by MES, due to extension of various irregular and unauthorised facilities by HOC Management. Further, HOC could not even recover lease rent of ₹ 6.54 crore for the period from June 2009 to March 2014.

Rashtriya Chemicals and Fertilisers Limited

2.2 Blocking up of funds

Blocking up of ₹ 52 crore and operational loss of ₹ 12.92 crore due to inadequate assessment of project viability

Rashtriya Chemicals and Fertilizers Limited (RCF)'s Phosphoric Acid Plant of 100 metric tonnes per day capacity at Trombay evicts byproduct phospho gypsum (gypsum) at the rate of 4.30 metric tonnes for the production of each tonne of Phosphoric Acid. Rapid Building System Private Limited (RBS), Australia approached (November 2004) RCF with an innovative technology to manufacture high quality plaster and load bearing panels, etc. from gypsum. A Memorandum of Understanding was signed (October 2005) between RCF and RBS for the Rapidwall* project.

The Board of RCF approved (March 2006) 'Rapidwall' project at a cost of ₹ 75.70 crore which was revised (August 2010) to ₹ 81.10 crore. The project was envisaged to produce 14 lakh square meters of 'Rapidwall', 23,000 metric tons of wall plaster and 6,000 metric tons of high quality wall putty per year. The project was expected to generate IRR of 19.84 *per cent* with a payback period of 4.61 years.

RCF entered (May 2007) into an agreement with RBS for a Rapid Flow Calciner Plant and Rapidwall Plant including general arrangement and layout, drawings and technology in the form of equipment technical manuals, drawings for maintenance purpose, etc. at a cost of Australian Dollars 92,81,400 (₹ 30.80 crore at an exchange rate of 1 Aus $ = ₹ 33.19 in May 2007). The project commenced in May 2007 and RCF started production in March 2010. Total cost incurred on the project was ₹ 82.30 crore.

The Company could not attain the full utilisation of capacity. Details of production from the plant during the years 2010-11 to 2013-14 (upto October 2013) are given below:

* ***Rapidwall is an environmental friendly load bearing, low cost pre fabricated plaster and glass fibre reinforced walling system with broad construction applications***

Product	Unit	Annual capacity	Actual Production			
			2010-11*	2011-12	2012-13	2013-14
Wall Panel	Square Meter	14,00,000	10,944.00 (0.78)	12,024.00 (0.86)	6,156.00 (0.44)	4428.00 (0.32)
Wall Plaster	Metric Ton	23,000	864.55 (3.76)	2047.20 (8.90)	8,153.55 (35.45)	4309.50 (18.74)
Wall Putty	Metric Ton	6,000	NIL	3	NIL	NIL

From March 2010. Figures in brackets indicate percentage utilisation

Due to low capacity utilisation, the cost of production was very high and the Company incurred a loss of ₹ 12.92 crore after taking into consideration anticipated loss on the stock remaining to be sold. The Company did not recover even the variable cost as total realisation was ₹ 9.63 crore against the variable cost of production of ₹ 11.91 crore. The Company was finding it difficult to sell its products in the market and hence it was producing only very little quantity of wall panels and plaster and there was no production of wall putty.

Examination in Audit revealed that there were several critical factors which the Company did not consider before taking up the project.

Risk factor	Subsequent events
Quality of products was dependent on following raw material parameters: Gypsum purity : >90 *per cent* Moisture content : < 20 *per cent* Level of Phosphorous Pentoxide (P_20_5) : Maximum 0.05 *per cent*	The raw material parameters could be met only if the rock phosphate (raw material for phosphoric acid) was of certain quality. When RCF changed its source (overseas supplier) of rock phosphate, the raw material parameters also changed to: Gypsum purity : <90 *per cent* Moisture content: 26 to 28 *per cent.* Level of P_20_5: ranged between 0.25 *per cent* and 0.60 *per cent.*
Rapidwall technology was new to the country and the builders, civil engineers and architects were not having sufficient knowledge about the product. The size of the Rapid wall was 2.85 x 12 meters. The loading and unloading of Rapidwalls required skilled labour, hydraulic cranes, long carriers for transportation, etc. It also required training of masonry workers.	The Company, in order to overcome the lack of expertise, entered into a joint venture with HM Consortium (M/s. Hiranandani Constructions Pvt. Ltd. and M/s. Mahimtura Consultants Private Limited) to market products. However, this arrangement did not address the issue of acceptability of products. The JV experiment was not successful as the product was not accepted by the market. The JV was wound up.

As the investment required was huge, the Company should have considered above risks.

The Company stated (October 2013) that:

- It was predominantly using rock phosphate procured from Jordan as raw material for Phosphoric Acid. The quality of byproduct gypsum was therefore based on this rock. The gypsum thus produced was tested by technology supplier and recommended as suitable for manufacture of wall panels and other plaster products. Since rock from Jordan only was being used, gypsum produced by rock from other sources was not envisaged and was not available for testing. Due to non-technical and compelling commercial reasons, rock phosphate from sources other than Jordan was procured. Although the alternate rock was suitable for its primary use in the manufacture of complex fertilizers, the quality of byproduct gypsum thus produced was found to be adversely influencing consistency of Rapidwall panel quality. Such changes in gypsum quality and consequent panel quality due to change in rock source could not be foreseen.

- The joint venture for marketing of Rapidwall products was formed with renowned companies of builders and structural engineers. The joint venture partners carried out field tests and developed their own methodology for construction with wall panels. However, the joint venture was wound up, among other reasons, as the partners demanded much higher discounts than was affordable.

- Training sessions were arranged for the civil engineers and architects of joint venture partners. On site demonstration and training for masonry workers and labour engaged by builder were organised.

- Acceptance of the product in the market was established by a market survey carried out by AC Nielson-ORG Marg, a renowned consultancy firm prior to the implementation of the project and was positive in all respects.

- Prior to implementation of the project, a two storey residential bungalow was constructed in the Company's township with wall panels imported from technology supplier in Australia. To witness the construction of the building, workshops were organised where large number of builders and architects participated and all of them expressed their desire to use the product in their projects.

While endorsing (February 2014) the reply furnished, the Ministry stated that the facility for wall plaster costing about ₹ 30 crore was in operation and generating revenue and the blockage on funds was approximately ₹ 52 crore only. It further stated that:

- The Company has provided for impairment loss of ₹ 48.74 crore in compliance of Accounting Standards which could be reversed in subsequent years based on improved production/ sales/cash inflows.

- The Company had taken decision with certain amount of business risk to convert a waste byproduct into a durable and cost effective alternative to costlier and scarce cement, sand and water, demand for which was expected to grow in coming years and furnished details of future plan of action.

The reply of the Company/Ministry is not acceptable as:

- The Company tested suitability of only one source of rock phosphate. It should have considered other sources of rock phosphate and found out suitability as depending on only one source had an element of risk involved, which was proved right after the plant was set up;

- The Company could not even achieve one *per cent* of its installed capacity of the main product, wall panel, in the three years of the plant's operation and the Company could sell only 30 *per cent* of the quantity produced;

- The future plan made by the Company also provided for production of only 7.71 and 15.43 *per cent* of the installed capacity of wall panel and 65 and 65 *per cent* of the installed capacity of wall plaster during 2014-15 and 2015-16 respectively;

- Annual profit expected from the project was ₹ 10.78 crore, out of which ₹ 5.81 crore was from the sale of wall putty. The production of wall putty was only 3 MT during 2011-12 and there was no production in other years. As there was no production and sale of wall putty, which was expected to generate more than 50 *per cent* profit of the project, the viability of the project became doubtful;

- The project was expected to generate IRR of 19.84 *per cent* with a payback period of 4.61 years. However, operation of the Rapidwall plant from March 2010 to October 2013 resulted in a loss of ₹12.92 crore;

- The Company provided for impairment loss of ₹ 48.74 crore for the project during 2011-12 and 2012-13 since the expected value in use was lower than the carrying amount. This indicated that the Company was not confident of future prospects of the project. In view of the continued under utilisation of capacity and loss during 2013-14, the Company would have to provide further impairment loss during 2013-14 and reversal of impairment loss already provided is uncertain.

Thus, inadequate assessment of risk factors of the project led to the Company investing in a non-viable project resulting in blocking up of funds of ₹ 52 crore, which might be a loss to the Company. Additionally, it also suffered operational loss of ₹ 12.92 crore.

CHAPTER III: MINISTRY OF CIVIL AVIATION

Air India Limited

3.1 Avoidable expenditure on deadhead cost

Air India Limited (Company) failed to increase the proportion of crew stationed in Delhi during 2011-12 and 2012-13 even as the proportion of flights from Delhi during the period increased significantly leading to additional deadhead expenditure of ₹ 17.17 crore in positioning Mumbai based crew in Delhi.

Air India Limited (Company) has to maintain the required strength of different categories of cabin crew[1] at Delhi and Mumbai to operate its major international flights (Wide Body-WB) to foreign destinations from these stations. Cabin crew is eligible for flying allowance as well as subsistence allowance depending on the number of hours flown in a month. The crew is eligible for sixty five *per cent* allowances of the scheduled block hours in a particular month in case of positioning or trans-shipment for flight operation. Such expenditure incurred for positioning the crew is considered as 'deadhead' cost by the Company.

The Company declared Delhi as a hub with effect from 'Winter 2010'. As a consequence, there was a change in the number of scheduled 'Wide Body flights' to be operated from Delhi. With the declaration of Delhi as hub, the existing ratio of 67:33 (October 2010) between flights originating from Mumbai and Delhi changed to 48:52 in November 2010. The percentage of flights originating from Delhi ranged from 51 to 63 *per cent* during December 2010 to March 2013. The ratio of Mumbai:Delhi operations was 46:54 as on March 2013.

Further, while operations of flights from Delhi increased significantly from 33 *per cent* (October 2010) to 54 *per cent* (March 2013), the crew maintained at Delhi did not increase to the extent required over the same period. This necessitated avoidable movement of crew from Mumbai to Delhi during 2010-11 to 2012-13. The Mumbai based crew travelled as Pax/Supy[2] as Staff on duty (SOD) to Delhi one day before flight duty, stayed in a hotel to provide one clear night and operated the flight the following day incurring additional expenditure. Following completion of duty, the crew either returned to Mumbai the same day or after a stay at Delhi for one or two days which added to the deadhead cost.

Scrutiny of 'Crew Movement Detail forms' revealed that in 2011-12 and 2012-13, the Company's Mumbai based crew (Wide Body) had undertaken SOD travel of 36,736 and 28,059 hours and the Company paid avoidable allowances of ₹ 6.19 crore and

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[1] ***Categories of Cabin crew-namely In-flight Supervisor/Cabin Crew In-charge, Flight Purser, Air Hostess and other cabin crew.***

[2] ***Supy refers to travel by crew members in uniform from a station to another for the purpose of next duty at an onwards station or coming back to base after completion of duties assigned and entitled to passenger seat.***

₹ 3.86 crore respectively during the above two years considering a cushion of six months from October 2010 to March 2011 to adjust the crew deployment at Mumbai and Delhi. Besides, the seats on which the cabin crew travelled were not available for passengers resulting in lower revenue generation, particularly for a busy route like Mumbai-Delhi-Mumbai. Though all flights of the newly inducted B-787 (Dreamliners) aircraft were to originate from Delhi, 42 *per cent* of the cabin crew staff trained for its operation (as on June 2013) were based in Mumbai.

While accepting the fact that the number of flights ex-Delhi increased substantially and corresponding number of crew stationed in Delhi had not increased to the required level, the Company stated (October/November 2013) that:

- SOD travel (deadhead hours) increased with the commencement of commercial operation of flights with 787 aircraft in September 2012.

- Assigning Flight Pursers' functions in a Wide Body crew to other categories of cabin crew was not possible in view of non-inter-changeability of functions and also the same might be in contravention of various court judgments including two Apex Court Judgments and lead to contempt of Court. Further compulsory transfer of cabin crew to Delhi would lead to industrial unrest since the category was highly unionized. It would not have been a prudent and economical decision to transfer crew to Delhi and reverse the movement at a later stage, once there were more flight operations from Mumbai pursuant to development of Mumbai Airport.

- Positioning at Delhi was carried out for all 'Airline Attendants' on contract and on voluntary basis for other cabin crew who wanted to seek a transfer to Delhi. Permanent transfer to Delhi could only be implemented after a clear transfer policy was in place which was being worked out.

- Operations from Delhi were enhanced because of major work in progress at the Mumbai airport which did not facilitate additional flights whilst the Delhi airport had a brand new airport with all facilities and infrastructure enabling Delhi to handle more flights.

- Majority of the crew trained for B-787 aircraft were from Mumbai due to availability of training facilities and infrastructure in Mumbai and decision of previous Management to train cabin crew based on criteria which was primarily seniority and availability.

- In all airline operations 'deadhead' cost was a common phenomenon in order to conform to regulations framed by the regulatory body and also it was neither feasible nor economical to have bases at many locations to curtail deadhead cost.

- Keeping the operations in mind, various measures had been taken to ensure that deadhead cost was kept to minimum.

Reply needs to be viewed in the light of the following:

- During the period covered in audit *i.e.* 2011-12 to 2012-13, B-787 flights had been operated only in 5 months i.e September 2012 to January 2013.
- The cabin crew were liable to be posted outstation on any of the Company's routes or routes operated by associates.
- Though the Company enhanced flights from Delhi as Mumbai Airport was not able to facilitate additional flights, it failed to plan the availability of required number of Cabin Crew at Delhi resulting in deadhead expenditure.
- The decision of the Management to train and deploy cabin crew on B-787 aircraft based on seniority and availability further resulted in incurring of deadhead expenditure, even as flights were enhanced from Delhi.
- Despite the measures taken by the Company, the proportion of crew at Delhi to Mumbai did not increase proportionately. Though measures were being taken to reduce 'deadhead' cost, total PAX hours during the period April 2013 to August 2013 showed an increasing trend from 1491.38 hours to 2706 hours (81 *per cent* increase). It is also noticed that the percentage of Delhi based cabin crew trained in B-787s aircraft dropped from 58 to 53 during June to October, 2013.

While some deadhead cost may be necessary to meet operational exigencies, the situation reported above was avoidable which had occurred due to crew shortage in Delhi vis-à-vis Mumbai even as the international hub had shifted to Delhi. This was possible to have been corrected by the Company through suitable human resource management measures. This assumes greater importance in view of the present financial difficulties being faced by the Company and emphasis laid by GOI on rationalisation of costs for turnaround, while granting financial assistance to the Company.

Thus, inability of the Company to maintain cabin crew in Delhi in proportion to flights originating from the station resulted in avoidable expenditure of ₹17.17crore on deadhead cost during 2011-12 and 2012-13.

The matter was reported to the Ministry in November 2013; their reply was awaited (March 2014).

CHAPTER IV: MINISTRY OF COAL

Central Coalfields Limited

4.1 Non-recovery of washery charges on sale through 'e-auction'

Central Coalfields Limited (CCL), a subsidiary of holding company Coal India Limited (CIL) did not recover washery charges from 'e-auction' consumers leading to loss of opportunity to earn ₹ 418.58 crore during April 2008 to December 2012.

In accordance with the notifications issued from time to time by CIL, coal is classified into three categories such as Coking coal, Non-coking coal and Semi and weakly coking coal. Only coking category of coal is 'washery grade', and is further classified into grade-I, II, III and IV based on percentage of ash contained. A higher grade of coal contains lesser percentage of ash.

CCL, a subsidiary of CIL sold on MOU basis, washery grade coal to SAIL and RINL. CCL collects fixed cost components of the washery as washery recovery charges over and above notified price in respect of washery grades II, III and IV coal supplied to these consumers without washing of coal.

Audit examination revealed that, even though the 'e-auction' notices contained a clause relating to recovery of add-on price in addition to bid price, CCL had not been collecting washery recovery charges from consumers purchasing coal through 'e-auction' on sale of coal of washery grades II, III and IV. BCCL, another subsidiary of CIL, had been collecting the same for all types of washery grade coal sold through 'e-auction' over and above other statutory charges and levies by invoking the clause for recovery of add-on price (washery recovery charges) over and above the bid price.

During April 2008 to December 2012, 'e- auction' consumers lifted 45.50 lakh tonne of washery grade coal from CCL, on which CCL failed to collect ₹ 418.58 crore through levy of washery recovery charges.

CCL stated (February 2012 & March 2013) that:

- It sold only that washery grade coal through 'e-auction' which could not be washed in a washery or was not acceptable to washery for washing.
- BCCL washery grade coal is of superior quality compared to that of CCL.
- The base price declared for 'e-auction' is at additional price of 30 *per cent* above the notified price and the rate received against such offer under 'e- auction' is considerably higher than the base price. The 'e-auction' prices are market driven.

- New Coal Distribution Policy or any other guideline issued by MOC/CIL did not stipulate that the Raw Coking Coal left in stock after quantity supplied to washeries was to be sold at notified price along with washery recovery charges.

The reply is not acceptable in view of the following:-

- BCCL has been levying washery recovery charge for washery grade coal through 'e-auction' irrespective of whether the coal was linked or not-linked to any washery for washing. CCL itself has been raising bill for supply of washery grade coal on SAIL and RINL along with washery recovery charges over and above the notified price.
- In terms of CIL price notification, washery grade coal sold through 'e- auction' by both CCL and BCCL belong to same category.
- New coal distribution policy of CIL imposes no restriction in imposing washery recovery charges for washery grade coal sold through 'e-auction'.

On being pointed out in Audit, CCL has started collecting washery recovery charges from January 2013 on e-auctioned quantity as an add-on charge which proves that this could have been done earlier.

Thus, due to non recovery of washery charges on sale of washery grade coal through 'e-auction' on the lines done by BCCL, CCL lost an opportunity to earn ₹ 418.58 crore during April 2008 to December 2012.

The matter was reported to the Ministry in November 2013; their reply was awaited (March 2014).

CHAPTER V: MINISTRY OF COMMERCE AND INDUSTRY

MMTC Limited and PEC Limited

5.1 Blocking of funds due to lack of financial prudence

Blocking of funds amounting to ₹ 341.72 crore due to lack of financial prudence while trading on National Spot Exchange Limited (NSEL)

MMTC Limited and PEC Limited (Companies) were trading members on National Spot Exchange Limited (NSEL), Mumbai since May 2011 and December 2010, respectively. Ministry of Consumer Affairs Food and Public Distribution (Department of Consumer Affairs) vide Gazette Notification dated 5 June 2007 exempted the Forward Contracts of one day duration for sale and purchase of commodities traded on NSEL from the operation of the provisions under Forwarded Contracts (Regulation) Act, 1952 subject, *inter alia,* to the condition that no short sale by members of the exchange shall be allowed. NSEL offered spot contracts for purchase and sale of agro commodities with physical delivery of commodities which were settled on T+2 and T+25 days, respectively. MMTC and PEC both initially restricted the financial limits of trade to ₹ 10 crore and ₹ 50 crore, respectively, and dealt in trading of pulses. However, within a period of one year, both the Companies diversified into trade in paddy, edible oils, wheat, etc. The overall trade limit was also raised to₹ 250 crore by both the Companies. MMTC and PEC continued trading on NSEL up to 26 July 2013 and 25 July 2013, respectively.

Pursuant to directions issued by the Department of Consumer Affairs, GOI, vide letter dated 12 July 2013, NSEL changed the settlement procedure for trades with effect from 23 July 2013. As per changed procedure issued by NSEL vide Circular dated 22 July 2013, all contracts being settled so far by delivery and payment beyond 11 days were to be settled with effect from 23 July 2013 on 'T+10' days basis. Subsequently, due to reduction in trade at NSEL there was a mismatch of obligations and as a result it suspended (31 July 2013) trading and postponed the settlement of all one day forward contracts.

An amount of ₹ 218.53 crore was still recoverable (November 2013) by MMTC from NSEL for the trading period of 26 June 2013 to 26 July 2013 whereas PEC was to recover ₹ 123.19 crore from NSEL for transactions falling between 25 June 2013 and 25 July 2013. The amount was recoverable due to the time gap between purchase payments and sales realization as per trade practice on the exchange. NSEL defaulted continuously in paying its dues to both the Companies from August 2013.

Audit observed that trade dealings of both the Companies with NSEL suffered from following infirmities and deficiencies:

- The Companies were trading and dealing on the NSEL which was a spot exchange under investment/financing mode where no effective delivery of goods was intended.

- Within one year of commencement of their trading on NSEL the Companies raised their financial exposure limit 5-25 times without any functional drill or standard operating procedure. Subsequently, MMTC prepared its Functional Drill on 30-11-2012 for trading of agro products on NSEL.

- Instructions for physical verification of stocks in NSEL warehouses were issued by MMTC in December 2012 after 18 months of commencement of trading whereas PEC did not conduct any physical verification of commodities at all.

- No risk insurance review was made while undertaking transactions with NSEL. As a result, no insurance cover was taken for the commodities traded on NSEL.

- Neither Company tried to ascertain the counter party details with whom they were trading.

- There were no documents of title received either from NSEL or from counter party against the purchase of commodities.

The comments offered by the Companies (MMTC-November 2013 and PEC January 2014) to the Audit observations were as follows:

- MMTC replied that NSEL was counter guarantor for delivery and payment schedule. Similarly PEC replied that for unsettled purchases, they were given delivery allocation indicating the warehouse receipt number, weight and location of warehouse which indicated that the trade was backed by physical goods and could be used to set out PEC's sales obligation.

- Financial exposure limit for trading at NSEL was enhanced stepwise to tap further risk free arbitrage opportunity available in the market.

- MMTC admitted that instructions were issued in December 2012 for monthly inspection of warehouse whereas PEC replied that commodity and warehouse management were always within the purview and responsibility of NSEL.

- Companies were assured that insurance of commodities was already taken up by NSEL and to avoid duplication, they did not go for insurance of the commodities.

- NSEL was the counter party/counter guarantor for delivery and payment settlement and it was not known to them as to who their counter parties were.

The reply of the Companies is not acceptable as:

- 'Buy' and 'sell' were done simultaneously with no supporting documents of title to underlying goods. Actual tendering of documents of title to goods covered by contracts was absent though each buying and selling transaction was to be settled on 'trade to trade' basis resulting in compulsory delivery as per terms and conditions of NSEL on settlement procedure. Such delivery logic would involve physical verification of stock by the Companies.

- Increasing the financial exposure limit by 5-25 times within a small span of time without any risk analysis was against ordinary financial prudence.

- The Companies neither took any insurance cover for the commodities traded by them on NSEL nor requested NSEL for a copy of insurance undertaken by it. It was only after the default, that the Companies requested the Exchange for the insurance documents of unsettled trade.

- The Companies never tried to ascertain the counter party details with whom they were entering into trade. An independent and credible assessment of the counter parties was required.

From the above, it can be concluded that MMTC and PEC continued trading on the NSEL in spite of deficiencies which resulted in blocking of ₹ 341.72 crore of the two Companies. From the chain of events, recovery of the same appears remote.

The matter was reported to the Ministry in December 2013; their reply was awaited (March 2014).

The State Trading Corporation of India Limited

5.2 Unwarranted transfer of gain

Failure to safeguard the interest of the Company resulted in unwarranted transfer of gain of ₹ 31.94 crore to Associate, on cancellation of Forward Contracts

The State Trading Corporation of India Limited (Company) imports bullion for its associates from vendors (suppliers) under various schemes. One of the schemes under bullion business is '90 days Usance Letter of Credit Scheme'. It requires opening of Letter of Credit (LC) by the Company in favor of the foreign supplier, after receipt of proforma invoice from the foreign supplier for import of the quantity stated in the indent placed by the Company.

Forward Contracts (FCs) are instruments to hedge against fluctuations in foreign exchange rates. As per trading practice FCs are taken only after crystallization of liability (i.e., amount due on remittance date as per proforma invoice) in respect of import of bullion. Further, FCs are taken only after opening of LCs by the Company on foreign supplier on the basis of LC value and LC maturity date.

Import of gold was governed by the agreement dated 31 January 2011 between the branch office of the Company located in Kolkata and M/s. Lichen Metals Private Limited (LMPL), an Associate of the Company. The trading practice of opening LCs after receipt of proforma invoice was reiterated in clause 5 of the said agreement. M/s. LMPL placed an order dated 25 July 2011 on the Company for import of 2000 Kg of duty free gold on 'Usance LC/Stand By LC basis'. Accordingly, the Company placed indent of 1000 Kg each on its foreign supplier's viz. M/s. Natixis Commodity Markets Limited (NCML) and M/s. MKS Finance (MKSF) on 25 and 26 July 2011 respectively with delivery period upto 30 April 2012. The Company purchased FCs from SBI on 26 July 2011 for USD 32 million (dates of remittance from 10 July 2012 to 13 July 2012) and on 27 July 2011for USD 68 million (dates of remittance from 16 July 2012 to 26 July 2012). The purchase of the above mentioned FCs was confirmed by M/s LMPL on 26 and 27 July 2011 specifying that profit/loss on purchase of FCs would be on their account.

M/s. LMPL cancelled the said indent and the booking of related FCs on 25 September 2011. Accordingly, the Company's Branch Office at Kolkata cancelled its indent with the foreign suppliers on 26 September 2011 on the ground that the Company had already arranged import of the said quantity of 2000 Kg of duty free gold. The Branch Office at Kolkata also cancelled (26 September 2011) the FCs by intimating to SBI that it had already imported the said quantity of gold. On account of cancellation of FCs, a gain of ₹ 35.73 crore occurred representing the difference between the cancellation rate and the booking rate as given in the table below:

Ref. No.	Curre-ncy	Amount (₹ In lakh)	Booking Rate	Cancellation Rate	Gross Profit	Passed on Profit	Discount Value	JV No.
0999811FS0000444	USD	40	46.4025	50.0470	145,78,000	13034645	1543355	2838
0999811FS0000443	USD	40	46.4000	50.0470	145,88,000	13043586	1544414	2839
0999811FS0000449	USD	80	46.3925	50.0570	293,16,000	26155646	3160354	2840
0999811FS0000448	USD	80	46.3975	50.0520	292,36,000	26112514	3123486	2841
0999811FS0000447	USD	80	46.4150	50.0495	290,76,000	25978985	3097015	2842
0999811FS0000452	USD	40	46.4075	50.0620	146,18,000	13028043	1589957	2843
0999811FS0000451	USD	80	46.4025	50.0595	292,56,000	26083305	3172695	2844
0999811FS0000450	USD	80	46.3975	50.0595	292,96,000	26128381	3167619	2845
0999811FS0000435	USD	80	46.6275	50.0395	272,96,000	24450378	2845622	2861
0999811FS0000434	USD	80	46.6225	50.0370	273,16,000	24477153	2838847	2862
0999811FS0000433	USD	80	46.6175	50.0345	273,36,000	24503948	2832052	2863
0999811FS0000442	USD	40	46.3950	50.0445	145,98,000	13057245	1540755	2864
0999811FS0000441	USD	40	46.3925	50.0445	146,08,000	13066190	1541810	2865
0999811FS0000436	USD	80	46.6575	50.0395	270,56,000	24226628	2829372	2866
0999811FS0000445	USD	40	46.4075	50.0495	145,68,000	13020998	1547002	2867
0999811FS0000446	USD	40	46.4100	50.0495	145,58,000	13012060	1545940	2868
TOTAL		**100**			**35,73,00,000**	**319379705**	**37920295**	

Passed on Profit ₹319379705 Less ₹12000 Cancellation charges= ₹319367705 Credited on 28-09-2011

SBI deducted ₹ 3.79 crore on account of premium and margin on FCs and credited ₹ 31.94 crore to the Company. This said amount was transferred by the Company to M/s. LMPL.

Examination in Audit revealed that the following irregularities occurred in the booking of the above said FCs and transfer of gain of ₹ 31.94 crore to M/s LMPL by Kolkata Branch Office of the Company:

(i) The indent dated 25 July 2011 could not be processed as M/s. LMPL terminated the order. As the transaction was never carried out due to default on the part of M/s. LMPL, transfer of the gain of ₹ 31.94 crore on account of cancellation of FCs to M/s. LMPL was unwarranted and questionable.

(ii) The Branch Office, Kolkata made a false representation to the foreign suppliers for cancellation of indent for 2000 Kg gold as well as to SBI for cancellation of FCs. Available records did not support import of 2000 Kg gold against the indent dated 25 July 2011 for LMPL.

(iii) Clause 5 of the contractual agreement with M/s. LMPL refers to opening of LCs after receipt of proforma invoice. Not obtaining proforma invoice from the foreign supplier led to non-crystallization of liability for purchase of 2000 Kg of duty free gold. Despite non-crystallization of liability, the Branch Office, Kolkata preferred to purchase FCs for USD 100 million.

The Company did not agree with the audit observations on unwarranted transfer of gain of ₹ 31.94 crore on cancellation of FCs to M/s. LMPL in its reply (September 2013) on the following grounds:

(i) Prior to RBI circular dated 15.12.2011, proforma invoice could be submitted subsequent to booking of FC. Thus, FCs could be booked prior to receipt of proforma invoice.

(ii) FCs were taken on specific request from the Associate and all costs/incidental expenses were to be borne by the Associate. STC was only to take a fixed trading margin on completion of transaction.

(iii) The Associate, vide letters dated 26 July 2011 and 27 July 2011, confirmed that the exchange gain/loss on forward purchase would be on its account. As instructions of the Associate were acted upon, the same were part of agreement.

(iv) The reason for cancellation of contract as received from the associate was communicated to foreign supplier & SBI.

Reply is not acceptable in view of the following:

- In the absence of proforma invoice, the value and dates indicated in FCs were without basis and hence speculative. Further, the agreement dated 31 January 2011 did not provide for cancellation of indented quantity by M/s. LMPL. It provides for an option only to STC to cancel the indented quantity on account of ban, prohibition conditions, if any imposed by the Government on import of gold. Therefore, the cancellation of order by LMPL and consequent cancellation of FC was irregular. Failure to obtain proforma invoice from the supplier and subsequent cancellation of the indent and forward covers were, therefore not justified.

- Justification of the Company by giving references to M/s. LMPL's letters regarding their accounting of profit/loss of forward purchase is irrelevant and outside the agreement dated 31 January 2011. As such, remitting the gains on cancellation of FCs to M/s. LMPL consequent on M/s. LMPL's irregular cancellation of indent was beyond the terms of agreement.

- M/s. LMPL, at the time of cancellation of order, did not specify any reason for cancellation, whereas the Company specifically intimated the foreign supplier and SBI at the time of cancellation of contract that it had already imported the said quantity of 2000 Kg of bullion, which was not true.

The transaction points to speculative trade rather than genuine bullion purchase. It also points to compromise with the financial interests of the Company by its Branch Office at Kolkata as it failed in its treatment of gains in FCs under question which were taken before the liability had crystalised and therefore outside the agreement. The Corporate Office of the Company could have avoided occurrence of such lapses had it formalized the procedure on FCs through the Bullion Drill/ Circulars.

Thus, remittance of Company's gain to M/s. LMPL despite cancellation of indent resulted in undue benefit of ₹ 31.94 crore to M/s. LMPL and foregoing of revenue by the Company to the same extent.

The matter was reported to the Ministry in October 2013; their reply was awaited (March 2014).

CHAPTER VI: MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

Food Corporation of India

6.1 Excess payment on gunny depreciation

FCI made excess payment of ₹ 11.53 crore on gunny depreciation to State Government and their agencies during KMS[1] 2010-11 to 2012-13 on purchase of Custom Milled Rice.

Government of India (GOI) fixes the rates to be reimbursed by Food Corporation of India (FCI) to the State Government Agencies (SGAs) for Custom Milled Rice (CMR) delivered by them to the Central Pool. The rates include *inter alia* the element of gunny cost for two bags[2] and gunny depreciation for another two gunny bags per quintal of rice delivered to the Central Pool. The rationale for allowing gunny depreciation @ 40 *per cent* of the cost of two new bags was that four bags of 50 Kg. each were required to be purchased for filling 150 Kg. of paddy to manufacture 100 Kg. of rice (67 *per cent*[3] out-turn ratio) as decided by GOI. Thus, two bags were to be delivered to FCI along with one quintal CMR and depreciation would be allowed on the two bags remaining with the State Government/agencies/millers which could not be used for packing CMR.

Examination in Audit revealed that the Government of Uttar Pradesh (GoUP), in its Paddy Purchase policy for KMS 2010-11 to 2012-13, directed that 40 Kg paddy was to be packed in 50 Kg capacity gunny bags. Thus, when 40 Kg paddy is actually being packed in 50 Kg capacity gunny bags, then considering the out-turn ratio of 67 *per cent*, 3.75 gunny bags would only be needed to fill paddy equivalent to one quintal of rice, of which the gunny cost of two bags used for filling one quintal rice and delivering the same to FCI would be paid to SGA. However, for the remaining used gunny bags left with the SGA, gunny depreciation at the rate of 40 *per cent* would be payable for 1.75 bags only thereby resulting in savings of gunny depreciation for 0.25 gunny bag per quintal of rice.

Based on the orders of GoUP, a total quantity of 335.28 lakh quintal of rice had been delivered by SGAs to the Central Pool in Uttar Pradesh during KMS 2010-11 to 2012-13. Thus, a sum of ₹ 11.53 crore was paid by FCI on account of excess gunny depreciation to the State Government of Uttar Pradesh and its agencies on purchase of CMR during 2010-11 to 2012-13.

FCI stated (October 2012) that payments were made as per the cost sheet of GOI.

The reply is not acceptable as the payment of depreciation on gunnies should be allowed on actual basis after arriving at the number of gunnies left with the State

[1] ***Karif Marketing Season***

[2] ***Each bag was to be used to pack 50 Kg of rice***

[3] ***Proportion of rice milled out of paddy***

Government/agencies and not at a fixed rate. FCI being the nodal agency of GOI, should have taken up the aforesaid matter with the latter.

Thus, the excess amount of cost/depreciation allowed on gunny bags based on the orders of the GoUP had led to excess payment of ₹ 11.53 crore to the State Government and its agencies on purchase of CMR during 2010-11 to 2012-13.

The matter was reported to the Ministry in October 2013; their reply was awaited (March 2014).

CHAPTER VII: MINISTRY OF DEFENCE

Hindustan Aeronautics Limited

7.1 Irregular encashment of casual leave

Company paid attendance bonus of ₹ 12.43 crore to its employees for the calendar years 2010 to 2012 on unutilised casual leave at the year-end in contravention of the DPE guidelines prohibiting its encashment and in contravention of the Administrative Ministry's directions to comply with the said guidelines.

Leave Rules 1967[1] and 1988[2] stipulated that the Company's supervisory staff and non-supervisory staff would be entitled to 7 and 12 days casual leave (CL) respectively in a calendar year to meet urgent/unforeseen circumstances or in the event of minor indisposition. The CL shall lapse at the end of the calendar year. In August 1988[3], the Company amended the 1967 Rules allowing an attendance bonus of one day's basic pay for each unutilised day of CL subject to it being not less than 4 and up to a maximum of 10 days in a year. The Company amended the 1988 Rules in May 2010 to allow the attendance bonus to all other employees from the calendar year 2010. Thus, the Company had allowed encashment of Casual Leave.

In October 2010, Department of Public Enterprises (DPE) clarified that CL should not be encashed and would lapse at the end of the calendar year. Allowing any encashment of CL would, therefore, be inconsistent with the policy guidelines issued by DPE. However, even after receipt of DPE's clarifications, the Company did not revise its Rules and continued to pay attendance bonus to its employees. An amount of ₹ 9.06[4] crore was paid during 2010 and 2011. After the inconsistency was pointed out by Audit (July 2012) to the Ministry, the latter, after consulting its Finance Wing, directed the Company (November 2012) to follow DPE guidelines and not to allow encashment of CL. The Ministry also asked the Company to furnish action taken report, urgently, in this regard.

Notwithstanding the above directions issued by the Ministry, the Company made repeated requests (February/April 2013) to the Ministry for allowing continuance of the scheme in the interest of the Company's work as a special case and continued with the scheme. The Company had paid a sum of ₹ 3.37[5] crore during January/February 2013 as attendance bonus for 2012 on the basis of unutilised CL, to both workmen and executives.

Thus, the Company made a total payment of ₹ 12.43 crore during 2010-11, 2011-12 and 2012-13 as attendance bonus to its employees in contravention of the DPE guidelines and

1 ***Personnel Circular No.71 Dated 11 December 1967***

2 ***Personnel Circular No.582 Dated 15 July 1988 for workmen***

3 ***Personnel Circular No.584 dated 30 August 1988***

4 ***₹ 4.87 crore (workmen ₹ 3.98 crore and executives ₹ 0.89 crore) for the year 2010 paid during January/February 2011 and ₹ 4.19 crore (workmen ₹ 3.19 crore and executives ₹ 1 crore) for the year 2011 during January 2012.***

5 ***Workmen: ₹ 2.50 crore and executives: ₹ 0.87 crore***

in contravention of the directions of the Administrative Ministry to comply with the said guidelines.

After the audit observation was again pointed out (August 2013) to the Ministry on non-compliance of the latter's directions, the Ministry stated (October 2013) that HAL had since discontinued the scheme in respect of officers with immediate effect and that in respect of workmen, the process as per the provisions of the Industrial Disputes Act, 1947 was being initiated.

CHAPTER VIII: MINISTRY OF DEVELOPMENT OF NORTH EASTERN REGION

North Eastern Regional Agricultural Marketing Corporation Limited

8.1 Operational Performance

8.1.1 Introduction

The North Eastern Regional Agricultural Marketing Corporation Limited (Company) was incorporated in March 1982 as a Government of India (GOI) Enterprise. The Company is under the administrative control of the Ministry of Development of North Eastern Region (Ministry). The Company has its Corporate Office at Guwahati, eight zonal offices[1] in the North-Eastern region and three processing units[2]. The primary objectives of the Company are to support farmers/ producers of the North-East in getting remunerative prices for their produce thereby bridging the gap between farmers and the market, and to enhance the agricultural, procurement, processing and marketing infrastructure of the North-Eastern region of India.

8.1.1.2 The Company was referred (December 1996) to the Board for Industrial and Financial Reconstruction (BIFR). On the direction of BIFR, the GOI approved (February 1999) a revival scheme for the Company which was sanctioned by BIFR in June 1999. The financial performance of the Company during the last four years ended on 31 March 2013 was as shown below:

(₹ in crore)

Particulars	2009-10	2010-11	2011-12	2012-13
Paid up capital	7.62	7.62	7.62	7.62
Accumulated losses	6.29	4.81	3.81	6.63
Net worth	0.86	2.33	3.46	0.66
Cash and bank balances	5.40	5.48	5.92	5.73
Sales	89.65	99.91	96.04	43.71
Profit after tax	1.12	1.47	1.00	(2.82)

Source: Annual accounts of the Company

8.1.2 Audit objectives

The audit was conducted to assess whether:

- the directions of BIFR and the provisions of the revival scheme were complied with by the Company/GOI;
- the Company was able to obtain necessary financial support from GOI for carrying out its mandated activities; and
- the Company carried out its activities with a view to achieving its main objective of providing marketing support to farmers.

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[1] ***8 zonal offices at Assam, Meghalaya, Tripura, Sikkim, Manipur, Mizoram, Nagaland and Arunachal Pradesh.***

[2] ***Fruit Juice Concentrate Plant, Tripura; Cashew Processing Unit, Tripura; and Ginger Processing Plant, Meghalaya.***

8.1.3 Sources of audit criteria

- Policies and guidelines of the company relating to its marketing activities.
- MOU with the Administrative Ministry and plan implementation reports.
- Corporate plan, study reports, directions of Board of Directors of the Company.
- Terms and conditions of the sales contracts.

8.1.4 Scope of audit

Audit reviewed implementation of the revival scheme of BIFR and marketing and processing activities undertaken by the Company during the period 2009-10 to 2011-12. The audit observations have been updated to the year 2012-13.

8.1.5 Audit findings

8.1.5.1 Non-compliance of the BIFR directions

The performance of the Company was unsatisfactory since inception due to various factors such as lack of professional management and infrastructural facilities, poor capacity utilisation of plants, etc. The Company had accumulated losses of ₹ 12.74 crore as of March 1996 and was referred to BIFR in December 1996. A scheme for revival of the Company was approved (February 1999) by GOI which was sanctioned (June 1999) by BIFR at a cost of ₹ 26.70 crore comprising cash assistance of ₹ 10.36 crore for capital and other expenditure and non-cash assistance of ₹ 16.34 crore for financial restructuring of the Company. The Company/GOI did not comply with the provisions of revival scheme and subsequent directions of BIFR as discussed below:

8.1.5.2 Shortcomings in implementation of revival scheme

Following were the shortcomings in implementation of the revival scheme by the Company:

(i) Out of the funds (₹ 4.22 crore) released by GOI for capital expenditure on Pineapple Juice Concentrate (PJC) plant at Nalkata, Tripura, the Company utilised only ₹ 0.45 crore. The remaining amount of ₹ 3.77 crore was diverted to meet working capital requirements and cash losses incurred due to low capacity utilisation. As a result, the Company could not upgrade the PJC plant which continued to increase the accumulated losses to the extent of ₹ 3.71 crore during the period 2002-03 to 2010-11 after which it was closed down (May 2011) for restructuring, which was yet to be taken up (September 2013).

(ii) The Company did not utilise funds (₹ 19 lakh) released by GOI for capital expenditure on Cashew Processing Unit (CPU), Tripura and diverted the same for meeting cash losses and working capital requirements. As a result, the Company could not increase the capacity of CPU from 0.5 MT per day to 2.5 MT per day as envisaged in the BIFR scheme.

The Company stated (September 2013) that due to insurgency problems, it was decided to make minimum investment in the PJC plant so as to run the plant in day shift only. In respect of CPU, they had a view to shift it to a new place. However, the same could not be done due to non-availability of site.

However, these decisions of the Company were in contravention of the provisions of the sanctioned revival scheme. The revival scheme envisaged that the Company would incur losses upto the year 1999-2000 and the same would be wiped off during 2003-04. However, the Company continued to incur losses upto 2006-07 and thereafter earned marginal profits during 2007-08 to 2011-12 but was not able to wipe out its accumulated losses which stood at ₹ 6.63 crore as on 31 March 2013.

8.1.5.3 Non-implementation of recommendations of Consultant

BIFR discharged (August 2001) the Company from its purview as the net worth of the Company had become positive as on 31 March 2001. However, BIFR directed (August 2001) that the Company and the Administrative Ministry should look into the reasons for continued losses incurred by the Company and take appropriate action. Accordingly, the Administrative Ministry appointed (December 2003) M/s A.F. Ferguson & Co., Kolkata (Consultant) to conduct a study for turnaround of the Company. The Consultant submitted (January 2005) its report which projected a requirement of ₹ 11.13 crore for the activities proposed to be undertaken in the short/ medium-term and ₹ 62 crore for activities to be undertaken in the long-term. Based on the report, the Company submitted (March 2005) its action plan to the Ministry and sought financial assistance of ₹ 10.02 crore mainly for meeting working capital deficit, relocation and capacity expansion of Cashew Processing Unit. No further action on the Consultant's report was taken by the Ministry.

The Company accepted (August 2012 and March 2013) the audit observation. The Ministry endorsed (July 2013) reply of the company.

8.1.5.4 Non-release of sales subsidy by North Eastern Council

At the instance of the North Eastern Council (NEC), the Company set up a Fruit Juice Concentrate plant at Nalkata, Tripura in 1988. As per the detailed project report (DPR), the plant was economically viable only with an element of sales subsidy due to difficult terrain and high cost of production. The plant was commissioned in June 1988. However since its inception, it was running in losses due to non-receipt of sales subsidy from NEC. After sanction of the revival scheme by BIFR in June 1999, the Company submitted its claim to NEC for sales subsidy of ₹ 4.41 crore for the period 1988-89 to 1992-93 which was released by NEC in 1998-99. Subsequently, in line with the directives (July 2001) of BIFR for extension of budgetary support to finance cash losses, the Company requested NEC every year for release of sales subsidy. However, NEC stated (February 2009) that budget provision for release of sales subsidy to the Company had been done away with. As such, the claims of ₹ 8.66 crore pertaining to the period 1993-94 to 2008-09 had not been released by NEC (September 2013) even after lapse of 4 to 19 years.

The Company accepted (August 2012 and March 2013) the audit observation. The Ministry endorsed (July 2013) the reply.

8.1.5.5 Lack of financial support from GOI

Since, the Company had a small capital base, it submitted proposals to the Administrative Ministry for increase in authorised share capital, working capital support and funds for enhancing infrastructure. Audit observations on the aforesaid proposals are discussed below:

8.1.5.6 Non-enhancement of authorised share capital

The Company submitted (August 2008) a proposal to the Ministry for increase in its authorised share capital from ₹ 10 crore to ₹ 20 crore in order to subsequently increase the paid-up capital. The intent of the proposal was to implement its short-term plan for building marketing infrastructure and processing facilities in the North Eastern region. However, approval of the Ministry was still awaited (September 2013).

8.1.5.7 Lack of working capital support

The Company projected its working capital requirements equivalent to 20 *per cent* of the turnover committed in the annual Memorandum of Understanding (MOU) entered into with the Ministry. Details of working capital projected by the Company vis-à-vis the amount sanctioned by the Ministry during 2009-10 to 2012-13 were as below:

(₹ in crore)

Year	Working capital projected by the Company	Working capital sanctioned by the Ministry	Date of sanction	Shortage of working capital
2009-10	4.83	0.67	19.05.2009	2.83
		1.33	17.09.2009	
2010-11	5.07	2.00	15.09.2010	3.07
2011-12	5.33	2.00	23.08.2011	3.33
2012-13	5.59	2.00	10.09.2012	3.59

As may be seen from the table, the working capital sanctioned by the Ministry was not adequate to meet requirements of the Company. Though, the Ministry had directed (April 2006) the Company to make efforts to raise funds through different sources, the Company failed to make any efforts in this direction. Consequently, the Company had to shift its focus towards supplies of agricultural inputs to farmers under Government schemes where lesser amount of working capital was required and thus the mandated activities of procurement and marketing were not carried out by the Company for want of working capital.

8.1.5.8 Lack of financial support for collection and procurement centres

With a view to providing post-harvest facilities like cold storage, grading and packing of agro-horticultural produce of the farmers of the North Eastern Region, the Company submitted (July 2008) a proposal to the Administrative Ministry for setting up of nine collection and procurement centres in the States of Assam, Arunachal Pradesh, Manipur, Mizoram and Meghalaya at a total cost of ₹72 crore. The Planning Commission accorded (September 2008) 'in principle' approval for setting up these centres under the package of ₹ 500 crore announced by the then Finance Minister in the Budget speech for 2008-09 for North Eastern Region. However, funds from the Ministry were awaited (September 2013).

The Company agreed (August 2012 and March 2013) with the audit observations stated in para 8.1.5.5. The Ministry endorsed (July 2013) the reply.

8.1.5.9 Deficiencies in procurement, processing and marketing of products

The primary objective of the Company was to provide market support to the farmers of the North-Eastern region by procuring their marketable surplus of agro-horticultural products for subsequent sale. Audit observations on the procurement and marketing activities of the Company are discussed below:

8.1.5.10 Inability to provide market support to farmers

In order to achieve the objective of providing market support to farmers of the North-Eastern region in getting remunerative prices for their produce, the Company needed to expand sales of processed products and trading products by procuring the marketable surplus of agro-horticultural products from farmers. However, the Company shifted its focus from sales of trading/processed products to supplies of agricultural inputs like seeds, fertilisers, etc. to the farmers under various schemes of GOI due to lack of working capital support. Details of sales of trading/ processed products and the sales under Government schemes during 2009-10 to 2012-13 were as shown in the table below:

(₹ in crore)

Particulars	2009-10	2010-11	2011-12	2012-13
Total sales (A)	89.65	99.91	96.04	43.70
Sales of trading/ processed products (B)	11.50	5.63	2.10	1.40
Sales under Government Schemes (C)	78.15	94.28	93.94	42.30
Percentage of (B) to (A)	12.83	5.64	2.19	3.20
Percentage of (C) to (A)	87.17	94.36	97.81	96.80

As may be seen from the above table, the percentage of sales of trading and processed products in the total sales reduced from the low level of 12.83 *per cent* during 2009-10 to an insignificant level of 3.20 *per* cent during 2012-13. Thus, the Company had gradually shifted its focus from procurement and sale of agro-horticultural products to supplies of agricultural inputs under Government schemes, thereby defeating the basic purpose for which it was established.

The quantum of sales under Government schemes was dependent upon the receipt of orders from the State Governments. The sales revenue was therefore, likely to vary accordingly as may be seen from the sudden drop in sales during 2012-13. Thus, the Company needed to focus more on the portfolio of sales of trading products and ensure market support to the farmers.

While accepting the audit observation, the Company stated (August 2012) that in the absence of huge working capital required for procurement and marketing of agro-horticultural products, it mainly focused on business with State Governments under Central schemes. The Ministry endorsed (July 2013) the reply.

8.1.5.11 Non-upgradation of pineapple juice concentrate plant

The Company established Pineapple Juice Concentrate (PJC) plant at Nalkata, Tripura (1988), with an installed capacity of 48 MT per day at a cost of ₹ 3.60 crore. The plant was incurring losses since inception due to low capacity utilisation, low yield resulting from high fruit-to-juice concentrate ratio, etc. The Company did not initiate any action to upgrade the plant to reduce losses and continued to keep it in operation upto the year 2010-11. In May 2011, the Company decided not to produce PJC till restructuring of the plant was taken up and completed. Accordingly, the plant is not in operation since June 2011. The detailed project report for modernisation and restructuring of the plant was submitted (May 2013) by the Company to the Government of Tripura which was under its consideration.

Examination in Audit revealed that the production of PJC was continued upto the year 2010-11 despite the fact that the plant had outlived its life and was consistently incurring losses due to low capacity utilisation and low yield etc. Non-upgradation of the plant and delayed decision to close it down resulted in avoidable loss of ₹ 3.71 crore during the period 2002-03 to 2010-11. Even after closing down the plant, the Company neither terminated the services of the casual labour working in the plant nor relocated all workers to other plants/offices resulting in payment of idle wages and salaries of ₹ 79.16 lakh during the years 2011-12 and 2012-13.

The Company stated (August 2012) that production of PJC was carried out during 2009-10 and 2010-11 based on approval from the Board of Directors which was also apprised that the production would result in losses. The Ministry endorsed (July 2013) the reply.

The reply is not convincing as continuation of production inspite of losses without upgradation of the plant and payment of idle wages and salaries only caused accumulated losses to persist.

8.1.5.12 Lack of effective marketing framework

The Company did not have the operational framework required to carry out its marketing operations in an organised manner as discussed below:

- The Company did not have any marketing manual laying down the policies and procedures for carrying out its trading and marketing activities.

  The Company noted (August 2012) the audit observation for compliance. The Ministry endorsed (July 2013) the reply.

- As per its Memorandum of Association and the Corporate Plan, the Company was required to develop market intelligence network which would assist in collection and dissemination of market information related to demand-supply, prevailing market prices etc. However, the Company did not establish any market intelligence system.

While accepting the audit observations, the Company stated (August 2012) that it was unable to fill the key positions like General Manager (Marketing), Marketing Managers, etc. due to lack of approval from the Administrative Ministry. The Company further stated (September 2013) that they were making efforts to put all officers on market survey and intelligence.

Conclusion

The Company diverted funds received under revival scheme for capital expenditure to meet working capital requirement and cash losses incurred due to low capacity utilisation. The Consultant's report (January 2005) for turnaround of the Company proposed infusion of ₹ 73.13 crore and the company submitted its action plan but no further action was taken by the Ministry (July 2013). North Eastern Council also did not release (September 2013) the sales subsidy claims of ₹ 8.66 crore pertaining to the period 1993-94 to 2008-09. Further, there was lack of financial support from GOI in the form of non-enhancement of the authorised share capital and deficiency in sanctioning the working capital. Also, GOI did not release ₹ 72 crore for setting up collection and procurement centres despite 'in principle' approval accorded by the Planning Commission in 2008-09. Due to lack of working capital support, the Company shifted its focus from sale of processed agro-horticultural products to supplies of agricultural inputs to farmers in the region. Thus, the Company was unable to achieve its main objective of providing market support to farmers of the region.

Recommendations

In view of the aforesaid audit findings, it is recommended that the Ministry may consider:

- ***Reviewing the operating performance of the Company and take remedial measures to resolve pending issues for making its operations self sustainable.***
- ***Revamping/phasing out loss-making plants in order to reduce unproductive expenditure.***

CHAPTER IX: MINISTRY OF FINANCE

Oriental Insurance Company Limited

9.1 Information Technology (IT) Audit of Integrated Non-Life Insurance Application Software (INLIAS)

9.1.1 Introduction

The Oriental Insurance Company Limited (Company) is one of the four public sector General Insurance Companies transacting general insurance business in India with head office at New Delhi. As on 31 March 2013, the Company had 27 Regional Offices (RO), three Corporate Business Regional Offices (CBRO), 346 Divisional Offices (DO), 494 Branch Offices (BO) and 596 One Man Offices in addition to service centers and motor third party claim hubs. During the year 2012-13, the Company's Gross Direct Premium Income in India was ₹ 6,737.66 crore and operating profit of the Company was ₹ 404.41 crore. The Company has three main application softwares for its operations viz. Integrated Non-Life Insurance Application Software (INLIAS), Investment Software and Human Resource Management System (HRMS).

The INLIAS application is an integrated solution covering Underwriting, Claims, Accounts, Reinsurance and related reports. In its scope it covers all the products and the entire business operations of the operating offices are handled by this application. It is live in all the offices of the Company and its roll out was completed in March, 2009. The system also generates consolidated reports for the RO as a whole as required. The application has an online integration with web portal and also has email and SMS integration for various events. The Underwriting, Claims and Accounts modules catering to the requirements of operating offices and the RO's have been fully functional since 2009. However, parts of the Re-insurance module and HO Accounts consolidation were still under testing (February 2014) by the respective user departments. The Budget Module which was under detailed testing has become operational and the Fixed Asset Module is being tested by the user department. The front end of the application is Oracle forms and Reports and Backend is Oracle 10g database.

Though various modules have not yet been finalized by the Company, a test check of some of the modules has been carried out by Audit. Audit observed that there has been a considerable delay in implementation of Reinsurance and HO Accounts consolidation modules as the agreement for INLIAS was signed in August 2002 and it was scheduled for completion within two years from date of agreement.

The company incurred ₹ 68.29 crore till June 2007 and ₹ 232.90 crore from July 2007 to March 2013 related to software and hardware procurement pertaining to INLIAS.

9.1.2 Audit Findings

Audit observations regarding lack of proper controls and validations in INLIAS are given below:

9.1.2.1 Inappropriate underwriting validations in Marine Cargo Policies

As per Insurance Regulatory and Development Authority of India (IRDA) Guidelines on 'File & Use' requirements for general insurance products (September 2006), the premium rates that are less than ₹ 0.1 *per mille*[1] on the sum insured should be discussed with the Financial Advisor of the Company and his concurrence obtained to such rates based on sound technical reasons. In such cases, the Financial Advisor was expected to play the role of moderator to ensure that the terms were determined on a sound technical basis and not merely to meet competition in pricing regardless of logic. During live tests for underwriting, Audit observed that there was no validation for approval by HO for underwriting the policies with premium rate below 0.1 *per mille* on sum insured. The system did not prevent issuance of policies by operating offices at premium rate lower than 0.1 *per mille* on sum insured without approval of competent authority.

Audit collected data for marine cargo policies issued by the Company during year 2012-13, analysis of which revealed that 1317 policies out of total 1,20,843 cases of marine underwriting, were issued below the rate 0.1 *per mille*. In absence of required validation in the system, premium collected was ₹ 9.56 crore against minimum chargeable premium of ₹ 31.38 crore. This has resulted in short collection of premium amounting to ₹ 21.82 crore and loss to the Company to the same extent.

Management stated (October 2013) that operating offices are being advised to ensure that proper administrative control should be exercised while approving such proposals and the same should be done only when required approval of the competent authority has been obtained. The reply, however, is not acceptable in view of the fact that such control should be inbuilt in system to avoid manual intervention and adherence to IRDA guidelines.

9.1.2.2 Inappropriate inputs in Marine Cargo policies

The Marine Policy covers goods, freight and other interests against loss or damage to goods whilst being transported by rail, road, sea and/or air. These policies may be extended to cover war and SRCC[2] perils as add on covers by payment of additional premium. Audit, however, observed that in the absence of appropriate input controls, system does not prohibit issuance of marine policies covering only War & SRCC without providing basic marine cover.

Management agreed with the audit observation and stated (October 2013) that they are taking up the matter with 3i InfoTech for implementing a control that coverage of War and SRCC risks are allowed only in conjunction with the Basic Cover.

9.1.2.3 Inappropriate inputs in Marine Hull policies

Review of underwriting of Marine hull policies (DO-14 Mumbai) revealed that:

- The system allows any age of vessel without giving any alert above normal life for insurance.

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1 ***Per thousand***
2 ***Strike, Riot or Civil Commotion***

Management admitted the audit observation and stated (October 2013) that the operating offices would be advised that all underwriting related parameters should be carefully examined before approving the proposal in the application. A warning message/alert will be duly incorporated.

- In preparing GUC* statement for Marine Hull policies the dealing official has to manually feed details like name of the vessel and sum insured in case of endorsement from the premium register as premium register generated through the system does not have these details.

Management agreed to audit observation and stated (October 2013) that Technical Department is being requested to examine format of Premium Register of Marine Hull and provide additional fields if any to be added in the report and the same will be modified accordingly.

9.1.2.4 Lack of appropriate validations in Motor Policies

During live test at claims service centre, Delhi, it was observed that a claim (2014/030599) under motor policy (2013/1586) issued by CBO X, Delhi that the system allowed passing of endorsement changing the registration number of the insured vehicle after occurrence of claim. Further, even in the endorsement, the correct registration number, engine and chassis details as per prescribed format were not mentioned. Thus the system without appropriate control leaves a scope for manipulation.

Management stated (October 2013) that it was permissible to pass an endorsement on a policy after occurrence of the claim due to some bonafide requirements. Management also stated that the operating offices were being advised to exercise due care and caution while passing any endorsement so as to ensure that the same is correctly passed. Management assured that the system will be enabled for automatic generation of an exception report highlighting all cases of endorsements passed effective from a date prior to the date of passing of such endorsement which could be accessed by Auditors/Vigilance.

9.1.2.5 Non-deduction of administrative charges from co-insurers

HO circular (October 2002) regarding settlement of co-insurance transactions stipulated that the leader shall remit the co-insurers their share of premium after deducting one percent from their share of premium towards administrative charges, within 21 days of receipt of premium.

Audit test checked journal vouchers passed manually by CBRO, Delhi during 2012-13 for recovering one per cent administrative charges from the coinsurers. Since the system was not deducting the administrative charges automatically from the premium share of co-insurers, the entire premium was being remitted to the co-insurers in full. Administrative charges were being pursued manually for recovery from the co-insurers leaving a scope for short recovery/ non-recovery besides possibility of errors at the end of dealing officials of the Company.

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* ***Group underwriting cell***

During 2012-13, the Company paid an amount of ₹ 427.76 crore to co-insurers under coinsurance arrangement for which it was required to deduct an amount of ₹ 4.28 crore (@ one percent of ₹ 427.76 crore). However, in absence of input control in INLIAS for deduction of administrative charges at the time of remittance of premium, the Company could recover ₹ 1.39 crore only, resulting in short recovery of ₹ 2.89 crore from the coinsurers.

Management stated (March 2014) that in some stray cases administrative charges were not deducted at the time of payment to coinsurers. Also, some of the offices were not aware of deducting administrative charges manually and was overlooked and that administrative charges were now automatically deducted through INLIAS at the time of underwriting outgoing coinsurance premium. However, the fact remains that delay in incorporation of required validations to this effect led to loss of ₹ 2.89 crore to the Company.

9.1.2.6 Inadequate validations for claims settlement

Audit checked claims settled by Claim Service Center, Mumbai on 27 August 2013. It was observed that a claim (2014/030418) under motor policy (2013/5918) was reported for the loss/damage caused through accident to a motor vehicle, which was approved twice with the same details. The system did not give any alert or message while approving the claim for second time. This lapse may lead to multiple payments against the same claim.

Management stated (October 2013) that the system does not allow the same provision to be approved twice. However, the user can create another provision in the same claim, if required through the system. The reply is not tenable as even accepting another provision with same details of loss is also irregular and needs to be rectified. It is recommended that some validation, at least on key fields of amount and loss date should be put in the system.

9.1.2.7 Mismatch of figures in Claims Outstanding Register and Trial Balance

The System generated two different figures for the "Fire outstanding claims" as on 31 March 2013 in two reports viz. Claims Outstanding Register and Trial Balance, resulting in short provision and overstatement of profit by ₹ 2.45 crore as detailed below:

(₹ in crore)

Unit	Claim as per outstanding register of INLIAS	Claim as per Trial Balance	Difference (–) short provision
CBRO Chennai	11.32	10.30	(-) 1.02
CBRO Mumbai	50.70	49.27	(-) 1.43
Total	62.02	59.57	(-) 2.45

Management accepted the audit observation (October 2013) and stated that there was a mismatch in the figures as per Claim Outstanding Registers and the Trial Balance generated by INLIAS. Management further stated that efforts were being made to modify the INLIAS to remove the discrepancy of mismatch in the figures.

9.1.2.8 Non generation of exception reports for compliance of IRDA Protection of Policyholders' Interests Regulations, 2002

As per IRDA Protection of Policyholders' Interests Regulations 2002, the claims are to be settled within 256 days from the date of intimation of the same. Each insurer is required to set up a Policyholder Protection Committee which has to report directly to the Board.

Audit collected data of claims settled by the Company during March 2013, wherein it was observed that the Company settled 65,535 motor claims and similar number non-motor claims out of which 22,798 claims for motor and 8,960 claims of non-motor were settled after more than 256 days violating said IRDA regulation. The management took 35 to 8,954 days for settlement of motor claims and 61 to 12,397 days for settlement of non-motor claims. The periodical stratification of these claims for period 257 days to one year, one to two years, two to three years, three to five years and more than five years is given in the following table.

	Delay in settlement of claims from date of intimation						
Number of cases	**Up to 256 days**	**257 days to One year**	**1 to 2 years**	**2 to 3 years**	**3 to 5 years**	**above 5 years**	**Total**
Non-Motor	56575	4584	3197	646	350	183	65535
Motor	42737	5959	6770	3223	3435	3411	65535
Total	**99312**	**10543**	**9967**	**3869**	**3785**	**3594**	**131070**

It is evident from table that there has been delay in many cases in settlement of claims beyond the maximum permissible limit for settlement of normal claims.

Though the maximum permissible limit for settlement of normal claims is 256 days as per IRDA regulation, no report for delay after such stipulated time period is being generated through system. Since the responsibilities of the Policyholder Protection Committee included ensuring compliance with the regulatory requirements, a report for said delays should have been generated and placed before Policyholder Protection Committee to take required action for ensuring regulatory compliance.

Management assured (October 2013) that the feasibility of generating the report shall be studied and if found feasible, the same shall be enabled in INLIAS.

The matter was reported to the Ministry in December 2013; their reply was awaited (March 2014).

The New India Assurance Company Limited

9.2 Incorrect settlement of claim

Incorrect settlement of claim due to lack of reasonable care by the insured - ₹ 10.15 crore.

The New India Assurance Company Limited (the Company) issued an annual turnover policy to M/s. Wartsila (India) Limited (insured) for sum insured of ₹ 500 crore for the period, 01 April 2009 to 31 March 2010 covering inter alia, the insured's imports from anywhere in the world to various places in India by sea/air/rail/road/courier. The insured imported two DG sets (January 2010) from M/s. Wartsila Italia for EUR 3851107.00 (INR 25.47 crore) through Nhava Sheva Port. The cargo landed at Nhava Sheva Port on 6 February 2010. The consignment was cleared by the customs on 2 March 2010.

When the cargo was being moved from the Port to Khopoli (2 March 2010), the trailers met with accident resulting in rollover of the trailers causing damage. One DG set was declared as constructive total loss•, the other DG set was partially damaged and sent to M/s. Wartsila Italia for repair and brought back to India after repair.

The Company deputed (March 2010) M/s. Trans Ocean Marine and General Survey Agencies as surveyor who, in their report (March 2011), opined that the rollover of the trailers was due to unusually top heavy load and the drivers could not control the vehicles which rolled over on divider. The Surveyor provisionally assessed the loss at ₹ 9.76 crore. After deducting salvage value of ₹ 1 crore, the loss was provisionally arrived at ₹ 8.76 crore.

The Head Office Claims Committee (HCC) of the Company approved (June 2011) on account payment of claim for ₹ 6.50 crore treating the loss as covered under Inland Transit (Rail or Road) Clause (A) (All Risks) [ITC (A)]. The on account payment was made on 9 June 2011. The Company made further payment of ₹ 3.65 crore on 16 September 2013. Thus total payment made was ₹ 10.15 crore.

The main cause of accident was overloading of trailers to the tune of 9.05 MTs and 11.93 MTs which worked to 32 *per cent* and 48 *per cent* respectively of the net cargo carrying capacity of the two trailers as shown in the following table:

Sl. No.	Description	Trailers No. MH 06 AQ 1667	Trailers No.MH 06 K 6718
1	Net cargo carrying capacity Kg.	28000.00	25000.00
2	Weight of Cargo Kg.	32000.00	32000.00
3	Weight of Container Kg.	5050.00	4925.00
4	Total Weight (2+3) Kg.	37050.00	36925.00
5	Overloading Kg. (4 – 1)	9050.00	11925.00
6	Percentage of overloading to Net cargo carrying capacity (*per cent* of 5 over 1)	32	48

The above clearly indicated that the vehicle deployed could not take the load of the cargo which showed that insured failed to exercise reasonable care in ensuring that cargo was carried in the right type of vehicle.

The Company replied (September 2013) that:

• *the claim is for constructive total loss (CTL) as repairing value was more than 85 per cent of the Sum Insured*

- The preliminary surveyor (M/s. A.S. Desai) stated that the circumstances of the accident, which clearly showed that the carrying trailers had to apply sudden emergency breaks to avoid accident with the vehicle in front, because of which, the drivers lost control of the trailers.

- The surveyors (M/s. Trans Ocean Marine & General Survey Agencies) had categorically stated that the logistic contractors M/s. Glen Trans Shipping & Logistics (I) Private Limited were 'prima facie' responsible for overloading.

- Litigation would be a long drawn process and would entail heavy legal costs; hence 25 *per cent* was deducted from final claim amount.

The reply of the Company is not convincing. In the instant case, there was lack of reasonable care on the part of the insured as it failed to ensure that right type of vehicle was deployed. The Company cannot take refuge that it was the logistic contractor who was responsible for the overloading. The insured who had insurable interest should have taken utmost care in ensuring that the cargo was carried by a responsible logistic contractor. The Company should have repudiated the claim. Therefore, settlement of claim on 'compromise basis', was not in order.

The matter was reported to the Ministry in October 2013; their reply was awaited (March 2014).

CHAPTER X: MINISTRY OF MINES

Hindustan Copper Limited

10.1 Excess payment of royalty

In respect of Khetri mine where processing of mineral was carried out within the leased area, the Company paid royalty on metal-in-ore produced instead of metal-in-concentrate resulting in excess payment of royalty of ₹ 4.97 crore.

Hindustan Copper Limited (the Company) has a copper mine along with a concentrator plant in its Khetri Mining Lease area located at Khetri Copper Complex, Rajasthan. Ore is extracted from the mines and the same is processed in concentrator plant to produce processed mineral (metal-in-concentrate). Copper is extracted after such concentrate is processed further in smelter and refinery. As per the provision♥ of the Mineral Concession Rules, 1960, in case the mineral is processed within the leased area, royalty is chargeable on the processed mineral removed from the lease area. However, the Company was paying royalty on the basis of metal present in the ore extracted from its Khetri mine and not on the metal-in-concentrate. This resulted in excess payment of royalty as the quantity of metal content in ore is more than that of metal-in-concentrate.

Such excess payment of royalty was pointed out by audit in February 2013. The Company took rectification measures from March 2013 onwards and royalty is now being paid on the processed mineral (metal-in-concentrate). In the meantime, the Company produced 3887776 MT of ore from its Khetri mine during the period from April 2005 to February 2013 and paid royalty of ₹ 45.56 crore based on 37297 MT metal content in the ore instead of metal-in-concentrate of 33302 MT which resulted in excess payment of royalty amounting to ₹ 4.97 crore during the above period.

The Company stated (October 2013) that during April, 2005 to February, 2013 royalty has been paid on copper in ore produced as per Govt. of India Gazette notification nos. GSR 713 (E) dated 12 September, 2000 & No. GSR 574(A) dated 13 August, 2009 and there was no excess payment of royalty.

The contention is not tenable as the Gazette notifications dated 12 September 2000 and 13 August 2009 pertained to rates of royalty whereas the audit observation relates to charging of royalty for minerals which are subjected to processing. Rule 64 B of Mineral Concession Rules, 1960 clearly specifies that in case processing of ore is carried out within the leased area, royalty is chargeable only on processed mineral. The excess payment of royalty was pointed out in audit in February 2013. The Company took rectification measures from March 2013 onwards.

♥ *Clause 1 of Rule 64 B of the Mineral Concession Rules, 1960 (as amended up to 26.07.2012)*

Thus, the Company made an excess payment of royalty amounting to ₹ 4.97 crore for its Khetri Mines during the period, April 2005 to February 2013.

The matter was reported to the Ministry in November 2013; their reply was awaited (March 2014).

CHAPTER XI: MINISTRY OF PETROLEUM AND NATURAL GAS

Bharat Petroleum Corporation Limited

11.1 Avoidable expenditure

The Company alongwith its subsidiary incurred avoidable expenditure of ₹ 8.23 crore on procurement of PDS SKO from NRL at Budge Budge due to apprehension regarding payment of WBVAT.

Bharat Petroleum Corporation Limited (the Company) was procuring PDS SKO from the Rajbandh Terminal of Indian Oil Corporation Limited (IOCL) by paying WBVAT @ 4 *per cent* which was being set off against the WBVAT payable at the time of ultimate sale to the customers. The rate of WBVAT on PDS SKO became 'nil' with effect from 01.09.2010. On the apprehension that the sale of SKO between Oil Marketing Companies (OMCs)[1] would attract WBVAT @ 12.5 *per cent*, the local management of the Company, considered (August, 2010) that the WBVAT payable on procurement of SKO from IOCL would not be available for setting off as the WBVAT on PDS SKO had become 'nil' which could result in under-recovery/loss to the Company. The local management, therefore, decided to procure SKO from its subsidiary Company[2] Numaligarh Refinery Limited (NRL) at Budge Budge to avoid the above anticipated loss. As per the arrangement, NRL would deliver the product at Budge Budge by railway tank wagon at its own cost from where the Company would transfer the product to its Rajbandh depot by tank truck. The Central Sales Tax (CST) on this inter-state sale would also be borne by NRL. It was projected that the above arrangement would result in savings of ₹ 0.71 crore per month. The Company started procuring SKO from NRL as per the above arrangement with effect from September 2010.

The above decision was not realistic as the Company did not have to pay WBVAT for purchase of SKO from IOCL and as such the projected savings for the above arrangement were misplaced. Further, the above arrangement of transferring the product from NRL to Rajbandh resulted in extra expenditure on account of freight and non-recovery of CST. After being pointed out in audit (December 2011), the Company stopped the above arrangement and resumed its earlier practice of taking SKO from IOCL at Rajbandh from January 2012. In the mean time, 36047 KL of SKO was procured from NRL at Budge Budge during the period, September 2010 to January 2012 for which the Company along with its subsidiary (NRL) incurred avoidable expenditure of ₹ 8.23 crore.

The Company stated (October 2013) that its apprehension regarding payment of WBVAT @ 12.5 *per cent* for procurement of PDS SKO from IOCL was based on the Demand from Sales Tax Authorities for not paying WBVAT @ 12.5 *per cent* on sale of SKO by

[1] ***IOCL, BPCL and HPCL***

[2] ***BPCL held (31.03.2012) 61.65 per cent shares in NRL.***

the Company to the other OMCs in West Bengal during 2006-07 and 2008-09. Ministry has also endorsed (February 2014) the views of the Company. The above apprehension of the Company/Ministry was not realistic as after resumption of procurement of PDS SKO from IOCL (Rajbandh Terminal), the Company has been paying WBVAT at 'nil' rate and not at 12.5 *per cent*.

The Company further contended that NRL was dependent on it for sale of SKO and if the Company had not resorted to this arrangement of taking SKO at Budge Budge, NRL would have incurred freight and non recovery of CST for supplying such SKO to other locations near Budge Budge. Ministry also agreed (February 2014) with the above contention. This contention is not tenable as it was observed that during the above period, IOCL brought SKO in Assam from outside the state. There were also instances of sale of SKO by NRL to IOCL in Assam. Thus, NRL could have sold the above SKO to IOCL in Assam instead of supplying the same to BPCL at Budge Budge.

Thus, the decision for procurement of SKO from NRL at Budge Budge was not financially prudent and the Company alongwith its subsidiary (NRL) had to incur avoidable expenditure of ₹ 8.23 crore.

Hindustan Petroleum Corporation Limited and GAIL (India) Limited

11.2 Novel financing approach by Government Companies in Joint Ventures to secure status of Non-Government Companies to such Joint Venture Companies

Hindustan Petroleum Corporation Limited (HPCL) and GAIL (India) Limited (GAIL) promoted two private joint venture companies (JVCs) and financed their projects by extending free of cost funds of ₹ 89.96 crore[1] (₹ 44.98 crore each) as 'application money pending allotment' and 'advances against equity' from March 2004 to March 2012. The private JVCs had not converted the advances into equity. This ended up as extending of undue benefit by HPCL and GAIL to JVCs without receiving any interest or dividend as JVCs had not converted the advance into equity. Avoidable loss of interest to HPCL and GAIL on such funds was ₹ 66.49 crore[2] from March 2004 to 28 February 2014.

Hindustan Petroleum Corporation Limited (HPCL) and GAIL (India) Limited (GAIL) entered into two Joint Venture Agreements (JVAs) in November 2002 and November 2005 for formation of two Joint Venture Companies (JVCs) for distribution and marketing of environment friendly fuels (Green fuels[3]) for use in transportation, domestic, commercial and industrial sectors in the cities and towns of (a) Andhra Pradesh and (b) Madhya Pradesh, respectively.

JVAs provided that both the JVCs would neither be Government Companies as envisaged under Section 617 of the Companies Act, 1956 (Act) nor would these be companies to which provisions of Section 619B of the Act apply. Accordingly, the Memorandum and Articles of Association (M&AoA) of both the private JVCs were

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[1] ***₹ 44.98 crore each by HPCL and GAIL.***

[2] ***₹ 33.23 crore to HPCL and ₹ 33.26 crore to GAIL.***

[3] ***PNG, CNG and Auto LPG.***

framed and the two private JVCs namely Bhagyanagar Gas Limited (BGL) and Avantika Gas Limited (AGL) were incorporated on 22 August 2003 and 07 June 2006 respectively. The capital structure of the JVCs as envisaged in JVAs (November 2002) and the actual capital structure that emerged (July 2013) was as follows:

Name of the JV	Date of incorporation	Name of partners and their share as per agreement		Name of partners and their Actual share	
		Name of partners	Share	Name of partners	Share
Bhagyanagar Gas Limited (BGL)	22 August 2003	HPCL and GAIL	22.50 *per cent* each	HPCL and GAIL	25 *per cent* each
		Financial Institutions/private parties/general public	50 *per cent*	M/s Kakinada Seaports Limited (KSPL)	50 *per cent*
		Government of Andhra Pradesh (GoAP)	5 *per cent*		
Avantika Gas Limited (AGL)	07 June 2006	HPCL and GAIL	22.50 *per cent* each	HPCL and GAIL	25 *per cent* each
		Strategic Investors/public/ Financial Institutions	50 *per cent*	IL and FC Investment Managers Limited	16.50 *per cent*
		Government of Madhya Pradesh (GoMP)	5 *per cent*	M/s IDBI Trusteeship Services Limited	16.50 *per cent*
				M/s IDFC Limited	7 *per cent*
				Others	10 *per cent*

Both the private JVCs (*viz.* BGL and AGL), in each of which HPCL and GAIL had 50 *per cent* stake jointly, were incorporated with paid up capital of ₹ 5 lakh each. HPCL and GAIL initially contributed ₹1.25 lakh in each of the JVCs towards paid up capital and subsequently, placed funds to the tune of ₹ 89.96 crore[♣] (₹ 44.98 crore in each JV) in the JVCs towards 'application money pending allotment' and 'advances against equity' (both referred to as advances hereinafter) during the period from March 2004 and March 2012. No shares were allotted nor share certificates issued by BGL or AGL against receipt of these advances till 28 February 2014. As of February 2014, some of these advances were nine years old as can be seen from the table below:

[♣] ***₹ 9.96 crore as application money pending allotment plus ₹ 35.02 crore advance against equity to BGL and ₹44.98 crore towards advance against equity to AGL.***

BGL			AGL		
Date of extending advance	**Advance against equity (₹ in crore)**		**Date**	**Advance against equity (₹ in crore)**	
	HPCL	GAIL		HPCL	GAIL
1 March 2004	4.98		29 November 2006	2.00	
13 March 2006	5.00		14 December 2007	11.50	
13 May 2008	6.00		22 August 2009	8.99	
28 October 2009	5.00		18 May 2007		2.00
25 February 2011	1.51		26 October 2007		11.50
Before 31 July 2005		4.98	18 August 2009		8.99
10 March 2006		5.00			
03 April 2008		7.50			
10 August 2009		5.01			
31 March 2012		0.0025			
Total	**22.49**	**22.49**	**Total**	**22.49**	**22.49**

In addition, HPCL also provided bridge loan of ₹ 90 crore to BGL during 2011-12.

Examination in Audit revealed that:

- HPCL and GAIL did not follow up the matter of delay in allotment of equity shares and issue of necessary share certificates against the advances with the JVCs (BGL & AGL) effectively. As a result, the entire amount of ₹ 89.96 crore paid by HPCL and GAIL towards either 'application money pending allotment' or 'advance against equity' to these private JVCs had not been converted into paid up equity capital despite lapse of 2 to 9 years as of February 2014. This enabled the JVCs to continue as non-government companies and utilise the public funds, placed at their disposal by the Government Companies *viz.* HPCL and GAIL, without paying any interest or dividend.

- HPCL and GAIL extended the advances to these JVCs without ensuring that other equity shareholders infused their matching share of equity capital into JVCs so as to maintain the share of each partner in paid up equity capital of each JVC as per their respective M&AoA, resolution of the Boards of HPCL and GAIL with regard to formation of these JVCs and shareholding agreements among contributing partners. Had the advances paid by either of HPCL or GAIL been converted the into paid up capital, these JVCs would have been converted into Government Companies within the meaning of Section 617 of the Companies Act, 1956.

- The authorized capital of BGL was increased to ₹ 20 crore from 12 December 2003 which was further increased to ₹ 100 crore from 21 September 2007. Hence, between December 2003 and September 2007, the Board of HPCL could have resolved to invest equity capital of not more ₹ 4.50 crore (its agreed share being 22.50 *per cent*) into BGL and that too subject to call made by the latter for subscription towards equity to that extent. However, the Board of HPCL resolved (28 July 2005) to invest ₹ 18.20 crore in BGL though BGL had not made 'call' for investing funds into its equity to that extent as on that date. Interestingly, the same resolution of the Board was used by HPCL (without any fresh reference to Board) in extending the advances against equity to BGL without ensuring that all other partners also contributed their matching share for maintaining the percentage of their share into equity of BGL in accordance with the M&AoA of BGL, and shareholding agreement among all contributing partners.

- The authorized capital of AGL was ₹ 100 crore since its incorporation on 07 June 2006. HPCL Board made a one-time resolution (28 October 2005) to invest ₹22.50 crore (maximum of its share of 22.5 *per cent*) into equity capital of AGL, though demand on HPCL to invest funds as equity was not to that extent. In this case too, HPCL used the same resolution of the Board (without any fresh reference to Board) in extending advances against equity to AGL without ensuring that all other partners also contributed their matching share in accordance with M&AoA of AGL, and the shareholding agreements among all contributing partners.

- HPCL Board, thus, at the time of passing resolutions exercised its powers injudiciously under Section 292 of the Companies Act, 1956 for investment of funds in BGL and AGL as there were no calls from BGL and AGL for subscription towards their equity capital to the extent as discussed in point (iii) and (iv) above. These resolutions of the Board resulted in extending undue benefit to private JVCs through advances on which HPCL did not receive either any dividend (due to non-conversion of advance into equity) or any interest for the last 2 to 9 years, as of February 2014.

HPCL stated (August 2013) that:

- Emails and letters on 12 January 2010, 13 April 2011 and 19 April 2012 to AGL and emails/letters on 06 January 2011, 04 February 2011, 11 February 2011 to BGL were sent in respect of non-conversion of 'Advance against Equity' to Equity; and

- Equity Syndication process at BGL and AGL had not been completed yet due to low availability of gas in the country. As JVAs entered into between HPCL and GAIL for BGL and AGL stipulated that BGL and AGL would each retain the characteristic of a JVC and would not be a Government Company, no other option was left but to contribute the amount as advance against equity so that normal operations of BGL and AGL were continued.

Reply of HPCL needs to be viewed in the context of following:

- Communications to BGL and AGL regarding non-conversion of 'advances against equity' into equity had been sent by HPCL at the instance of Statutory Auditors, at the time of certification of quarterly accounts to seek information about the likely date by which these advances would be converted into equity. HPCL continued to make payment of additional advances towards equity, though significant advances remained to be converted.

- Non-conversion of the advances into equity by the private JVCs promoted by HPCL and GAIL enabled JVCs to use public funds without paying dividend or interest to Government Companies and continue to enjoy the status of private companies using public funds with impunity without any Government intervention.

- Pending completion of equity syndication process, onus for funding the two JVCs to cater to their operational requirements devolved upon all shareholders. Hence, HPCL and GAIL should have ensured that other partners also extended such advances in proportion to their share.

Thus, projects of two private sector JVCs (*viz.* BGL and AGL) were financed by HPCL and GAIL by extending public funds in the form of 'application money pending allotment' and 'advances against equity' without ensuring matching equity infusion by all contributing partners. This resulted in extension of undue benefit of interest-free funds to these JVCs with resultant blocking of fund (₹ 89.96 crore) and avoidable loss of interest (₹ 66.49 crore[•]) to HPCL and GAIL till 28 February 2014. The undue benefit to the private JVCs and resultant loss of interest would continue till such time such advances are either converted into paid up equity capital or refunded back by JVCs to HPCL and GAIL.

The matter in respect of HPCL was reported to the Ministry in December 2013; reply was awaited (March 2014). The matter has also been taken up (March 2014) with GAIL and reply is awaited (March 2014).

Indian Oil Corporation Limited

11.3 Extra cost attributable to relaxation in contract conditions

The objective of relaxation of contract conditions, which was to ensure timely completion of a captive power plant, was not fulfilled and led to avoidable extra cost of ₹ 194.10 crore.

Indian Oil Corporation Limited (the Company) is in the process of setting up a 15 MMTPA grass root refinery at Paradip, Odisha (PDRP). To meet the requirement of power, it was decided (May 2009) to set up a Captive Power Plant (CPP) and M/s Bharat Heavy Electricals Limited (BHEL) was selected on nomination basis for CPP. BHEL was informed (July 2009) about the configuration of CPP and target for final commissioning was set as January 2012.

BHEL stated that all efforts and endeavor would be made to meet the stated schedule. It also stated that it would, however, have to make huge financial commitments to its sub-

[•] ***Rate of interest of 12 per cent per annum (at average cash credit rate of interest) for the period from 2002 to 2013 has been applied.***

vendors. Interest free ad-hoc advance of ₹ 120 crore was released (August 2009) to enable BHEL to place internal orders on its sub-vendors for implementation of CPP. Tender document containing General Contract Conditions (GCC) for CPP was issued to BHEL on 31 July 2009. BHEL submitted bid documents in four parts during September 2009 to November 2009 and demanded (January 2010) the following major deviations from GCC:

- Ad hoc advance of ₹ 120 crore already released by the Company may be converted into interest free mobilization advance against BG. Mobilization advance was to be interest bearing according to clause 8.2.1 of GCC.

- Maximum five *per cent* of contract value may be deducted in case of delay in mechanical completion against clause 4.4.2.0 (xxi) of GCC, which stipulated that in case of delay in mechanical completion, the Company was entitled to price adjustment by way of discount in works achieved at the rate of half a *per cent* of the contract value per week and the reduction should in no event exceed 10 *per cent* of contract value.

BHEL's demands were agreed to and contract for CPP was awarded (February 2010) to BHEL at ₹ 3,348.30 crore (more than 17.41 *per cent* of the cost estimates prepared by Project Management Consultant) with the justification that the Company did not have any other alternative at that stage. The Company stated (October 2013) that since it was already decided by Board to implement CPP through BHEL on nomination basis, it was felt that mutual agreement for the deviations was the only alternative to freeze the issue as otherwise there was risk of putting the entire PDRP project schedule in jeopardy.

Phase- I of CPP (one GTG and HRSG) was scheduled for completion by September 2011 and overall completion by November 2012.

Cumulative progress achieved till September 2011 (i.e scheduled month of completion of Phase I) for CPP project was only 11.8 *per cent.* BHEL made one GTG and HRSG (i.e Phase I of CPP) ready in July 2012 and May 2013 respectively against the scheduled completion in September 2011 i.e with delay of 20 months. Further, overall mechanical completion schedule committed by BHEL was from November 2013 to June 2014 against scheduled completion of November 2012.

Examination in audit revealed that, on the one hand, the Company stated that delay in finalization of CPP project had the risk of putting the entire PDRP project schedule in jeopardy, and on the other hand the Company relaxed the specific condition that was meant to ensure timely completion of job by reducing maximum deduction that could be made in case of delay in completion of project to 5 *per cent* from 10 *per cent*. Further, the Company also failed to insert a clause in the agreement to levy interest on mobilization advance in case of delay in project beyond a particular timeline. Thus, the very purpose of awarding this contract on nomination basis at a higher value than the estimate was defeated.

The Company replied (October 2013) that many attempts were made to persuade BHEL to accept the commercial conditions without deviations, but time was running out and placement of work order for CPP was getting delayed. Also, BHEL's insistence on relaxing maximum price reduction to 5 *per cent* and interest free ad hoc mobilization advance of ₹ 120 crore was accepted to enable BHEL to start the work of CPP before formal placement of an order.

The reply needs to be viewed in light of the fact that in spite of deviations meant to ensure timely commissioning of CPP, the Company could not achieve the same.

It lost ₹ 26.68 crore on account of extending interest free ad-hoc advance of ₹ 120 crore (calculated at the rate of 8 *per cent* on ₹ 120 crore for a period September 2009 to September 2010 and on diminishing balance from October 2010 to March 2013). Unadjusted amount of advance was ₹ 80.45 crore (March 2013).

If the Company had levied price reduction of 10 *per cent* of contract value rather than 5 *per cent* in case of delay in mechanical completion, it could have recovered ₹ 334.83 crore from BHEL. However, as per relaxed condition, maximum amount that the Company might recover would be ₹ 167.42 crore only.

The extra cost attributable to the said relaxations was ₹ 194.10 crore (₹ 26.68 crore + ₹ 167.42 crore). The basic objective of timely completion of CPP, by awarding the contract to BHEL on nomination basis at a higher value than estimates, remained unfulfilled.

The matter was reported to the Ministry in November 2013; their reply was awaited (March 2014).

11.4 Short realisation of sale consideration

Sale of land below guideline value resulted in short realisation of ₹ 25.24 crore.

Government of Tamil Nadu acquired 153.20 acres of land at Ennore (Chennai) for Indian Oil Corporation Limited (Company) in 1996 for setting up LPG bottling plant. The Company set up the plant in 2001 in 40 acres of land.

The Board of Directors (BoD) of the Company accorded "in –principle approval" in August 2007 for handing over of surplus (about 110 acres) land to Indian Oil Petronas Pvt. Ltd. (IPPL), a Joint Venture Company of IOCL and Petronas of Malaysia to set up import / export terminal project. Equity contribution of ₹ 134 crore was made as on 31 March 2013 towards Company's share for construction of the import terminal by IPPL, subject to adjustment of market value of land against Company's share of 50% of equity. For valuation of land, Company appointed two Government approved valuers namely Guru Consultants and Capt. A. Kaliamoorthy.

Guru Consultants valued (October 2007) the land measuring about 110 acres at ₹ 32.14 crore including the cost of existing compound wall and Capt. A. Kaliamoorthi, valued (June 2008) the same at ₹ 34.31 crore, after taking into account the merits and demerits of the land.

After approval (January 2009) of BoD, the Company sold (June 2009) its surplus 110 acres land at ₹ 34.31 crore to IPPL. The Company subscribed (till April 2010)

₹ 134 crore, being 50 *per cent* of the total equity capital of ₹ 268 crore in IPPL partly in the form of transfer of 110 acres of land at a cost of ₹ 34.31 crore and balance sum of ₹ 99.69 crore in cash.

Audit examination revealed that:

- As per Section 44-A of the Land Acquisition Act, 1894, no Company for which any land is acquired under this part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise except with the previous sanction of the appropriate Government. The Company did not obtain sanction of State Government for sale of surplus land.
- BoD, while considering the revised cost of the project, directed (December 2008) that valuation of land needed to be critically reviewed considering changes in market dynamics, since the first estimate was worked out in August 2008.
- The value of the land adopted by the second valuer (which was accepted) was based on the guideline value that prevailed in August 2007 and a period of about 20 months had lapsed before execution of the sale deed. The guideline value of the land at the time of sale in June 2009 stood at ₹ 59.55 crore. However, the sale consideration was only ₹ 34.31 crore, i.e., the value determined by the second valuer and duly accepted by the Board while approving equity investment in the JV.

Thus, by not reviewing the current guideline value, the Company lost an opportunity to sell at additional sale consideration of ₹ 25.24 crore. There was also an undue benefit of ₹ 12.62[•] crore to the private sector joint venture partner, in the process.

The Company stated (August 2013) that (a) the issue of sale of the land was not taken up with the State Government since the land was being used for the purpose for which it was procured from State Government and (b) valuation of the land made by the second valuer who valued higher at ₹ 30 lakh per acre was accepted.

The reply of the Company is not acceptable in view of the following:

- The Land Acquisition Act, 1894 required the Company to obtain previous sanction of the State Government, which was not done.
- The Company relied on the report of the second valuer which was based on the guideline value of the land that prevailed in August 2007. The guideline value at the time of sale (June 2009) stood at ₹ 59.55 crore. The reasons as to why the Company has not asked for ₹ 59.55 crore as the sale consideration, were not forthcoming.

Thus, the Company disposed the land in which it lost an opportunity to earn additional revenue of ₹ 25.24 crore as consideration was not determined as per the guideline value at the time of sale. In the process the company extended undue benefit of ₹ 12.62 crore to the private sector joint venture partner.

The matter was reported to the Ministry in December 2013; their reply was awaited (March 2014).

• ***(₹59.55 crore – ₹34.31 crore) * 50/100***

11.5 Loss due to uneconomic movement of product

The Company suffered loss of ₹ 5.03 crore due to uneconomic movement of HSD

As per section 13(2) (a) of the Bihar Value Added Tax Act, 2005 (BVAT) read with Departmental notification No. S.O. 43 dated 4 May 2006, Value Added Tax (VAT) is leviable on High Speed Diesel oil (HSD) by the oil companies at the time of sale of such products to the retailers or direct consumers. However, no such VAT is leviable on sale of this product between oil companies. As per Bihar Entry Tax Act , 1993[1] entry tax is payable on specified goods entering into Bihar from outside the state and the such entry tax can be set off against the VAT liability arising out of sale of goods under the BVAT. Thus, in case HSD is sold by one oil company to another oil company by bringing the same from outside Bihar, there is no scope for set off of entry tax paid by the seller.

During August 2011, Indian Oil Corporation Limited (Company) sold 26618 KL of HSD to other oil companies[2] from its Patna Terminal which included 9360 KL brought from outside Bihar i.e. Haldia, West Bengal for which the Company paid ₹ 5.37 crore on account of Bihar Entry Tax. As no VAT was leviable on sale of 26618 KL of HSD to other oil companies, the above entry tax of ₹ 5.37 crore could not be set off by the Company. It was further observed that the Company had adequate stock of HSD at its Barauni Marketing Terminal in Bihar from where 9360 KL of HSD could have been supplied to the other oil companies at Patna even by incurring road transportation cost of ₹ 0.34 crore[3]. In this process, the Company could have saved ₹ 5.03 crore (₹ 5.37 crore - ₹ 0.34 crore) even after absorbing the additional road transportation cost.

The Company stated (November 2013) that there was low stock of HSD of Barauni origin at Patna and there was no option but to supply HSD available at Patna to other OMCs irrespective of its origin. The contention is not tenable as there was adequate stock of HSD at Barauni marketing terminal during the entire month of August 2011 from where 9306 KL of HSD could have been supplied to other oil companies at Patna. The Company further contended that road movement of HSD could not have been done in the absence of contracted tank trucks from Barauni to Patna. This is also not acceptable as considering the economy in product movement, the Company could have arranged road transportation of HSD and avoided loss of ₹ 5.03 crore.

Thus, due to uneconomic movement of product, the Company had suffered loss of ₹ 5.03 crore.

The matter was reported to the Ministry in November 2013; their reply was awaited (March 2014).

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1 ***Bihar Tax on Entry of Goods into local areas for consumption, use or sale therein Act, 1953***

2 ***20522 KL to Bharat Petroleum Corporation Limited and 6096 KL to Hindustan Petroleum Corporation Limited.***

3 ***Road transportation expense between Patna and Barauni (2 x 107 Km x 9360 KL x ₹ 1.6950 per KL per Km = ₹ 33.95 lakh)***

11.6 Deficient procurement procedure leading to extra expenditure

The Company placed repeat orders on vendors without considering their financial credentials and capability of fulfilling obligations resulting in extra expenditure of ₹ 30.68 crore and time overrun of two years

Indian Oil Corporation Limited (the Company) framed a special set of procurement procedures (June 2009) to have smooth, effective and efficient placement of Purchase Orders for commissioning of Paradip Refinery in Odisha. As per this procurement procedure, Master Suppliers List (MSL) submitted by Project consultant was to be finalised by the Company based on experience with vendors in respect of earlier projects. All suppliers on the approved MSL were to be considered capable for the item without a need for shop survey or assessment.

Examination in Audit revealed that for placement of orders, no consideration was given to financial credentials and concurrent orders in hand with the vendor. Further, while finalizing MSL, no monetary ceiling was fixed for placement of orders against each vendor to avoid bunching of orders. The Company placed repeat orders on same vendors without assessing financial credentials and capability of fulfilling supply obligations which resulted in extra expenditure as well as significant time over-run as follows:

For procurement of Air Cooled Heat Exchangers (ACHE), MSL including 10 vendors was finalised in June 2009. Limited tenders were invited (July 2009) from all vendors in the approved MSL. Jord Engineers India Limited (JEIL) was one among ten vendors and had negative net worth from 2006-07 onwards.

Considering the acceptance of technical requirements and lowest bid offered by JEIL, Fax of acceptance (FOA) for supply of eight ACHEs was issued on 28 April 2010 for a value of ₹ 23.63 crore. Three more FOAs valuing ₹ 5.69 crore for seven ACHEs were also issued to JEIL till 12 May 2010.

As per the terms of FOAs, Performance Bank Guarantee (PBG) equivalent to 10 *per cent* of the value of purchase orders was to be furnished by JEIL within 45 days from FOA and delivery was to be made in 9 to 13 months. Further, drawings were also to be submitted within 4 to 6 weeks. However, JEIL failed to furnish PBG and delayed submission of drawings in respect of all purchase orders.

Despite JEIL's failure to furnish PBG and drawings, three more purchase orders valuing ₹ 24.49 crore for eight ACHEs were placed on JEIL during September 2010 to December 2010. Drawings of JEIL under Code 2[♣] were approved in September 2011 i.e. after expiry of delivery period for the first four orders. JEIL expressed financial constraints and sought (October 2011) additional financial assistance through change in payment terms. This request was acceded to and the following additional financial assistance was agreed:

[♣] ***Approval of drawings under Code 2 were considered good enough for starting manufacturing activities***

- Submission of Performance Bank Guarantee by JEIL while claiming final payment of 10 *per cent* instead of within 45 days from FOA as per terms of Purchase Order.
- Releasing pro-rata payments through letter of credit (LC) for 80 *per cent* of order value against dispatch of documents.
- Advance of ₹ 2.69 crore was released (November 2011) on approval of drawings against existing bank guarantee for purchase order of Gujarat Refinery of the Company instead of submission of a fresh bank guarantee.

Even after this financial assistance, JEIL failed to deliver ACHEs in complete shape and supplied only 42 fans which were only bought out items. Accordingly, the Company, after assessing the availability of the material in the premises of JEIL and its capacity for executing orders, decided to offload all orders for balance material. Further, the Company conveyed (September 2012) to its Board of Directors that the chances of recovery of extra expenditure were bleak though fresh orders were to be placed at the risk and cost of JEIL. The balance work was re-tendered and finally awarded (October to December 2012) at a value higher than the original orders by ₹ 21.75 crore. The Company made a claim of ₹ 33.46 crore on JEIL (including cost of free issue materials provided to third party vendors by IOCL and cost of supervision). Payment against two invoices valuing ₹ 9.44 lacs was not released and bank guarantee of ₹ 2.69 crore was encashed (November 2012) by the Company.

Despite its bad experience with JEIL, on re-tendering the balance materials of air cooled heat exchangers, the Company placed three orders (October 2012) valuing ₹ 50.96 crore on GEI Industrial Systems Limited (GEIISL) for 14 ACHEs (out of 23 ACHEs ordered on JEIL) without considering their poor performance in respect of all thirteen purchase orders placed during January 2010 to January 2011. Seven POs valuing ₹ 47.46 crore were pending delivery in August 2012 despite a lapse of 10 to 18 months from the contractual delivery date. As GEIISL could not supply the material in respect of fresh orders due to financial crunch, additional financial assistance such as adhoc advance of 10 *per cent* of value of purchase order, submission of Performance Bank Guarantee before release of final payment of 10 *per cent* instead of within 45 days from FOA and direct payment to sub-vendors was extended. Even then, GEIISL did not supply full material against any of the purchase orders till December 2013 though scheduled delivery period was from March 2013 to June 2013.

Ministry stated (January 2014) that-

- No consideration was given to concurrent orders and fixing monetary ceiling in the Company as it lent a lot of subjectivity to the entire procurement process and was not very practical to operate in a public procurement environment on grounds of fairness and transparency
- Since there were only limited vendors in this field out of which one vendor was in the process of being offloaded, it was not possible to further prune the list and ignore GEIISL. Moreover, no adverse remarks, financial or otherwise, were

brought to the notice of the Company by the Managing Project Management Consultant.

- It was unfortunate that the vendor failed to perform despite following sound procurement procedure but in such large projects, it was not altogether possible to avoid getting into such situations.

Reply of Ministry needs to be viewed against the facts that:

- Capability of parties with regard to technical knowledge, availability of equipment, man power, financial position etc. are required to be assessed before including a vendor in the list of registered vendors as per Company's Material Management Manual. Had the Company followed the same, it could have avoided the situation.

- The Company could have invited global tenders to expand its list of vendors.

- Preparation of MSL based only on previous experience of either the Project Consultant or the Company without any separate qualification procedure led to placement of repeat orders which resulted in failure to supply or delay in supply by vendors.

Thus, a deficient procurement procedure led to purchase orders being placed repeatedly without considering financial credentials and capability of fulfilling obligations by the vendor. This resulted in extra expenditure of ₹ 30.68[1] crore and material ordered was awaited (December 2013) despite time overrun of two years.

Oil and Natural Gas Corporation Limited

11.7 Avoidable expenditure due to non-availing of deemed export benefit

Foreign Trade Policy exempted purchase of High Flash High Speed Diesel (HFHSD) from payment of excise duty under 'deemed exports' for consumption in petroleum operations in eligible areas falling under petroleum exploration licence (PEL)/ mining licence (ML), pre-NELP and NELP blocks, if such HFHSD was purchased through international competitive bidding(ICB). Oil and Natural Gas Corporation Limited purchased HFHSD during 2006-13 for its petroleum operations in the eligible areas without resorting to ICB tender by paying excise duty of ₹ 326.75 crore and failed to avail of deemed export benefit to that extent.

Customs notifications of March 2002 exempts payment of customs duty on import of goods required in connection with petroleum operations in areas where PEL/ML[2] has been issued or renewed after 1 April 1999 and for operations in pre-NELP and NELP[3] blocks. Foreign Trade Policy (2004-2009) exempted payment of excise duty on purchase of such goods against International Competitive Bidding (ICB) under 'deemed exports'.

1 ***(₹33.46 crore – (₹2.69 crore + ₹0.09 crore))***
2 ***PEL/ML – Petroleum Exploration Licence/ Mining Lease.***
3 ***NELP- New Exploration Licensing policy.***

While Central Excise Tariff Act, 1985 (First Schedule - Notification No. 6/2006-CE) grants exemption from payment of basic excise duty levied on such goods, additional excise duty was to be paid and refund to be claimed from Directorate General of Foreign Trade (DGFT) as a deemed export benefit (DEB). Either the buyer or the supplier could claim the refund of additional excise duty from DGFT. Subsequently, even payment of additional excise duty was exempted from March 2012.

Oil and Natural Gas Corporation Limited (Company) has been purchasing High Flash High Speed Diesel (HFHSD) for its petroleum operations in eastern and western offshore areas. While eastern offshore areas were solely PEL/ML or NELP areas eligible for DEB, the western offshore areas comprised both eligible and non-eligible areas. Thus, the entire purchase of HFHSD for eastern offshore areas was eligible for DEB, while a major part of the western offshore areas were so eligible.

The Company, however, purchased HFHSD from public sector Oil Marketing Companies (OMCs) on nomination basis during 2006-09 and incurred an avoidable expenditure on excise duty of ₹ 17.72 crore for its eastern offshore areas. On western offshore, though 95.33 *per cent* of the ML area and entire PEL area of the Company was eligible for DEB, it paid excise duty of ₹ 169.91 crore on purchase of HFHSD during the same period. As separate storage facilities for bifurcation of consumption of HFHSD in eligible and ineligible areas in western offshore areas was not available with the Company, Audit could not quantify the DEB foregone for the eligible areas in western offshore.

In August 2009, Indian Oil Corporation Limited (IOCL) informed the Company that HFHSD could be purchased without paying excise duty and DEB could be availed of if purchase was done through ICB tender under the provisions of Foreign Trade Policy. IOCL also offered to supply HFHSD under these provisions. Tax Consultant of the Company also confirmed (February/March 2010) availability of DEB under these provisions. Mining Lease for Mumbai High which is located in western offshore area was re-granted by the Government in October 2010 and, thus, the maximum area in western offshore became eligible for DEB. In May 2010, the Company decided to initiate a ICB tender for purchase of HFHSD for eastern as well as western offshore areas and to create separate storage tank facilities concurrently for western offshore areas. However, the Company invited a combined ICB tender for eastern and western offshore only in October 2011 after a delay of more than two years from the date IOCL had apprised it of the provisions for availing of DEB.

From August 2009 to October 2011, the Company continued to purchase HFHSD for eastern offshore and western offshore areas without resorting to ICB tender, paid avoidable excise duty of ₹ 141.04 crore by foregoing the available DEB.

In response to invitation of offers against ICB tender floated in October 2011, the Company did not receive any bids. A likely reason for the lack of response from the suppliers was that it had placed the onus of claiming refund of additional excise duty on the suppliers. The condition was in contrast to the practice in vogue in blocks operated by others including PMT block where the Company had the major participating interest as a joint operator, whereby refund for excise duty was claimed by the buyers.

Subsequently in March 2012, the excise duty provisions were amended exempting payment of additional excise duty along with the basic excise duty on HFHSD. The Company, however, did not take cognizance of the changed provisions and issued a revised ICB tender for eastern offshore and western offshore in July and November 2012 respectively with an option to the supplier to quote for HFHSD at a price inclusive of excise duty, stating that refund of excise duties would be claimed by the Company.

All the three public sector OMCs quoted a price inclusive of excise duty and the Company placed orders on OMCs for both eastern and western offshore in October 2012 and April 2013 respectively. Though the Company had paid a price inclusive of excise duties for purchase of HFHSD, no refund had been received by it from DGFT till date (January 2014).

From November 2011 to March 2013, the Company incurred avoidable expenditure of ₹ 167.99 crore towards excise duty on purchase of HFHSD and could not avail of DEB. Subsequently, the Company's eastern offshore again floated (July 2013) ICB tender for HFHSD. OMCs quoted in this tender without any excise duty, and the Company placed (30 September 2013) orders on Hindustan Petroleum Corporation Limited (HPCL).

Thus, the Company purchased HFHSD from OMCs for eastern offshore (during 2006-07 to 2012-13) and for western offshore (during November 2011-March 2013) for its petroleum operations by paying avoidable excise duty of ₹ 326.75 crore even though DEB was available.

The Management stated (October 2013) that:

- ICB tender was not floated prior to 2010 because OMCs never agreed to supply HFHSD without charging excise duty under administered rates and also did not agree to the standard terms and conditions of the tender.
- Administered prices were lower compared to international prices and hence, there was no possibility of any foreign bidder participating in ICB tender.
- Refund of claims had been suspended between March 2011 and May 2012 due to decision of DGFT about eligibility of fuel under DEB. Hence, the Company could not take any action from 15 March 2011 to 17 May 2012 for availing of DEB.
- The eastern offshore of the Company did not receive the refund claim from DGFT till date for the quantities of HFHSD procured up to March 2013 against the ICB tender of 2012 since as per DGFT Circular (15 March 2013), no refund of terminal excise duty was admissible where such supplies was *ab-initio* exempted from excise duty as per Central Excise Notification of 17 March 2012.

Reply is not convincing in view of the following:

- The Company admitted in its reply that it did not invite ICB tenders prior to 2011 as it was unaware of DEB till intimation by IOCL in August 2009. The Company, thus, had not explored this option with the OMCs at all and, hence, the question of OMCs' not agreeing to supply HFHSD without charging excise duty did not arise. Besides, the OMCs had been supplying HFHSD to other parties (notably PMT-JV) during this period, allowing such parties to claim refund of excise duty.

Lack of awareness on the part of the Company, being a major Exploration and Production (E&P) operator in India, is not convincing, particularly when its failure to avail of DEB in procurement of oil well cement under identical provisions had been highlighted in C&AG's Report No.11 of 2007*.

- The contention that no foreign bidder would have quoted the administered price being low, is not justified as the requirement for availing DEB was invitation of ICB tender and not participation by/ procurement from foreign bidders. In ICB bids invited subsequently by the Company (in 2012) no foreign bidders participated and yet orders were placed on OMCs to avail DEB.
- Refund of excise duty was seamlessly available to eligible operators throughout the entire period (2006 till date). The contention of the Company that it *could* not take any action from March 2011 to May 2012 in view of DGFT's suspension of refund of excise duties during this period, has to be viewed in light of the fact that other E&P operators placed orders under ICB tender during this period to avail of the exemption benefit. Besides, the quoted Petrofed communication (November 2011), itself confirmed that such refund was available in terms of para 8.2 (f) of Foreign Trade Policy.
- DGFT circular of 15 March 2013 quoted by the Company in reply was only a clarification to the Central Excise Notification issued earlier on 17 March 2012 which had stipulated that no excise duty (Basic as well as additional excise duty) was payable on HFHSD purchased through ICB. As the Company had invited the tenders after March 2012 (in July 2012 and November 2012 for eastern and western offshore respectively), the contract provisions should have been suitably aligned to the tax notification that had already been issued in March 2012. Refund claim submitted by the Company had not been honoured by DGFT in view of the fact that from March 2012 excise duty was not payable *ab-initio*.

The matter was reported to the Ministry in January 2014; reply was awaited (March 2014).

11.8 Avoidable expenditure due to change in location of platform in Vasai East Field

Due to change in location of a process platform in Vasai East Field and consequent prolonging of project duration, Oil and Natural Gas Corporation (Company) incurred an avoidable expenditure of ₹ 79.48 crore comprising (i) payment of ₹ 55.85 crore to the Contractor due to deferment of installation and acceleration efforts put in by the Contractor including element of additional service tax and (ii) laying of temporary pipeline at a cost of ₹ 23.63 crore to commence oil production pending commissioning of the project, besides sustaining loss of revenue ₹ 17.98 crore due to flaring of gas in the absence of facilities to handle it.

The Vasai East field is located in western offshore. In order to exploit the hydrocarbon potential, the Company planned to develop the field through installation of facilities.

* *Para 13.8.7 of Report No.11 of 2007 of CAG - Union Government-(Commercial).*

Accordingly, a contract for installation of Booster Compressor *cum* Process Platform (BCPA-2) under Vasai East Development (VED) Project was awarded to a consortium of 'M/s Samsung Heavy Industry Limited (SHI) and M/s. Larsen & Toubro (L&T)' – jointly referred to as Contractor, in January 2006 with scheduled completion by April 2008. As per contractual terms, SHI and L&T were to receive separate payments for the work carried out by them respectively. The platform was to be installed on the location mentioned by the Company in the bid package. The Contractor commenced the detailed pre-engineering work in February 2006. However, location of the platform had to be changed and new location was approved by the Company in July 2006. The Project was actually completed in July 2009. During execution of the Project, SHI submitted claims for time and cost over run for the reasons attributable to the Company. The Company disputed the claims and asked (December 2009) the contractor to submit its claims to an Outside Expert Committee (OEC) – a mechanism devised by the Company for speedy resolution of commercial disputes. On accepting (December 2011) the recommendations of OEC, the Company paid (September 2012) the claim of SHI for ₹ 51.43 crore. Claim for the same reason submitted by L&T towards additional service tax was paid (October 2012) by the Company at ₹ 4.42 crore.

Audit observed that:

- Location of the platform was decided by the Company and incorporated in the bid documents. Before award of the project in January 2006, there was concurrent activity of laying subsea pipeline under a separate contract near the proposed location of BCPA-2 platform. During initial survey conducted by the Company for deciding location of the platform and incorporation in the bid documents, the Company did not notice the interfacing pipeline. The project was, thus, awarded to the Contractor for execution of work at a location, the coordinates of which were hindered by an existing pipeline. During a review meeting (22 March 2006), SHI informed the Company about the obstruction at the proposed platform location caused by the pipeline. On the request of the Company, the Contractor proposed an alternate location which was accepted by the Company. This delayed the project by 3 to 4 months and deferment of work across two seasons.

Thus, the platform was commissioned in July 2009 after a delay of over a year. Due to change in location and consequent prolonging of project duration, the Company paid an additional amount of ₹ 51.43 crore to SHI for deferment of installation and acceleration efforts put in by it.

- Due to delay in completion of the Project, the Company decided (March 2008) to make alternate arrangements for starting production from Vasai East field by processing the oil at the existing facility at another complex. The alternate arrangements involved installation of risers and laying of 8" pipeline. The Company incurred an expenditure of ₹ 23.63 crore on laying temporary pipeline for early production.

- The temporary facilities had been created for handling and processing fluids alone. As there were no facilities for handling gas produced in the field, the entire gas (56.193 MMSCM) had to be flared. This resulted in loss of revenue of ₹ 17.98 crore from March 2008 to March 2009.

Thus, change in location and creation of alternate facilities led to an avoidable expenditure of ₹ 79.48 crore and loss of revenue of ₹ 17.98 crore due to flaring of gas.

The Company replied (January 2013) that:

- The claims of the Contractor were referred to OEC and the payment made to the contractor was accepted by the Company as reconciliation of the issue.
- By making alternate arrangement on facilities, oil production was started in May 2008 from Vasai East wells. This was a proactive step taken by the Company and, therefore, though VED Project completion was delayed, temporary laying of pipelines helped the Company to start early production of oil.

The reply is not convincing, as

- The onus for deciding the location of the platform was on the Company. Existence of the interfacing pipeline ought to have been taken into consideration as the pipeline was also installed by the Company itself.
- The delay attributable to the Company had contributed to excess expenditure in laying temporary pipelines and flaring of the gas produced from the field which were avoidable

The matter was reported to the Ministry in February 2014; their reply was awaited (March 2014).

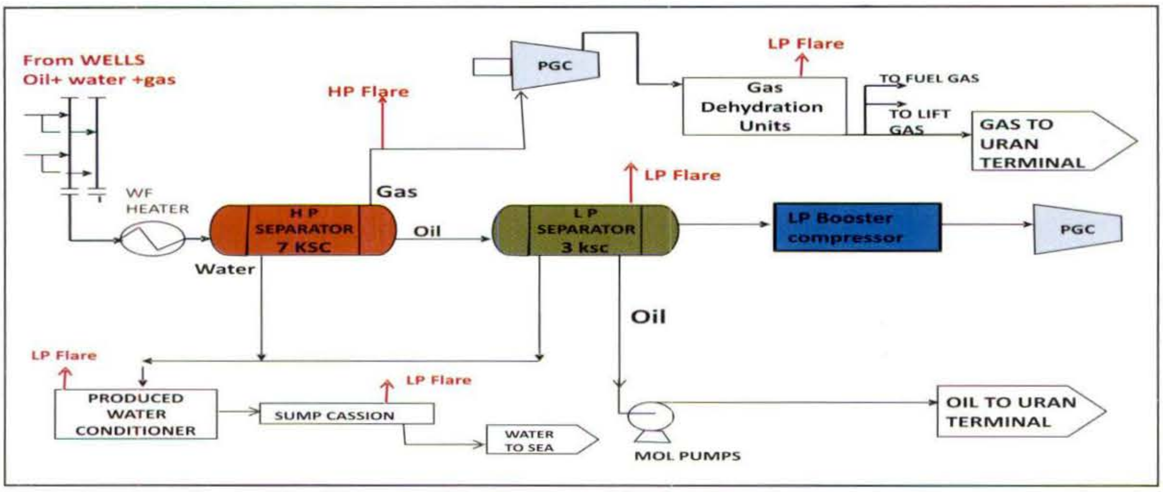
11.9 Avoidable flaring of gas

Delay by Oil and Natural Gas Corporation Limited (Company) in upgrading Process Gas Compressors (PGCs) at Neelam Platform led to frequent tripping of PGCs resulting in flaring of 21.536 Million Standard Cubic Metres (MMSCM) of high pressure gas valuing ₹ 16.54 crore during the period 2010-13. Tender finalization for flare gas recovery project was also delayed by the Company by one year which also led to avoidable flaring of 23.725 MMSCM low pressure gas valuing ₹ 18.37 crore during 2011-12. There was, thus, a total avoidable flaring of gas valuing ₹ 34.91 crore.

Neelam Asset of Oil and Natural Gas Corporation Limited (Company) produces both oil and gas. Oil, water and gas mixture coming out of the wells is sent to a High Pressure (HP) separator for separating the oil, gas and water. While the gas coming out of the HP separator is diverted to the Process Gas Compressor (PGC) for compression, the liquid from the HP separator is sent to the Low Pressure (LP) separator. Gas from the LP separator being at low pressure has to be boosted by LP Booster Compressor to a pressure of 6 to 8 Kg/cm^2 for feeding to Process Gas Compressors (PGCs) for further use.

HP flare system is designed for safety of the platform. Any disruption in compression, either due to PGC shutdown/tripping/ process upsets, *etc.*, leads to flaring of HP gas. LP flare system is designed to flare very low pressure process gas from Produced Water Conditioner, Gas Dehydration Units, *etc.* required for normal operation of platform. In the absence/non-functioning of LP booster compressor, LP gas has to be flared. The graphical presentation is given below.

Process Description



Source: Chart provided by the Company.

A. Flaring of HP Gas: Neelam Process Complex had three PGCs installed during 1990 to 2000. The compressors being old were running at lower efficiency leading to frequent tripping. As against the Company's vision of zero trips, instances of tripping of PGCs during 2010 and 2012 were 30 and 37. In 2011, the instances of tripping increased to 80, as one of the three PGCs had to be shut down.

The Company had a policy for replacement of PGCs after these machines completed 20 years or more of their life. PGCs were installed during 1999-2000. However, even before completion of 20 years' life, PGCs were functioning poorly. A Multi Disciplinary Team (MDT) of the Company met in July 2008 to discuss, *inter alia*, issues related to the health of PGCs. Considering the performance and availability of machines, MDT recommended (July 2008) a health check-up of systems and sub systems to enhance performance and reduce non-availability of machines. Health check-up of three PGCs in Neelam Complex was carried out by the Original Equipment Manufacturer (OEM) only in November 2010 *i.e.* after over two years of MDT's recommendation. As per OEM's recommendation, the Company was to take up up-gradation of the control system and starting system of PGCs at the earliest. However, even after three years of the OEM's recommendation, the Company was yet (February 2014) to award the job. During 2010-13[♥], due to frequent tripping of the PGCs, 21.536 MMSCM of HP gas valuing ₹ 16.54 crore had to be flared which was avoidable.

The Company stated (September 2013) that (i) action was on hand to award the job for up-gradation of the control system and starting system to OEM, (ii) major overhaul of compressor and replacement of engine/accessory of PGC 'C' was completed in February 2013; (iii) similar overhaul of 'B' and 'A' PGCs was planned in October 2013 and July 2014. It added that the first stage cooler revamp in all the three PGCs was planned in 2013-14.

[♥] *Considering two years time for corrective action on the MDT recommendations.*

Reply is not convincing as in response to MDT's recommendation of July 2008 for carrying out the health check up of PGCs, the Company took more than two years to carry out the health check up. Even after three years of health check up, the job for upgrading the control system and starting system was yet (February 2014) to be awarded to the OEM. Meanwhile, avoidable flaring of HP gas continued.

B. Flaring of LP Gas: The available LP booster compressor in Neelam Process Complex, commissioned in 1994 was designed as per criteria based on the then envisaged production of the field. However, actual production of the field declined faster than expected and the quantity of LP gas, thus, reduced. LP booster compressor could not be operated with less input volume and lower molecular weight gas. Hence, LP gas released from the LP separator was being flared. To reduce flaring of LP gas from Neelam Process Complex, the Company conceptualised the Flare Gas Recovery Project (FGRP) in 2005-06 wherein it decided to install screw compressor. The Company also decided to replace the existing compressor in another process complex *viz.* Heera Process Complex in Heera Asset with the screw compressor. Based on the drawings and bid package prepared (November 2006) by Saipem Triune (ST), the Company invited (April 2007) tenders for FGRP. As only one bid was received, the Company's Executive Purchase Committee (EPC) directed (February 2008) re-tendering. The Company got the scope reviewed (March 2008) by Engineers India Limited (EIL) and after retendering placed Notification of Award (NOA) in March 2010 on Kirloskar Pneumatic Company Limited with scheduled completion by September 2011. FGRP was, however, commissioned in March 2012 in Neelam and May 2012 in Heera Complex.

FGRP was originally a part of turnaround plan of Neelam-Heera Complex approved in May 2008 for completion by April 2011. Considering that Neelam-Heera turnaround plan was at the nascent stage in 2006, the Company felt it prudent to fast track the project and complete it by June 2008. While bid package and cost estimates were prepared by ST in November 2006, NIT was issued only in April 2007 after a gap of six months. The price bid was opened in September 2007 and TC held negotiations in October 2007. On receipt (November 2007) of revised price, TC submitted its recommendations for re-tendering to EPC after two months (January 2008). After EPC agreed (February 2008) to re-tendering, fresh tenders were invited in September 2009 against the planned schedule of February 2009. The delay in invitation of fresh tender delayed NOA from July 2009 to March 2010 and completion schedule from October 2010 to September 2011. This schedule too was not met and FGRP envisaged to be completed in June 2008, was finally completed only in March - May 2012. The delay of one year in finalization of the tender led to avoidable flaring of gas valuing ₹ 18.37 crore[♠].

The Company while explaining (September 2013) the reasons for delay such as time taken for price negotiations, discussion for avoiding retendering, IRR calculations and details of Clean Development Mechanism (CDM) benefit, stated that this was the first exercise of its kind and, hence, it took extra time. It added that before issue of NIT, there were apprehensions that hybrid screw compressors would be a better option compared to oil filled screw compressors. The case was referred to M/s. Hybon, USA (July 2009) which confirmed (August 2009) the suitability of the selected compressor.

♠ ***Considering flaring of 23.725 MMSCMD of gas that occurred during 2011-12.***

Reply does not offer any valid or acceptable explanation for delays in processing of tender, according administrative approval and financial sanction and delay in completion of Project. The Company unduly delayed the project that was planned in 2005-06 with scheduled completion in June 2008 and was completed only in March-May 2012. Further, the Company came across the option of hybrid screw compressors only in July 2009 whereas the administrative approval was accorded in June 2009 and it decided to go ahead with screw type compressors which does not justify the delay that occurred *ab initio*. Meanwhile, due to delay in finalizing FGRP and continued tripping of Process Gas Compressors, the Company had to flare 45.261 MMSCM of gas valuing ₹ 34.91 crore, which was avoidable.

The matter was reported to the Ministry (October 2013); their reply was awaited (March 2014).

11.10 Extra expenditure due to hiring rig beyond required capacity

Oil and Natural Gas Corporation Limited hired a high capacity rig capable of drilling deep exploratory wells up to 7,000 metres and deployed it for drilling of wells with depth in the range of 4,525 metres to 4,817 metres which could have been drilled using lower capacity rigs at a lower cost. This led to extra expenditure of ₹ 19.10 crore on account of higher hiring charges.

Oil and Natural Gas Corporation Limited (Company) invited (May 2007) tender for hiring eight drilling rigs for onshore drilling classified under Type-II to Type-IV on the basis of their specifications. A Type-III rig was capable of drilling exploratory and development wells including high angle, multilateral and side tracking wells up to the depth of 6,000 metres and Type-IV rig was capable of drilling exploratory wells up to the depth of 7,000 metres.

Executive Committee (EC) of the Company approved (August 2006) hiring of the Type-IV rig *viz.* 'Shiv-50' for the purpose. As the rig was meant for drilling deeper (upto 7,000 metres) exploratory wells, its hire charges were higher (₹ 15.30 lakh/day) compared to Type-III rig (₹ 10.62 lakh/day). However, after hiring the rig, the Company deployed it to drill wells of a depth ranging between 4,525 metres and 4,817 metres. Wells of this depth could have been drilled by Type-III rig(s) at a lower cost. Thus, deployment of Type-IV rig for drilling locations on which Type-III rig(s) resulted in avoidable extra expenditure of ₹ 19.10 crore, being the differential cost in their hiring.

The Company replied (January 2014) that one Type-IV rig 'Shiv-50' was hired to meet requirement of wells proposed to be explored in deep horizons and basement of depth range of 4,500 metres to 5,200 metres. Many high drift/high angle wells in the depth range of 4,500 metres to 5,000 metres with high torque/high drag requirement were to be drilled. It contended that only a Type-IV rig was capable of drilling such wells smoothly with minimum complications and admitted that the hired Type-IV rig could not be deployed at such locations due to non-availability of land clearance for drill site works and, hence, to avoid idling, the rig was deployed to drill deviated wells in complicated formation.

Reply needs to be viewed in the light of the fact that approval of EC to hiring of Type-IV rig was against the specific requirement of indent placed in May 2007 by Drilling Technical Section of the Company. The indent specified that Type-III rigs were required for drilling high angle and horizontal/multilateral/side track wells of depth up to 6,000 metres and that Type-IV rigs were necessary for drilling exploratory wells up to 7,000 metres. The Company hired a Type IV rig despite the fact that suitable locations on which the rig was to be deployed were not available and later used it elsewhere to avoid idling.

Thus, hiring of rig of higher capacity than required, led to its utilization in locations which could have been drilled by a lower capacity rig which resulted in avoidable expenditure of ₹ 19.10 crore, being the differential cost of hiring of the two types of rigs.

The matter was reported to the Ministry in November 2013; reply was awaited (March 2014).

CHAPTER XII: MINISTRY OF POWER

NTPC Limited

12.1 Additional expenditure due to amendments to contracts

The Company extended undue benefit to contractors by amending contracts resulting in additional expenditure of ₹ 142.33 crore along with further liability of US$ 3.51 million towards retrospective price escalation for foreign materials already supplied within the original contractual period.

NTPC Limited (Company) awarded (March 2005) three separate contracts to M/s. FGUP "VO" Technopromexport, Russia (TPE) for supply, erection and commissioning of Steam Generator and Auxiliaries of Main Plant Package (Part- A) at Barh Super Thermal Power Project (BSTPP) Stage-I (3 units x 660 MW) at a total contract price equivalent to ₹ 2066 crore[1]. Similarly, three separate contracts for supply, erection and commissioning of Steam Turbine Generator and Auxiliaries of Main Plant Package (Part- B) were awarded (March 2005) to M/s. Power Machines[2] (PM) at a total contract price equivalent to ₹ 1192.87 crore[3]. The dates by which contracts were to be completed for commissioning of the above units of BSTPP was January 2009 (Unit 1), July 2009 (Unit 2) and January 2010 (Unit 3). The contracts stipulated price escalation for both foreign and indigenous materials, subject to a ceiling of 20 *per cent* of its contractual value.

Meanwhile, TPE informed (March 2006) the Company about the change in its legal status and accordingly, the contract with TPE was amended (April 2007). TPE approached (January 2007 onwards) the Company for extension of the contractual delivery schedule and removal of price variation ceiling of 20 *per cent* due to delay by the company in accepting change of legal status of TPE. M/s. PM also pursued (October 2007 onwards) the Company with a similar request on the ground of inflationary trends in material cost and unfavourable exchange rates.

As TPE had raised issues relating to time extension, removal of 20 *per cent* ceiling on the price variation and delay in execution of work, the Company sought (September 2009) permission from Ministry of Power (MoP) for termination of the contract on grounds of infringement of contractual provisions and to complete the contract at the cost and expenses of TPE with subsequent ratification by the Board of Directors (November 2009).

MoP directed (May 2010) the Company not to terminate the contract with TPE and to revise the completion schedule by removing price variation ceiling of 20 *per cent* since 2005. The Company, accordingly, amended the contract (October 2010) with TPE, by

[1] *@ ₹45.55 per US$*

[2] ***Power Machines ZTL, LMZ, Electrosila, Energomachexport, Russia and its assignee M/s. LMZ Energy (India) Ltd., New Delhi***

[3] ***@ ₹45.45 per US$***

removing the price variation ceiling of 20 *per cent,* retrospectively, for supply of foreign materials and also extended the completion schedules by 55 months to August 2013 (Unit 1), February 2014 (Unit 2) and August 2014 (Unit 3). Similarly, to meet the revised schedule with TPE, the contract with M/s. PM was also amended (March 2011) by removing the above price variation ceiling retrospectively and completion schedules were extended by 57 months to October 2013 (Unit 1), April 2014 (Unit 2) and October 2014 (Unit 3). These amendments resulted in additional liability of US$ 35.04 million[1], of which US$ 31.53 million[2] (₹ 142.33[3] crore) was paid in respect of the foreign materials already supplied within the original contractual period (January 2009).

The Company stated (January 2013) that the decision for removal of price variation ceiling of 20 *per cent* was taken in line with the decision of MoP in the discussion held (March 2010) between the Company, TPE and MoP. While endorsing (April 2013) the views of the Company, MoP further stated that the Company subsequently decided (November 2010) to remove price variation in the bidding documents for all future packages.

The reply needs to be viewed against the fact that the contractors were irregularly paid for materials already supplied within the original contractual completion period, as price variation ceiling was removed retrospectively. This resulted in undue benefit to the contractors. It was also denial of level playing field as removal of the important parameter on restriction to price variation conferred a post contractual advantage to TPE and PM.

Thus, removal of price variation clause in the amended contracts (October 2010 and March 2011) in respect of the foreign materials already supplied within the original contractual period (January 2009) was irregular, for which the Company had to bear an additional liability of US$ 35.04 million (US$ 31.53 million equivalent to ₹ 142.33 crore was paid and US$ 3.51 million retained for performance guarantee).

1 ***TPE – US$ 28.38 million and PM – US$ 6.66 million***

2 ***TPE – US$ 25.54 million and PM – US$ 5.99 million***

3 ***TPE – ₹115.53 crore and PM – ₹26.80 crore***

CHAPTER XIII: DEPARTMENT OF PUBLIC ENTERPRISES

National Aluminium Company Limited, Bharat Heavy Electricals Limited, Housing and Urban Development Corporation Limited, GAIL (India) Limited, NHPC Limited, NTPC Limited, Power Finance Corporation Limited, Power Grid Corporation of India Limited, SJVN Limited THDC India Limited and Indian Oil Corporation Limited

13.1 Irregular payment towards encashment of Half Pay Leave/Sick Leave/Earned Leave as well as employer's share of EPF contribution on leave encashment.

Encashment of half pay leave/sick leave/earned leave in deviation from DPE guidelines, resulted in irregular payment of ₹ 138.58 crore from January 2006 to October 2013. Further, CPSEs made irregular contributions of ₹ 23.42 crore on account of provident fund in respect of leave encashment to employees during 2008 to 2012 and did not adjust excess contributions amounting to ₹ 38.70 crore made prior to March 2008 in violation of the judgment (March 2008) of Hon'ble Supreme Court of India and instructions of Employees Provident Fund Organisation

According to the Department of Public Enterprises (DPE) instructions of April 1987[1], an individual central public sector enterprise (CPSE) may frame leave rules for its employees keeping the broad parameters of the policy guidelines laid down in this regard by the Government of India (GOI).

GOI allowed encashment of half pay leave (HPL) and earned leave (EL) put together within the overall ceiling of 300 days with effect from 1-1-2006, on superannuation, which was an enhancement to the earlier ceilings on encashment of EL up to 240 days. Thus, in terms of DPE instructions of April 1987 *ibid*, CPSEs were also required to follow the overall ceiling of 300 days for encashment of EL and HPL for their employees on retirement.

On a reference made by Ministry of Shipping DPE clarified to all CPSEs on 26 October 2010[2] that, they were not permitted to encash leave beyond the overall ceiling of 300 days. In a further clarification of 17 July 2012[3], referring to its instructions of April 1987, DPE reiterated that sick leave could not be encashed, though EL and HPL could be considered for encashment of leave on retirement subject to the overall limit of 300 days.

A. Audit observed that the following CPSEs deviated from the DPE guidelines and made irregular payment of ₹ 138.58 crore to their employees towards HPL/SL/EL encashment on superannuation over and above the ceiling of 300 days.

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[1] ***OM No. 2(27)85-BPE(WC) dated 24 April 1987***

[2] ***OM No. 2(32)10-DPE(WC) GL-XXIII dated 26 October 2010***

[3] ***OM No. 2(14)/2012-DPE(WC) dated 17 July 2012***

Sl. No.	Administrative Ministry	Name of CPSE	Period	Amount (₹ in crore)
1	Ministry of Mines	National Aluminium Company Limited (NALCO)	January 2006 to March 2013	25.67
2	Ministry of Heavy Industries	Bharat Heavy Electricals Limited (BHEL)	April 2013 to October 2013	36.86
3	Ministry of Housing and Urban Poverty Alleviation	Housing and Urban Development Corporation Limited (HUDCO)	January 2006 to October 2012	2.16
4	Ministry of Petroleum and Natural Gas	GAIL (India) Limited	April 2008 to March 2013	2.51
5.	Ministry of Petroleum and Natural Gas	Indian Oil Corporation Limited (IOCL)	April 2008 to March 2013	71.38
TOTAL				**138.58**

NALCO stated (August 2013) that DPE guidelines for encashment of HPL were applicable only to Central Government employees and PSU executives drawing salary on CDA[1] pattern. The executives of the Company drew their salary on IDA[2] pattern of scales and no such guideline/directive was received in respect of such executives drawing salary on IDA pattern of scales.

BHEL stated (January 2014) that there were no specific instructions from DPE prohibiting encashment of HPL during the service period.

HUDCO stated (February/November 2013) that encashment of HPL was a conscious decision of the Company with a view to retaining efficiency and to get output without increasing the number of employees.

GAIL stated (October-2013) that commuted leave could be availed on medical grounds whereas half-pay leave was admissible on other grounds also. In oil industry, where the operations were round-the-clock, such type of absence adversely affected the operations and caused additional strain on its finances.

IOCL stated (October-2013) that its Board had allowed (1984) encashment of sick leave/half pay leave as an operational requirement with the objective that it should act as a disincentive to proceeding on leave and curb absenteeism which were frequently resorted to in the last few years prior to retirement by the individuals on one ground or the other. Therefore, leave rules had been framed in line with the flexibility for CPSEs under the DPE guidelines. Accordingly, payment towards leave encashment was in compliance to the broader framework of DPE guidelines and within the rules of the Company.

Replies are not acceptable as leave encashment beyond the overall policy of GOI was not permitted as per DPE instructions of April 1987. Further, DPE's circular of 26 October 2010 clarified that CPSEs were not permitted to encash leave beyond the overall ceiling

[1] ***Central DA***
[2] ***Industrial DA***

of 300 days. In another clarification issued in July 2012, referring to instructions of April 1987, DPE reiterated that EL and HPL could be considered for encashment on superannuation subject to overall limit of 300 days. Therefore, encashment of HPL to employees on retirement beyond the overall ceiling of 300 days was in violation of DPE guidelines and was, thus, irregular.

B. As per Employees' Provident Fund (EPF) and Miscellaneous Provisions Act, 1952, contribution to EPF included employer's contribution at the rate of 12 *per cent* of the basic wages, dearness allowance and retaining allowance (if any) paid to an employee and an equivalent amount towards employee's contribution which was to be recovered from the employee's salary. The question whether the amount of leave encashment paid to employees was to be reckoned as part of basic wages was contested by different stakeholders in various courts at various points of time. Bombay High Court[1] (September 1994) and the Karnataka High Court (October 2003)[2], held that the leave encashment was to be reckoned as part of basic wages for the purpose of contribution to EPF. Employees Provident Fund Organization (EPFO) also advised (9 September 2005) its field offices to enforce the recovery of EPF contribution on leave encashment. On subsequent adjudication of the dispute, Supreme Court decided[3] (12 March 2008) that "basic wage was never intended to include amounts received for leave encashment" and directed that, "if any payment has already been made, it can be adjusted for future liabilities and there shall not be any refund claim since the fund is running one". In view of the judgment of Supreme Court *ibid*, EPFO conveyed (May, 2008) to all its field offices to discontinue provident fund contribution on leave encashment with immediate effect and where provident fund contribution of the employer's share had been received, the same should be adjusted against future liabilities.

Examination in Audit revealed (December 2012 to September 2013) that seven CPSEs *viz.,* Bharat Heavy Electrical Limited (BHEL), NHPC Limited (NHPC), NTPC Limited (NTPC), Power Grid Corporation India Limited (PGCIL), THDC India Limited (THDC), SJVN Limited (SJVN) and Power Finance Corporation Limited (PFC), either continued to make employer's contribution to employees' provident fund on the amount of leave encashment even after the judgment of Supreme Court or did not adjust the employer's share on leave encashment already paid against future liabilities. Details of employer's contribution on the amount of leave encashment paid by the above CPSEs are detailed below:

[1] ***In the case of Hindustan Lever Employees' Union vs. Regional Provident Fund Commissioner (RPFC)***

[2] ***In the case of Manipal Academy of Higher Education vs. Provident Fund Commissioner***

[3] ***In case of Manipal Academy of Higher Education vs. Provident Fund Commissioner- Appeal (Civil) No. 1832 of 2004***

(₹ in crore)

Sl. No.	Name of Company	Month of starting payment of employer's share of EPF contribution on leave encashment	Month of discontinuation of employer's share of EPF contribution on leave encashment	Total payment of employer's share of EPF contribution on leave encashment excluding employees retired before judgement of Supreme Court	Amount contributed by employer after date of judgement (included in column 5)	Amount adjusted/ agreed to be adjusted by employer
1	2	3	4	5	6	7
1	BHEL	April 2005	May 2008	15.16	0.72	Nil
2	NHPC	Feb 2005	Feb 2012	18.58	15.15	Nil
3	NTPC	June 2001	October 2008	20.91	3.37	Nil
4	PGCIL	June 2003	October 2008	4.39	1.13	Nil
5	THDC	May2005	April 2012	3.08	2.37	Nil
6	SJVN	Aug 2006	Feb 2011	0.76	0.68	0.76
7	PFC	April 2005	May 2008	0.23	0	0.23
	Total			**63.11**	**23.42**	**0.99**

It is evident from the above that (i) six out of above seven CPSEs viz. BHEL, NHPC, NTPC, PGCIL, THDC and SJVN continued making EPF contribution to the extent of ₹ 23.42 crore on leave encashment even after the judgment (March 2008) of Supreme Court. Except BHEL and PFC, EPF contributions on leave encashment were continued even after specific instructions of EPFO (May 2008). (ii) Out of excess contributions amounting to ₹ 39.69 crore (₹ 63.11 crore less ₹ 23.42 crore) pertaining to the period prior to the decision of Supreme Court, an amount of ₹ 38.70 crore (₹ 39.69 crore less ₹ 0.99 crore adjusted/ assured to be adjusted by SJVN and PFC) remained unadjusted.

BHEL stated (September 2013) that adjustment in respect of serving employees was not possible as different stand on the same policy issue could not be taken in respect of serving and retired employees for the same period of service.

NHPC/Ministry stated (February 2013/March 2014) that payment of EPF contribution on leave encashment was discontinued when the auditors pointed out the irregularity while finalizing the annual accounts of 2010-11.

NTPC stated (October 2013) that the time taken in stopping provident fund deductions after Supreme Court judgment was on account of procedures involved.

PGCIL/Ministry stated (July 2013/March 2014) that they had implemented the decision of Supreme Court from October 2008.

THDC/Ministry stated (October 2013/March 2014) that consequent upon decision of Supreme Court, the matter was referred to legal consultant in view of legal complexities relating to its implementation and the practice was finally discontinued in 2012-13. Further, to avoid employee unrest it was decided not to adjust the excess contributions in future.

SJVN/Ministry stated (June 2013/March 2014) that instructions of EPFO of May 2008 were received by them in January 2011 and the practice was discontinued from February 2011.

PFC stated (September 2013) that action was being taken to adjust the amount of excess contribution against future contributions and to recover the amount from separated/retired employees.

Replies are to be viewed against the fact that the decision of Hon'ble Supreme Court as well as instructions of May 2008 of EPFO to discontinue provident fund contribution on leave encashment were applicable with immediate effect and also mandated adjustment of excess contributions already made against future liabilities. It was not open for CPSEs to postpone the applicability of EPFO directions or to avoid adjustment of the excess contributions already made.

The matter was reported to the Ministry of Heavy Industries and Public Enterprises and Ministry of Power (November 2013); their response in respect of BHEL, PFC and NTPC was awaited (March 2014).

Oil and Natural Gas Corporation Limited, MECON Limited, Rural Electrification Corporation Limited, Bharat Heavy Electricals Limited and Bharat Dynamics Limited

13.2 Irregular payment towards Performance Related Pay

Due to non adherence to the DPE guidelines with respect to payment of 'performance related pay', the CPSEs made an irregular payment of ₹ 202.95 crore for the years 2008-09 to 2012-13.

The Department of Public Enterprise (DPE) issued instructions (November 2008) for regulating pay and allowances perquisites and performance related pay (PRP) to executives and non-unionised supervisors of CPSEs. The above instructions directly linked PRP to the profits of the Central Public Sector Enterprises (CPSE) and performance of Executives. These instructions and further clarifications issued thereon in November 2010 and July 2011 *inter alia* laid down following conditions for payment of PRP.

(i) Each CPSE was required to adopt a 'Bell Curve Approach' in grading the officers so that not more than 10 to 15 *per cent* executives were graded as 'Outstanding/Excellent' and 10 *per cent* of executives should be graded as 'Below Par'. DPE further clarified (July 2011) that each CPSE has to follow 'Bell Curve Approach' strictly and ensure that 10 *per cent* of executives be graded as 'Below Par' and are not paid any PRP.

(ii) PRP by CPSEs to their executives was subject to twin ceilings *viz.* (a) grade-wise ceilings ranging from 40 *per cent* to 70 *per cent* of basic pay for executives below Board level and 100 *per cent* to 200 *per cent* of basic pay for Board level executives and (b) an overall ceiling of 5 *per cent* of profit before tax of an enterprise.

(iii) Profit Before Tax (PBT) for computation of PRP was expected to come out from the specified objectives and core activities of CPSEs and that extraordinary items like valuation of stock, grants/waiver by Government, sale of land, *etc.*, (list of items is not exhaustive) was not to be included in calculation of PBT as far as PRP is concerned.

Audit observed that the following CPSEs deviated from the DPE guidelines and made irregular payment of ₹ 202.95 crore to their employees towards performance related payments:

Sl. No.	Administrative Ministry	Name of CPSE	Period	Irregularity	Amount (₹ in crore)
1	Ministry of Petroleum and Natural Gas	Oil and Natural Gas Corporation Limited (ONGC)	2010-11 to 2012-13	While the Company graded 10 *per cent* executives as below par, it paid PRP to all the executives except 2 *per cent* during 2010-11 and 0.132 *per cent* during 2011-12 out of executives with 'Below Par' grading.	117.10
2	Ministry of Steel	MECON Limited	2009-10 to 2011-12	Company did not follow 'Bell Curve' approach and considered only two *per cent* of its total executives as 'Below Par'. Paid PRP to all its executives including two *per cent* who were considered Below Par during 2009-10 and 2010-11. However, PRP for 2011-12 was paid to 98 *per cent* of its total executives. The Remuneration Committee of Company had segregated all executives where performance of 15 *per cent* of total executives was graded as 'Excellent', 45 *per cent* executives as 'Very Good' and 30 *per cent* as 'Good' in line with the DPE guidelines. However the Company did not adhere to this segregation during 2009-10 to 2011-12 and modified the performance rating of 17 to 24 *per cent* executives as 'Excellent' and 57 to 64 executives as 'Very Good' and 14 to 17 *per cent* as 'Good'.	9.12
3	Ministry of Power	Rural Electrification Corporation Limited (REC)	2009-10 to 2012-13	Remuneration Committee of the Company observed (December 2011) that introduction of gradewise ceilings as per DPE instructions of November 2008 resulted in average reduction of 68 *per cent* in incentive payments to executives as compared to the then existing PRP scheme including ex-gratia payment in operation in	51.68

				REC. The company therefore paid an additional component in the form of 'baseline compensation' to executives to subject to a maximum of 66 per cent of their basic pay and within overall ceiling of 5 *per cent* of profit of REC to partially compensate them against fall in the PRP.	
4	Ministry of Heavy Industries and Public Enterprises	Bharat Heavy Electricals Limited	2008-09	Remuneration Committee of the Company noted (January 2010) that advance payment of PRP for 2008-09 had already been made by the Company in excess of the PRP payable and recovery of excess amount already paid would demotivate the employees. The Company waived off excess payment already made to executives.	15
5	Ministry of Defence	Bharat Dynamics Limited (BDL)	2007-08 to 2010-11	PBT of ₹276.52 crore of the Company for 2007-08 to 2010-11 included interest income of ₹474.29 crore earned on short term deposits of funds, received mainly as advances from Ministry for various projects entrusted to the Company. If PBT had been arrived at only from income related to the core activities of the Company excluding interest income of ₹474.29 crore, payment of PRP would not have arisen as there was no profit during the period 2007-08 to 2010-11, for the purpose of payment of PRP.	10.05*
TOTAL					**202.95**

*This apart, provisions of ₹ 10.07 crore and ₹ 10.64 crore towards PRP for the years 2011-12 and 2012-13 respectively have also been made.

Thus, the CPSEs made irregular payments towards PRP to their executives in deviation of DPE guidelines.

ONGC stated (October 2013) that (a) DPE guidelines did not mention about zero (Nil) PRP payments to Executives. It only mentioned that 10 *per cent* of the Executives were to be graded 'Below Par'.

MECON Limited stated (December 2013) that (a) it was not practically feasible for a consultancy, design and engineering organization like MECON to strictly identify 10 *per cent* executives as non-performer every year and grade them as Below Par; (b) DPE did not say that PRP should not be paid to Below Par executives; and (c) the excellent performers identified by the Company were only marginally more than 15 *per cent.*

REC/Ministry stated (June 2013/January 2014) that payment of performance linked 'baseline compensation' was made after carefully examining all aspects of the matter including decline in incentive payments under the new set of rules which had the potential of seriously undermining the morale and motivation of the employees.

BHEL stated (June 2012) that since the PRP scheme was implemented retrospectively and payment on account of PRP advance for the year 2008-09 had been made earlier, it would not have been appropriate to effect recovery as it would have created resentment as also de-motivated the employees.

In respect of **BDL** Ministry stated (October 2013) that interest income was not an extraordinary income as it arose from the stage payments received under the contract which had specified milestones. The prices of defence equipment were finalised considering the payment of advances and hence interest income was to be considered as business income.

Replies of CPSEs/Ministry are to be viewed against the facts that:

(i) DPE Office Memorandum (OM) dated 06 July 2011 had clearly stipulated that 10 *per cent* of the Executives had to be graded as 'Below Par' and not paid any PRP". It is, thus, clear that DPE guidelines enjoin CPSEs not only to grade 10 *per cent* of the Executives as 'Below Par' but also to not pay any PRP to Executives thus identified.

(ii) DPE instructions of November 2008 did not provide protection of PRP being paid to executives prior to these instructions and hence the rationale of financial loss to employees was flawed. Further, grade-wise ceilings were fixed by DPE in addition to overall ceiling of 5 *per cent* of distributable profits and BoD was not empowered under DPE instructions to approve PRP in excess of these grade-wise ceilings.

(iii) Inadmissibility of PRP on the element of profit accrued from the interest income is clear from the clarifications given by the DPE in November 2010 that profit of CPSEs is expected to come out from their specified objectives and core activities. Investment of surplus funds on advances received from Defence customers is an incidental activity and not a core activity. Income so earned is not the income from business operations.

Thus, due to non adherence to the DPE guidelines with respect to payment of 'performance related pay', the CPSEs made an irregular payment of ₹ 202.95 crore for the years 2008-09 to 2012-13.

General Insurance Corporation of India Limited, Northern Coalfields Limited, Steel Authority of India Limited, NMDC Limited, Oil and Natural Gas Corporation Limited, Bharat Heavy Electricals Limited, Food Corporation of India and Airports Authority of India

13.3 Recoveries at the instance of audit

During test check, several cases relating to non-recovery, excess payment, irregular payment etc. were pointed out. In 20 cases pertaining to eight CPSEs, audit pointed out that an amount of ₹ 140.76 crore was due for recovery. The management of CPSEs had recovered an amount of ₹ 115.53 crore (82 *per cent*) during the period 2012-13 (upto Feb 2014) as detailed in **Appendix-I.**

National Highways Authority of India, Export Credit Guarantee Corporation of India Limited, Steel Authority of India Limited, Bharat Heavy Electricals Limited

13.4 Corrections/rectifications at the instance of audit

During test check, cases relating to violation of rules/regulations and ineffective planning in business operation were observed and brought to the notice of the management. Details of the cases where the changes were made by the management in subsequent years in their policies/procedures etc. at the instance of audit are given in **Appendix-II.**

CHAPTER XIV: MINISTRY OF ROAD TRANSPORT AND HIGHWAYS

National Highways Authority of India

14.1 Loss of Revenue due to inordinate delay in commencement of toll operations

Against 45 days stipulated in National Highways Fee (Determination of Rates and Collection) Rules, 2008, for start of collection of toll from the date of completion, the toll collection at Allahabad Bypass project on NH-2 could be started after delay of about three years resulting in loss of revenue of ₹ 150.09 crore.

National Highways Authority of India (the Authority) executed the work of construction of Allahabad Bypass Road from 158.00 Km to 242.708 Km of NH 2 at a total cost of ₹ 1502.167 crore. The project was completed on 15 October, 2009. In accordance with the National Highways Fee (Determination of Rates and Collection) Rules, 2008, (toll rules), in case of public funded projects the collection of toll shall commence within 45 days from date of completion of the project. The Authority submitted (May 2009) the draft toll notification to the Ministry of Road Transport and Highways (MoRTH) for approval. The said draft notification was disapproved (21 August, 2009) by the MoRTH on the ground that the toll rules needed to be amended. Consequently, amendments to National Highways Fee (Determination of Rates and Collection) Rules, 2008 were notified on 3 December, 2010 and 12 January, 2011. The Authority sent the revised draft toll notification to MoRTH for approval on 24 January 2011, which was finally published on 18 August, 2011 and agreement with the toll collecting agency could be entered into on 31 July, 2012.

Examination in Audit revealed that toll operations could commence only after a period of about three years from the date of completion due to inordinate delays in taking timely action at various levels viz:

- About 20 months delay on the part of MoRTH i.e. 14 months in notifying the amendments to toll rules and a further delay of six months in issuing toll notification. The issue of toll notification was held up till the publication of revised fee rules. No alternate mechanism was approved by MoRTH to avoid loss of revenue.

- About 12 months delay on the part of NHAI i.e. delay of about six months due to poor response to the tenders invited for selection of toll collection agency as the Annual Potential Collection (APC) was fixed on higher side, delay of about four months in finalizing agreement with toll collecting agency from the date of receiving the proposal of the sole bidder and further delay in start of toll collection.

The above resulted in revenue loss of ₹ 150.09 crore out of which ₹ 92.67 crore was due to delay in issuance of toll notification by MoRTH and ₹ 57.42 crore was due to delay in toll collection by the Authority.

The Authority in its reply (June 2013) stated that it had submitted the proposal for toll notification to MoRTH well in time and the toll collection could start only after about one year of toll notification due to change in its policy regarding the engagement of toll collecting agency and poor response to its efforts for selection of toll collection agency through competitive bidding. It further stated that the loss pointed out in the para was not the actual loss but only deferment of fee realizable because after the recovery of the capital cost through user fee, the fee leviable would be reduced to 40 *per cent.*

The Ministry while endorsing (October 2013) the reply furnished chronology of events justifying delays at various levels/stages. It further replied (December 2013) that as amendments to toll rules were in the process, no alternative mechanism could be taken up for collection of user fee since the user fee collection could be started only when the fee notification for the instant stretch got notified. It also stated that APC is assessment of user fee collection on the basis of traffic survey and it could not be altered arbitrarily.

Reply of the Ministry/Authrority is not acceptable in view of the following:

(i) The MoRTH did not take suitable steps, under NH Fee Rules 2008 in vogue, to avoid revenue loss during the period while amendment to these Rules was in process. A proposal to consider applicability of existing NH Fee Rules 2008 (pending the proposed amendment in Rules) was initiated in the Ministry in December 2009. However, the Ministry did not take any action on the proposal for 11 months, till the time the fee Rules were modified.

(ii) Ministry's contention that APC is assessed on the basis of traffic survey and could not be altered arbitrarily was in contradiction to the fact that annual traffic growth rate considered by NHAI as seven *per cent* in 2011 was in itself arbitrary as the NHAI revised the same to five *per cent* per annum in 2012 while fixing APC.

(iii) As regards recovery of the capital cost of ₹ 1502.17 crore of the project, based on yearly APC of ₹ 61.11 crore finalized by NHAI with the contractor with five *per cent* yearly increase, the same was to be recovered in the next 17 years. However, the said stretch being part of Golden Quadrilateral (GQ) has already been approved to be upgraded into 'six lane' by Committee on Infrastructure (CoI), Government of India (GOI) in 2006 on BOT basis and NHAI has included the same in its work plans for the years 2011-12 and 2012-13 for award of six laning on BOT basis. Other stretches like Agra-Etawa-Chakeri, Etawa Bypass, Varanasi-Aurangabad, Aurangabad-Barwa Adda, Barwa Adda-Panagarh, Dankuni-Kharagpur of GQ had already been awarded for six-laning by end of March 2013 i.e. within a span of seven years of CoI approval for six laining. Thus, on award of work of the stretch for six laining on BOT, the question of any cost recovery through user fee did not arise.

(iv) Poor response to bids for engagement of toll collection agency was indicative of unrealistic fixing of APC by Authority. Moreover, there was no justification for entering into agreement with the toll collection agency after a delay of more than four months from the date of receipt of bid and a further delay of 14 days in collection of toll from the date of agreement.

Thus, delay in taking timely action by MoRTH and the Authority, resulted in loss of ₹ 150.09 crore.

14.2 Weak contract management resulting in short recovery of liquidated damages

Undue benefit to the contractor by issuing completion certificate with retrospective effect and short recovery of liquidated damages in contravention to the terms of contract resulted in likely loss of ₹ 35.63 crore.

The National Highways Authority of India (NHAI) entered into a contract (March 2002) with M/s PCL-SUNCON (JV) for four laning and strengthening of 76.17 Km. of the existing two lane National Highway (NH) 2, Varanasi-Mohania stretch in the State of U.P. and Bihar at a total cost of ₹ 396.48 crore. The project was divided into three sections with overall completion period of 36 months ended on 30 March 2005. The project commenced from 31 March 2002 but work on none of the three sections was completed in time. Extension of time (EOT) granted for all the three sections with last EOT for the third section up to 20 July 2006. The project was actually completed on 20 December 2010. As per Clauses 47.1[1] and 47.2[2] of the contract, the contractor was liable to pay liquidated damages for delay in completion of the work. Appendix to Bid stipulated the maximum amount of LD as 10 *per cent* of the final contract price. M/s. LEA Associates South Asia Pvt. Ltd. was the construction Supervision Consultant for the above work.

Examination in audit in June 2011 of records of Project Implementation Unit, Varanasi as well as subsequent follow up of the issue at NHAI Headquarters, revealed that:

- The Supervision Consultant issued taking over certificate (TOC) on 4 October 2007 indicating month of completion, retrospectively, as February and May 2006 for lengths totaling 67.55 Km (comprising stretches from all the three sections). This gave additional time of 16 months (June 2006 to October 2007) to complete the balance work unjustifiably which amounted to an undue favour to the contractor.

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[1] ***Clause 47.1: If the contractor fails to comply with the time for completion for whole of the works or, if applicable, any section within the relevant time prescribed then the Contractor shall pay to the Employer the relevant sum stated in the Appendix to Tender as liquidated damages for such default and not as a penalty, for every day or part of a day which shall elapse between the relevant time for completion and the date stated in Taking Over Certificate of the whole of the works or the relevant section, subject to the applicable limit stated in the Appendix to Tender.***

[2] ***Clause 47.2: If before the time for completion of the whole of the works or, if applicable, any section, a Taking Over Certificate has been issued for any part of the works or of section, the liquidated damages for delay in completion of the remainder of the works or of that section shall, for any period of delay after the date stated in such Taking Over Certificate, and in the absence of alternative provisions in the contract, be reduced in the proportion which the value of the part so certified bears to the value of the whole of the works or section, as applicable. The provisions of this sub clause shall only apply to the rate of liquidated damages and shall not affect the limit thereof.***

Against the above completed road stretch of 67.55 Km., MoRT&H issued toll fee notification on dated 7 September 2007 for reduced road stretch of 57 Km only, considering NHAI's clarification dated 7-9-2007 to MoRT&H that some portion of the stretch would not be completed in near future. This raises doubts regarding the correctness of actually completed length as mentioned in TOC.

- The length of road remained incomplete as on EOT date of 20 July 2006 was 8.62 Km (76.17 - 67.55) on which liquidated damages (LD) were to be calculated and levied for each day or part thereof of delay till completion of the whole work as per contractual provisions, the amount of which worked out to ₹ 38.13 crore. However, the Supervision Consultant assessed (2008) LD amounting to ₹ 2.5 crore by restricting the LD to 10 per cent of ₹ 25 crore being the assessed value of the balance work considering the incomplete stretch to be 3.96 Km. only. This was in violation of contractual provisions and led to short recovery of LD by ₹ 35.63 crore.

Thus, issuance of TOC with retrospective date and short recovery of LD by ₹ 35.63 crore raises doubt about the intention of Supervision Consultant being bonafide.

NHAI after the audit observation was issued, imposed additional LD of ₹ 34.29 crore (June 2013) on the contractor. In its response, the contractor submitted disagreement (July 2013) and obtained a stay order from the Delhi High Court.

NHAI stated (July 2011) that LD was deducted on the recommendation of the Supervision Consultant and in the interest of work. Despite follow up of the matter with the Management in January 2013 and again with the Ministry/Management in December 2013, reply with regard to justification for issuing TOC after 16 months of stated date of completion and short recovery of LD was awaited.

Recovery of balance LD from the contractor in the near future seems doubtful as the contractor has moved the Court. Thus, weak contract management coupled with delayed action by NHAI has resulted in an undue benefit to the contractor and likely financial loss to NHAI, of ₹ 35.63 crore.

The matter was reported to the Ministry in December 2013; their reply was awaited (March 2014).

14.3 Undue favour to Contractor

Undue favour was extended to a Contractor due to non-termination of the agreement coupled with payment of escalation charges of ₹ 10.56 crore and non recovery of liquidated damages of ₹ 7.06 crore during the years 2006 to 2009, in deviation to the terms of agreement despite substantial time and cost overrun for reasons attributable to the Contractor.

The National Highways Authority of India (Authority) entered into an engineering, procurement and construction (EPC) agreement with Bhagheeratha Engineering Limited, Kochi, (Contractor) in June 2001 for four laning on Km 180 to Km 199.20 of Bangalore-Salem-Madurai section on NH – 7 [Contract Package No.NS-26/TN] at a cost of ₹ 70.61 crore (Revised to ₹ 76.19 crore in January 2005). The due date of completion of the project of 29 August 2003 was extended up to 31 December 2009 by Authority

Headquarters, New Delhi from time to time. The work was completed by the Contractor on 31 December 2009 at a final cost of ₹ 95.33 crore.

The terms and conditions of agreement *inter alia*, stipulated that:

- For delay in completion of work the Contractor shall pay liquidated damages (LD) at 1/2000 of the initial contract price per day subject to the maximum of 10 *per cent* of initial contract price.
- Authority, without prejudice to any other method of recovery, could deduct the LD from any amount due or to become due to the Contractor.
- Payments shall be adjusted for deductions for advance payments, retention, other recoveries in terms of contract and taxes at source as applicable under the law.
- If the Contractor stopped the work for 28 days without authorisation by engineer, the Authority could terminate the contract for fundamental breach of contract.
- Price adjustment shall apply for the work done from the start date up to the end of the initial intended completion date or extension granted and shall not apply to the work carried out beyond the stipulated time for reasons attributable to the Contractor.

There was time overrun of 76 months (more than six years) and cost overrun of ₹ 19.14 crore in execution of the highway project. As per decision of Authority, the delay of 1370 days from April 2006 to December 2009 was attributable to the Contractor for which the maximum LD recoverable from the Contractor worked out to ₹ 7.06 crore i.e 10 *per cent* of the initial contract price.

Authority (HQ) granted (June 2005) interim extension of time (EOT) up to July 2005 reserving the right to levy LD at the time of consideration of final EOT. The final EOT up to December 2009 was granted in August 2012 with levy of LD for delay in completion of the project attributable to the Contractor from April 2006 to December 2009 along with freezing of indices for price adjustment from April 2006 onwards. When the Authority claimed LD amount of ₹ 7.06 crore, the Contractor did not settle the LD amount and intimated that they would refer the matter to Arbitration as per terms of contract. The Contractor was yet to nominate an Arbitrator (March 2014).

Audit examination revealed the following:

Delay in approval EOT

The Project Implementation Unit (PIU), Salem of the Authority submitted proposals for approval of Authority at periodical intervals between January 2007 and October 2009 for EOT and review of levy of LD and price escalation adjustments at the time of final EOT. Authority issued orders against the proposals only in August 2012 i.e. after a delay of seven years from the date of interim extension of time upto July 2005. In fact, Authority took almost three years (October 2009 to August 2012) to decide on the PIU's final proposal for EOT. As most of the bills of the work were settled by August 2012, because of delayed decision of Authority, the PIU could not recover LD till date (March 2014).

Irregular payment of escalation charges

PIU settled ₹ 92.39 crore towards Contractor's work bills (₹ 76.27 crore) and price escalation bills (₹ 16.12 crore) till December 2009, but did not recover LD of ₹ 7.06 crore while making payment of bills. Authority issued orders in August 2012 for freezing of indices from April 2006 for price escalation. By that time PIU, in anticipation of approval of EOT along with price escalation and based on the recommendation of supervising consultant, released payment of ₹ 10.56[♠] crore towards price escalation for the period, April 2006 to December 2009, in deviation to the terms of agreement. The Authority has not worked out the differential price escalation to be recovered from the Contractor so far (March 2014).

Non recovery of LD

Though the Contractor delayed the work for 1,370 days due to their financial problems and LD could have been recovered, Authority did not recover LD from the running bills. As the project suffered substantial time & cost overrun due to the reasons attributable to the Contractor, it was not a prudent decision to release the payment of the bills without recovering the LD.

Non termination of contract

The consultant to the project, Mukesh & Associates, had intimated the Authority in May 2007 that the Contractor stopped the work beyond 28 days and recommended termination of contract and execution of the balance work through any other agency, in accordance with the terms of the agreement. Authority, however, allowed the Contractor to continue the work on grounds that termination of contract and invitation of fresh bids would involve cost estimates higher than existing contract rates.

PIU stated (September 2013) that due to cash flow problems, the Contractor stopped activities at the site; that the authority approved financial support to the existing contractor in the interest of work to avoid any substantial cost /time overrun; that recovery of LD from Contractor's final bill was not recommended by the consultant.

The Ministry stated (January 2014) that they proposed to initiate action against the consultant for his misconduct; that further action taken would be intimated after the outcome of arbitration process invoked by the Contractor.

The above reply of the Management/Ministry is not acceptable as the Authority did not terminate the contract in May 2007 despite the recommendation of the consultant, which was in accordance with the terms of the agreement. However, on the grounds of a subsequent recommendation of the consultant, PIU released payment towards excess price escalation and did not recover LD, which was in deviation to the terms of the agreement and an undue favour to the contractor. There was substantial delay in decisions by the Authority on the proposals of PIU which suggests an undue favour to the Contractor.

Audit is of the view that the case merits investigation with a view to fix responsibility and to rectify systemic deficiencies, if any, so that such events do not occur in future.

[♠] ***From April 2006 to March 2007 indices as per prevailing indices, April 2007 to September 2008 based on March 2007 and from October 2008 to December 2009 at 75 per cent of prevailing indices.***

CHAPTER XV: DEPARTMENT OF SCIENTIFIC AND INDUSTRIAL RESEARCH

Central Electronics Limited

15.1 Violation of CVC guidelines and extra expenditure for the purchase of silicon wafers

CEL placed purchase order for silicon wafers on nomination basis instead of competitive bidding, in violation of guidelines laid down by CVC based on the judgement of Hon'ble Supreme Court of India and made changes in the sales contract as finally entered into which were in variance with the approval of the Board.

Central Vigilance Commission (CVC) issued orders (July 2007) advising all Chief Vigilance Officers to apprise their respective Boards/managements about the observations contained in the judgement[1] of the Hon'ble Supreme Court on transparency in works, contracts and consultancy contracts awarded on nomination basis. The Hon'ble Supreme Court of India had held that contracts by the State, its corporations, instrumentalities and agencies should normally be granted through public auction/public tender by inviting tenders from eligible persons. In rare and exceptional cases, for instance during natural calamities and emergencies declared by the Government; where the procurement is possible from a single source only; where the supplier or contractor has exclusive rights in respect of the goods or services etc., this normal rule may be departed from and such contracts may be awarded through private negotiations. Accordingly, the CVC in its order re-emphasised that tendering process or public auction was a basic requirement for award of contract by any Government agency as any other method, especially award of contract on nomination basis, would amount to a breach of Article 14 of the Constitution guaranteeing the right to equality, which implies right to equality to all interested parties.

Central Electronics Limited (Company) floated (April 2010) a global tender for procurement of 20 lakh mono crystalline silicon wafers[2] in response to which six bids were received. After technical evaluation five firms were found to be eligible. The L1 bidder[3] was awarded the contract but after supplying one lakh silicon wafers @ USD 1.98, it expressed inability to make further supply. Subsequently, the Company awarded (December 2010) a contract on nomination basis to M/s Jiangxi LDK Solar Hi-tech Co. Ltd. (supplier) for the supply of one lakh silicon wafers per month for USD 27,15,000 (₹13.21 crore) for one year from January 2011 to December 2011.

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[1] *Arising out of SLP (Civil) no 10174 of 2006*

[2] *125 mm x 125 mm*

[3] *M/s Chemplast Sanmar Limited.*

In this connection, audit observed the following:

- The Company awarded the contract on nomination basis without inviting competitive bids though several firms were available in the field. This was in contravention of the CVC instructions of July 2007 based on the judgement of the Hon'ble Supreme Court of India.

- The Company took an in-principle approval from the Board of Directors and the CMD for undertaking the procurement of silicon wafers. Later, while awarding the contract on nomination basis, the Company changed the terms and conditions of the contract without obtaining the final approval of the BOD/CMD.

- Further, it was observed that the price variation clause as stipulated in the sales contract was deleted by the Company even though it was specifically provided for in the model sales contract. It was also observed that the price of silicon wafers ranged between USD 2.20 to USD 1.95 from 2009-10 to 2010-11 (ie before the contract was executed) and the prices started declining drastically in the international market to USD 0.55 but due to deletion of the price variation clause, the Company had to purchase the silicon wafers at an exorbitant fixed rate from the supplier. Later, during June 2011, the supplier offered an additional quantity of 30,000 silicon wafers at a price of USD 1 which was accepted by the Company. During the same month, the supplier again offered an additional quantity of 30,000 silicon wafers at a price of USD 0.55 but the deal could not be finalised due to financial constraints in the Company.

- Undue benefit was extended to the supplier as the requirement of Performance Bank Guarantee which was stipulated in the model tender form was waived off and instead in an unusual departure the buyer viz CEL itself provided the bank guarantee to the supplier for USD 4,52,000 (₹ 2.03 crore[α])

- The procurement was made without proper assessment of the requirement based on past consumption pattern. It was observed that the average wafer utilisation from 2009-10 to 2012-13 ranged between 29,400 wafers to 49,620 wafers per month. However, the Company procured 12.30 lakh wafers in 2011 which led to accumulation of stock.

- In September 2011, the General Manager (PV) opined that due to drastic reduction in the global prices of wafers, the procurement and processing of the wafers was highly unviable even after foregoing the bank guarantee of ₹ 2.03 crore as the production cost for the remaining quantity worked out to be more than the market price and hence it was proposed to foreclose the contract. Inspite of this, the Company continued with the aforesaid contract to avoid the consequences arising out of non compliance of contract, despite having financial constraints.

Thus, the imprudent decision of purchasing one lakh wafers per month at an exorbitant fixed price (ranging from USD 2.35 to 2.20) led to accumulation of raw material resulting in blocking of funds to the tune of ₹ 2.65 crore (March 2013). Due to the

α *USD1=₹45*

aforesaid accumulation of inventory, the Company did not place any purchase order for procurement of silicon wafers till October 2013. Further, the improper assessment of inventory and awarding the contract on nomination basis after deleting the price variation clause had also led to an extra expenditure of ₹ 5.14 crore.

The Management stated (January 2014) the following:

- Almost all wafer manufacturers globally at that time had switched over to the production of less than 200 micron wafers. In this situation it was very difficult to get quotations/availability of 220+-20 micron wafers.

- The Company had procured 1 lakh wafers for which there was sufficient capacity to process and the same was based on orders booked and expected orders. However, the Company could not process the wafers procured due to automation issues, lack of training to labourers and mishandling of the wafers which resulted in increased breakage. Due to these reasons, utilisation of wafers for processing was stopped and the requirement of the Company was met by outsourcing the modules and cells.

- Performance Bank Guarantee (PBG) was given to ensure that CEL would meet its commitment to buy the material. Obtaining a PBG from the supplier was not considered necessary and hence was not stressed upon.

The Ministry in its reply (January 2014) endorsed the view of the management.

The reply of the Ministry/Management is not acceptable as:

- The award of the contract to the supplier was undertaken on the nomination basis in violation of the instructions of the CVC of July 2007 which is based on the judgement of the Hon'ble Supreme Court.

- The reply of the Ministry/Management fails to explain why the price variation clause was deleted at the time of entering into the contract even though it was specifically provided for in the model sales contract. This deletion of price variation clause also did not have the approval of the competent authority.

- Though the Board of Directors in their minutes has authorized entering into an agreement with a down payment of 10 *per cent* of the value of the contract, while entering into the contract an unusual departure was made whereby the buyer viz. CEL remitted a Bank Guarantee to the supplier.

- The reason for procuring wafers during 2011, far in excess of the actual utilisation during the preceding years, thereby leading to large stock accumulation and pay outs has also not been explained.

CHAPTER XVI: MINISTRY OF SHIPPING

Sethusamudram Corporation Limited

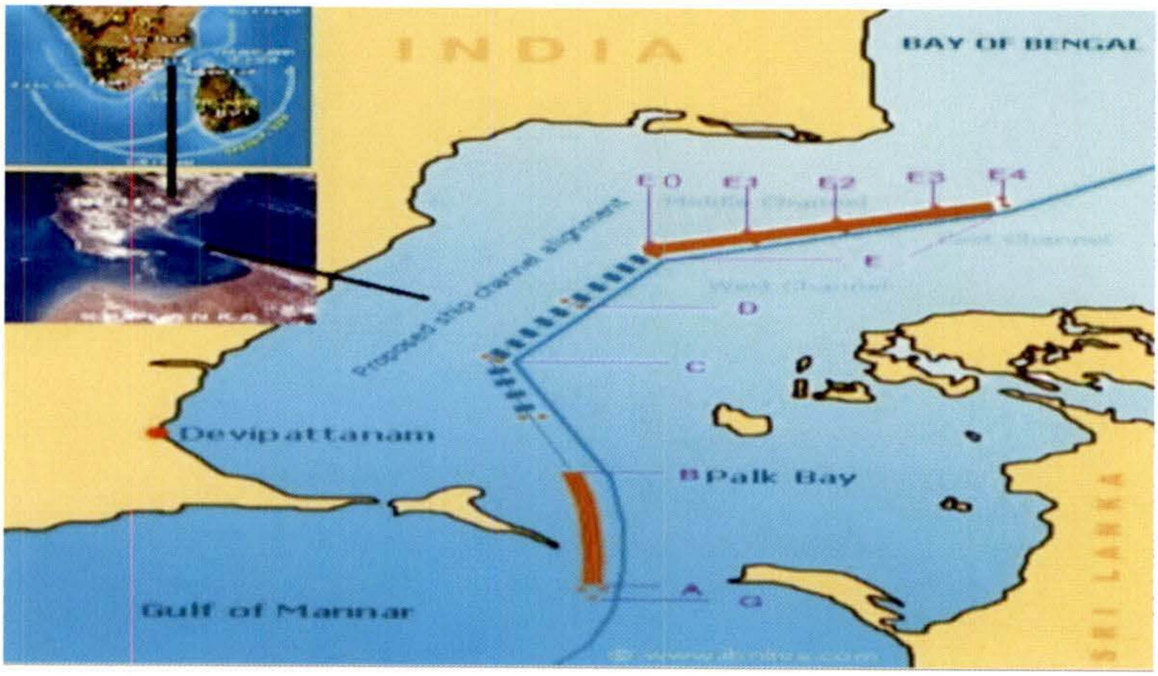
16.1 Sethusamudram Ship Channel Project

16.1.1 Introduction

The Sethusamudram channel project proposed to create a shipping channel along the territorial waters of India linking the Palk Bay and the Gulf of Mannar. The project envisaged reduction in the journey time for ships sailing between the east and west coasts of India and other countries and reduction in the cost of operation. At present, the ships have to circumnavigate the Sri Lankan coast due to the presence of shallow waters in the Palk Strait area and a reef known as Adams Bridge.

The length of the shipping channel was to be 167 kilometres (km). To make this a continuous navigable channel, dredging was required in the Palk Strait area for 54 km and in the Adams Bridge area for 35 km.

The Sethusamudram ship channel was to be from point G (Gulf of Mannar) to point E4 (Palk Strait) as in the map. Dredging was required in the Adams Bridge area viz. between G, A, B and C and in Palk Strait area viz. between E and E4. The Palk Bay area between C, D and E did not require dredging as it has adequate natural depth.



SCL alignment 300m width channel

G-A Adams Bridge 4.37 Km
A-B Adams Bridge 17.30 Km
B-C Adams Bridge 13.38 Km
C-E_0 Palk Bay 77.92 Km (Dredging not required)
E_0 -E_4 Palk Strait 54.25 Km

India – Srilanka Medial Line

16.1.1.2 Agencies involved

Apart from the Ministry of Shipping of Government of India, the following agencies were involved in the execution of the project:

- Tuticorin Port Trust (TPT), nominated as the nodal agency for pre-project activities
- Sethusamudram Corporation Limited (SCL), a special purpose vehicle for the project
- Dredging Corporation of India Limited (DCI), carrying business of dredging and
- Transchart, the chartering wing of Ministry of Shipping for making shipping arrangements

16.1.1.3 Current status of the project

The Supreme Court of India passed an interim order in September 2007 directing that "the dredging activity may be carried out, but the alleged Adams Bridge/Rama Setu shall not be damaged in any manner." The entire dredging work in Adams Bridge area was suspended from September 2007 onwards. Dredging work however continued at Palk Strait till Dredging Corporation of India withdrew their dredgers in July 2009.

DCI in its balance sheet had exhibited an expenditure of ₹ 928.23 crore on this project so far (March 2012). They had received ₹ 701.94 crore (including service tax) from Sethusamudram Corporation Limited. SCL on the other hand, had reported an expenditure including provisions of ₹ 828.92 crore up to March 2012.

Ministry stated (October 2012) that there was a difference of opinion between DCI and SCL over the rate to be paid for the dredged quantity which was reflected in their respective books of accounts. These disputes over the claims needed to be reconciled.

The expenditure has been met largely from the equity financing of Sethusamudram Corporation Limited by the Government of India and other Government agencies. Equity through private placements as also debts to be raised from the market as envisaged in the note to the Cabinet Committee on Economic Affairs (CCEA) on the basis of which, the project was approved did not materialise.

No dredging activity had taken place since July 2009. An expenditure of ₹ 928.23 crore had been incurred by DCI on dredging partial quantity and the future of the project was uncertain.

Ministry stated (October 2012) that all dredging work in the project was stopped in July 2009 as the contract with DCI had expired and the litigation persisted without any final orders. The reply further stated the matter was sub judice in Supreme Court.

16.1.1.4 Audit objectives

Audit was undertaken to examine whether adequate preparations were made before launching the project and sound principles of project management were followed. It has endeavoured to evaluate whether adequate value for public money spent has been realized. The audit objectives, therefore, were to assess whether:

- the Detailed Project Report (DPR) covered technical and economic viability issues
- the estimates and projections considered for formulating the project were realistic and adequate
- there was transparency, fairness in tendering and award of contracts and
- controls existed for efficient execution of the project particularly keeping in view the environmental concerns

16.1.1.5 Audit scope and methodology

Audit covered project planning, dredging and concomitant activities of the Company from its inception to March 2012 and excluded from its examination matters which are *sub judice.*

The audit was conducted by examining records like Board Minutes, Expert Committee Reports, Statutory clearances and MIS at the corporate office of the Company. We also examined relevant records at the Ministry and DCI, Vishakhapatnam. We held an entry conference with the Management of SCL on 14 September 2011 to understand and discuss the various issues. We held the exit Conferences on 3 February 2012 and 28 March 2013 and presented the Audit findings to the Management of SCL. Ministry's reply was received in October 2012.

16.1.2 Project Planning and Execution

16.1.2.1 Project initiation

Tuticorin Port Trust (TPT) being the closest major port to the project location was nominated as the nodal agency for undertaking pre project activities. TPT assigned the studies relating to Techno Economic feasibility of the project and detailed Environment Impact Assessment (EIA) to National Environmental Engineering Research Institute (NEERI), Nagpur in 2002. NEERI submitted their study report in July 2004.

The Cabinet approved the formation of the Sethusamudram Corporation Limited (SCL) as the Special Purpose Vehicle (SPV) on 2 September 2004. The Company was incorporated on 16 December 2004.

16.1.2.2 Detailed Project Report

Further to the studies conducted by NEERI, TPT appointed in July 2004 L & T Ramboll Consulting Engineers Limited for preparation of Detailed Project Report (DPR) for a fee of ₹ 24.30 lakh. The consultant submitted the report in February 2005. DPR covered technical and financial viability issues, means of finance, and traffic projections besides environmental and social impact analysis arising upon disposal of dredged material.

The Techno Economic Feasibility Report for the project prepared by NEERI in 2004 considered creation of navigational channel to suit different draft[1] requirements viz. 9.15 metres, 10.7m and 12.8m requiring dredged depth of 10m, 12m and 14m respectively. Keeping in view the cost factor and environmental sensitivity, NEERI recommended a depth of 12m Chart Datum (CD[2]).

The DPR considered the above parameters and recommended the following channel and vessel design dimension for the Project.

Channel and Vessel dimension	
Channel type	Two way
Channel width	300 m
Channel depth	-12m. CD
Permitted draft of vessel	10m
Beam	33m
Length Overall (LOA)	215m

The typical dimensions indicated in the DPR of the recommended vessel size were as follows:

Vessel Size (DWT[3])	Length Overall(metre)	Beam (metre)	Draft (metre)
30,000	**190**	**30**	**10.5**
40,000	**215**	**33**	**11.0**
50,000	**267**	**33**	**12.5**

The DPR also recommended a minimum under keel clearance of 1.95 metres while ship is in motion and a maximum under keel clearance of 2 metres. In other words, for a conceived dredged level of (-) 12 metres CD, the maximum draft of ship navigation would be 10 metres. Thus from the facts and formulations made in the DPR itself it was evident that even vessels of 30,000 DWT may have found it difficult to safely navigate the dredged channel of 12 metres depth.

While making traffic and revenue projections, the DPR analysed the various economic and technical aspects and observed the following:

Traffic projection

DPR stated that the traffic projection was made on the basis of vessels existing as well as ordered in global market, vessels calling at / going out of Indian ports and vessel sizes proposed in the vessel trend review done by NEERI. DPR took into consideration all vessels of 20,000 DWT, 75 *per cent* of 30,000 DWT vessels, 10 *per cent* of 40,000 DWT vessels and 5 *per cent* of 50,000 DWT vessels and projected an annual increase of 5 *per cent* in the traffic. DPR further stated that the size of the vessels with 10 metres draft requirement generally would be 30,000 DWT.

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1 ***Draft means the depth of water needed to float a ship***

2 ***Chart Datum means sounding datum established by National Hydrographic Office after observing tidal observations in appropriate locations covering Palk Bay, Palk Strait and Gulf of Mannar area.***

3 ***DWT: Deadweight Tonnage: It is a measure of how much weight a ship can safely carry.***

Audit noted that this projection needed to be considered in the context of the typical draft of the vessel of 30,000 DWT size being 10.5 metres. With a requirement of minimum under keel clearance of 1.95 metres, vessels of 30,000 DWT may not have found it totally safe to navigate the channel.

From the study of different types of vessels plying in the oceans or currently in the market along with future orders made for manufacturing new vessels, the DPR indicated that "from the existing and future ordered overall vessel distribution, it is observed that the future trend is for larger vessels."

Indeed, Secretary (Expenditure) during the meeting of Public Investment Board (PIB) questioned the rationale for keeping the depth at 12 metres when larger ships requiring deeper draft were increasingly being employed in international trade. The representative of the Plan Finance Division of Ministry of Finance also mentioned in the meeting that the traffic projection factored foreign vessels heavily and hence was unrealistic as the international cargo movement was increasingly in large vessels.

In reply to audit, SCL stated (February 2012) that as 73 *per cent* of vessels were within 40000 DWT, there was still scope for manufacturing and operation of vessels up to 30000 DWT.

In this context, it should be noted that in the commercial risk analysis prepared by Ministry of Shipping in September 2009 in the Pre-PIB papers for revalidation of the Traffic Forecast and Financials, it was observed that "the vessel sizes are increasing both at the global and national arena. The proposed 10 m navigable draft would not attract bigger vessels. The bulk vessels such as coal and iron ore would demand more than 12 m draft as many East coasts ports are planning to dredge their channel up to 12.5 m draft at least."

It would thus be seen that traffic projection, on the basis of which the project was sanctioned, was not entirely realistic and this fact was sufficiently obvious at the time of the sanction of the project.

Ministry stated (October 2012) that 30,000 DWT vessels could negotiate the channel with the assistance of pilot tugs and VTMS[◆]*. During high tide, extra cushion of about one metre in the channel would enable the vessels navigate freely even without the assistance of pilots.*

Ministry's reply is an afterthought and ignores the fact that the cost of deployment of pilot tugs for the entire stretch of the channel and the restriction of high tide were not considered in the DPR.

Ministry also stated (October 2012) that as per DPR summary of vessel size review, it was clear that 73 per cent of vessels called in major ports were within 40,000 DWT. Further, worldwide still 44 per cent of vessels having the age of 5-9 years were having size up to 30,000 DWT, which showed that there was scope for manufacturing and operation of vessels up to 30,000 DWT.

[◆] ***Vessel Traffic Management system***

Analysis of data available with Indian Port Association, New Delhi in Audit in June 2012 revealed that the trend towards less than 30,000 DWT vessels was on the decline. DPR indicated that any attempt to increase the dredged depth to accommodate higher vessel sizes required a large amount of dredging even in the Palk Bay and would render the project unviable.

Economic viability

DPR worked out that the payback period would be 16 years and the economic rate of return (ERR) would be 16.9 *per cent.* The pre and post tax internal rate of return (IRR) for the project was worked out at 10.2 *per cent* and 9.1 *per cent* respectively. Though the rate of return was below the benchmark of 12 *per cent*, the note to the Cabinet justified it on the basis of the externalities that this project could generate.

The PIB meeting held in April 2005 concluded that the project was "not financially viable" but went on to recommend the project for consideration by the Cabinet. "The project" PIB observed "was likely to have significant externalities which could not be fully anticipated or calculated at this stage."

Ministry stated (October 2012) that the project should be examined with economic rate of return (ERR), as different from IRR, which takes into account all the direct and indirect financial and social benefits flowing from the project including the intangible ones.

Projected Cost

DPR projected a cost of ₹ 2233.40 crore for the project excluding financing cost of ₹ 194 crore, which was the cost approved by the Cabinet (May 2005). Out of ₹ 2427.40 crore, ₹ 1719.60 crore was to be the cost of dredging. The cost was worked out on the assumption that the project would be completed in three years.

The dredging cost increased to ₹ 2171.40 crore as a result of delayed commencement of project and was approved by the Cabinet in October 2006. The estimated cost escalated to ₹ 4504.09 crore as of December 2008 mainly due to increase in fuel cost, introduction of Service Tax (June 2005) on dredging, change in the method of calculating the dredged quantity with effect from 01 January 2008 and increase in other onshore and offshore infrastructure expenditure.

DPR projected the maintenance dredging requirement for the channel to be 2 million cum per year for the first two years and 1.7 million cum per year for the next two years, which would stabilize to 1.4 million cum from the fifth year onwards. The estimated annual cost of maintenance was projected in the range of ₹ 20 crore in the first two years, ₹ 17 crore for the next two years and ₹ 14 crore from the fifth year onwards. For this purpose, DPR indicated that a dredger would be required. At the time of suspension of work at Palk Strait area in July 2009, an expert engaged by DCI had assessed the siltation level to be much above the DPR projection.

The revised cost of ₹ 4504.09 crore had not been approved as on date and this could undergo further escalation.

16.1.2.3 Project financing

The project was approved at a cost of ₹ 2427.40 crore which was to be structured on a debt equity ratio of 1.5:1. The equity portion was to be ₹ 971 crore and domestic and foreign loans were to be raised for ₹ 1456.40 crore. The debt was to be backed by guarantee by Government of India.

Equity financing

Out of proposed equity of ₹ 971 crore, ₹ 495 crore was to be contributed by Government of India, ₹ 250 crore by Port Trusts, DCI and Shipping Corporation of India and the balance of ₹ 226 crore was to be raised through initial public offer (IPO)/private placements/users. SCL received the equity contribution of ₹ 495 crore from GOI and ₹ 250 crore from other Ports/PSUs between March 2006 and March 2009. The Company however, could not raise the equity of ₹ 226 crore through private placements or public offer. Thus the assurance given to the Cabinet on this issue could not be honoured and equity contribution was by GoI and by PSUs and Port Trusts working under the control of Ministry of Shipping.

Failure of debt financing efforts

SCL appointed UTI Bank Limited, Mumbai in August 2005 as the sole fund raiser for the project. The total debt component of ₹ 1456.40 crore comprised 25 *per cent* as Rupee Term Loan (RTL), 35 *per cent* as Foreign Currency loan and 40 *per cent* Zero coupon Bonds. Six Banks accorded sanction for RTL of ₹ 425.00 crore at the interest rate of 7.5 *per cent*. The sanctions of the Banks lapsed in August 2006 and the tendering process and award of contracts were not finalised by then. Two foreign Banks sanctioned a loan of US$ 110 million. Due to delay in execution of the project and in getting GOI guarantee, the loan agreements also could not fructify. Thus, the entire efforts taken to meet the project finance through domestic and foreign debt did not materialise.

SCL stated (February 2012) that failure to achieve financial closure for the project was due to delay in execution of the project owing to legal impediments.

The reply of the Company should be considered in the light of the fact that the financing arrangement and work execution were never properly coordinated. When the tendering process began in July 2005 and went on till October 2006, SCL had received ₹ 146.28 crore only as equity from GOI, Ports, SCI, EPL and DCI. Later, DCI stalled their work in the Palk Strait area in July 2009 on account of financial constraints as recorded in the Ministry's noting dated 21 August 2009.

Ministry stated that all SPV partners had given their full contribution. DCI stopped work in Palk Strait in July 2009 not on account of financial constraints; the dredgers were allowed to be withdrawn on the expiry of the contract period and the pending court cases were not concluded and the impugned interim stay was not vacated. There were no financial constraints on the part of SCL or DCI. Borrowings were not raised as there was no requirement of funds at that stage and would have been raised as and when the need arose.

Notwithstanding the above reply, the fact remains that the project cost had escalated in December 2008 and would undergo substantial revision which would impact the IRR and ERR calculated.

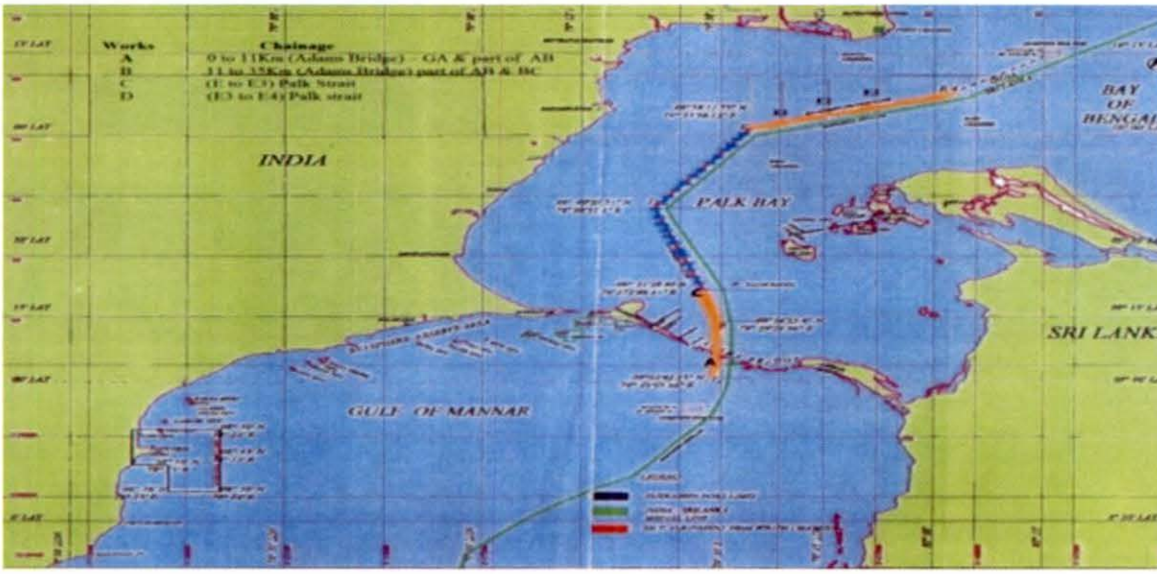
Failure of Tendering Process and eventual Nomination of DCI

16.1.3.1 Tendering process

Dredging was the principal activity of the project. The capital dredging* of the project consisted of excavation of hard and soft material in four work segments by deploying dredgers as detailed below.

(₹ in crore)

	Chainage	Estimated cost as per DPR
Work A	0 to 11Km (Adams Bridge) – GA & part of AB	612
Work B	11 to 35Km (Adams Bridge) part of AB & BC	444
Work C	(E to E3) Palk Strait	559
Work D	(E3 to E4) Palk Strait	



Ministry of Shipping took the approval (May 2005) of the Cabinet Committee on Economic Affairs to award the work in respect of segment 'D' on nomination basis to DCI "in the interest of starting the project at the earliest, a stretch of the channel involving dredging work of 12 to 13 million cubic metre in Palk Strait area adjoining Bay of Bengal be permitted to be assigned to Dredging Corporation of India, a Mini Ratna PSU, under the Ministry of Shipping, subject to conditions as proposed in Para 12 of the note".

Para 12 of the note read "In the interest of starting the project at the earliest, a stretch of the channel involving dredging work of 12 to 13 million cubic metre in Palk Strait area adjoining Bay of Bengal is proposed to be assigned to Dredging Corporation of India, a

* *Capital Dredging means new dredging as opposed to maintenance dredging*

Mini Ratna PSU, under this Ministry on nomination basis, at rates comparable to the rates quoted by firms awarded contracts on the basis of global bidding in due course and subject to DCI guaranteeing completion of the work as per agreed work schedule."

The Ministry's order dated 1 June 2005 stated that "the rates payable to DCI for this work will be the prevailing market rates." Not only the contract was awarded on nomination basis but even the rates were not finalised. As future events would prove, no contract could be awarded for any of the chainage on the basis of global competitive tender and DCI finally was awarded all stretches on nomination basis. The rates for dredging work done were determined on the basis of enquiry-cum-negotiation and by a two member committee constituted by Government.

Even though Ministry submitted the note to the Cabinet on 13 May 2005, it would be apparent that terms of engagement were far from certain even then. In a letter dated 30 May 2005 addressed to the Joint Secretary(Ports), Department of Shipping, the Chairman–Tuticorin Port Trust- the coordinating agency of the project- expressed the view that the work to DCI on nomination basis should be given only after completion of further subsoil investigation as desired by DCI. The "inevitable conclusion that emerged during the discussions in your chamber is that the DCI is trying to take advantage of the need for early commencement of the work by manipulating the terms to their advantage, which could have a snowballing effect on the bidders in the global tender......." One of his suggestions was that "the formal ceremony of inaugural function can be held as scheduled clearly mentioning that the actual dredging work will commence in October 2005 after inviting global bids."

However, a memorandum of understanding was signed between the Chairman TPT and Chairman DCI on 25 June 2005 to enable "DCI (to) initially commence dredging in Stretch E3 to E4 (Palk Strait) in a length of approximately 13.57 Km with an estimated quantity of 13.55 million cum to attain a depth of (-) 12 m below Chart Datum". TPT was to pay DCI a monthly payment of ₹ 4.5 crore/ ₹ 7.5 crore as interim payment towards 4500 / 7400 cum Dredger to be adjusted as per the final agreement to be entered into between the DCI and TPT after finalization of contract based on international competitive bidding (ICB). The Project was inaugurated on 2 July 2005.

Eventually the ICB contract could not be finalised and the rates had to be decided by a committee comprising Additional Secretary and Financial Advisor, Ministry of Shipping and Chief Advisor (Costs), Department of Expenditure, Ministry of Finance.

Ministry replied that it was not correct to say that awarding the dredging contract on nomination basis to DCI was unusual. The extant dredging policy of Ministry of Shipping permitted award of contracts to DCI on nomination basis in public interest.

Ministry's reply is in contravention of its own letter No PO-28015/ 8/2000-DRG dated 17 February 2004 laying down the dredging policy for all major ports. Except for maintenance dredging for Kolkata Port Trust, all ports were required to "invite bids for Dredging and DCI shall have the first right of refusal if its rate were within 10% of the lowest technically qualified offer." The nomination of DCI for all dredging works was done in 2005 and 2006 when this policy of the Ministry was in vogue.

16.1.3.2 International competitive bidding

First round tendering dissolved

For the works A, B and C, TPT invited global tender for dredging in July 2005. The last date fixed for receipt of tender was 31 August 2005, which was extended to October 2005. In the estimates put to tender, the total dredging cost for Adams Bridge area was worked out as ₹ 940.84 crore (excluding mobilisation and demobilisation cost) for the estimated quantity of 48.04 million cum, calculated at the average rate of ₹ 150/cum for work-A and ₹ 237/cum. for work-B. As regards work-C of Palk Strait area, the estimated cost was ₹ 351.97 crore @ ₹ 168/cum for an estimated quantity of 20.95 million cum.

Eleven tenderers purchased documents for all the works. In addition, one tenderer each purchased tender documents for work 'A' and work 'C' only. TPT convened a pre-bid meeting in August 2005 wherein the participants informed that it was difficult to provide a realistic bid in the absence of detailed, adequate and reliable soil information. **Thus basic information regarding soil conditions was not available at the time of calling for tenders.**

As regards data on soil conditions, DPR had suggested that at least 20 marine boreholes up to a depth of (-) 16m each in Adams Bridge area were required to be dug. Against this, NIOT* excavated 4 boreholes at the time of finalisation of DPR. NIOT excavated six more boreholes before issue of tender. In view of the inadequacy of geo technical data furnished in the tender, the tenderers requested four to six weeks time after receipt of full soil information for submission of bids.

In July 2005, TPT appointed M/s.DBM Geo Technical Corporation Private Limited, Mumbai to conduct soil investigation at a cost of ₹ 87.54 lakh. The consultant submitted the report in November 2005. The results of 41 boreholes including 21 covered in Adams Bridge area were posted in the Port's web site.

In response to the tender, the following five firms submitted their tender documents for all three works on 3 October 2005.

Sl. No.	Name of the tenderer	Remarks
1.	M/s.Jan De Nul and M/s.Boskalis b.v.	Joint venture company EMD- submitted
2.	M/s Dredging International N V	EMD -submitted
3.	M/s Hyundai Engineering & Construction Company Ltd.	EMD -submitted
4.	M/s Van Oord Dredging and Marine Contractors b.v.	EMD -submitted
5.	M/s Jaisu Shipping Company (P) Ltd.	EMD -not submitted

The tender committee of TPT opened the technical bids on 3 October 2005 and did not consider the bid submitted by the tenderer at Sl no.5 for want of EMD. TPT requested the remaining four valid bidders to submit revised quotes before 26 October 2005 due to changes in the following bid conditions:

* ***National Institute of Ocean Technology. TPT entrusted the marine borehole work to NIOT.***

- Cost of work stoppage up to 15 days would be on the contractor's account.
- Cost of additional soil investigation would be allowed only to the successful bidder.

The tender committee did not consider the offers of Sl. no.2 and 4 for evaluation on the ground that the format of their bank guarantees did not safeguard the Port's interest. Hence, the bids submitted by M/s.Jan De Nul and M/s.Boskalis b.v. and M/s Hyundai Engineering & Construction Company Limited were considered for evaluation and further discussion.

As a precondition for opening of price bids, it was necessary that the tenderers withdrew all conditions put forth by them in the technical bids other than those agreed to by TPT. With this end in view, one to one discussions were held with the two bidders on 5 and 6 November 2005 and the tenderers were asked to withdraw all conditions which were not specifically agreed to by the Port. In their responses in November 2005, however, the tenderers instead of withdrawing the conditions put forth by them stipulated new conditions. While M/s Jan De Nul and M/s Boskalis b.v, had imposed a large number of conditions, the other tenderer, M/s Hyundai stipulated the following major conditions:

- The schedule of rate for soil conditions over 10 Mega Pascal (Mpa) (hardness up to 104 Kg. per sq. cm.) should be fixed before signing of the contract.
- They had reviewed the work methodology to lessen the environmental disturbance and indicated that it would involve additional cost impact.
- They had indicated that if work 'B' and 'C' were awarded to them together, mobilization of additional dredging equipment was inevitable, resulting in additional cost.

TPT did not accept the conditions put forth by both the tenderers and decided in consultation with the Ministry to open the price bids of both the pre-qualified tenderers with the stipulation, that, if their price bids were the lowest in respect of any work, all the conditions other than those specifically agreed to by the Port till then, have to be withdrawn. TPT opened the price bids on 19 December 2005 without obtaining a written confirmation from the tenderers regarding the acceptance of the above mentioned stipulation. M/s Hyundai Engineering Construction Company Limited was found to be the lowest bidder at ₹ 1925.39 crore. This included the following additional claims which were not included in the price bid submitted in October 2005:

- Additional claim of ₹ 178.68 crore in respect of work in Adams Bridge.
- In case they face harder soil strength of 104.4 kg/cm^2, further extension of time with additional cost of ₹ 20.93 crore.
- Additional cost of ₹ 44.03 crore for taking up works of 'B' and 'C' together.
- Customs Duty on import of equipments/spares.

The tender committee on 10 January 2006 recommended to TPT to dissolve the tender due to rates higher than estimates.

Ministry of Shipping communicated (6 February 2006) to SCL and TPT that the Ministry was in agreement with the recommendations of tender committee regarding dissolution of the tender. They also stated that adequate sub-soil data through borehole study was to be generated, in order to remove uncertainties in the technical specification of the work, to be incorporated in the tender document, while re-inviting the tenders.

It was noted in Audit that:

- **DPR suggested that in order to arrive at reasonably accurate estimates of capital dredging which is essential to compute capital dredging cost for the project, it was necessary that bathymetry data on a much finer resolution than those used in the study by NEERI and NHO♥ be obtained by conducting additional survey.**
- **In the meeting convened by the Ministry in December 2005, SCL suggested the necessity of 210 boreholes including 115 in Adams Bridge area itself so that the estimation of soil with higher hardness could be made.**

TPT held a pre tender meeting in January 2006 with the four firms to arrive at a consensus on geo-technical investigation especially in Adams Bridge area. It was agreed that additional 50 boreholes would be required for correct estimation of the quantum of work.

Accordingly, the contract for geo technical investigation, by conducting tests in 50 bore holes in Adams Bridge area at a cost of ₹ 3.13 crore, was awarded by SCL to M/s Fugro Geotech, Mumbai in February 2006. Though the scheduled date of completion of the report was 15 May 2006, they submitted the report in January 2007.

Second Round of tendering dissolved

Even before receipt of the above report in its entirety, TPT retendered on 24 February 2006 by issuing global notice for participation in the pre-qualification for the dredging work divided into two parts i.e. Adams Bridge (merging of works 'A' and 'B') and Southern Part of Palk Bay/Palk Strait (work 'C'). In response to the tender, seven parties submitted documents. DCI participated in this tender as a consortium with M/s Dredging International. The tender committee recommended (May 2006) to pre-qualify four firms including the DCI consortium. The tender documents were issued to the above firms on 18 May 2006 with the last date as 30 June 2006 and pre-bid meeting was held on 1 June 2006. Technical and price bid were opened on 30 June 2006 and 17 July 2006 respectively. In respect of Adams Bridge works, Jan De Nul nv and Boskalies bv JV was the lowest bidder at a cost of ₹ 2817.54 crore and for Palk Strait segment, DI & DCI JV quoted the lowest rate of ₹ 922.92 crore. These rates included mobilization and de-mobilization charges in addition to capital dredging cost. With reference to DPR estimates, the rates were in excess by 189.20 *per cent* for Adams Bridge work and by 153.25 *per cent* for Palk Strait.

Audit noted that TPT did not update the old estimates which were prepared in November 2004 even in the second round of bidding in February 2006. This resulted in unrealistic evaluation of the reasonability of the rates obtained in the second round of bidding.

♥ *National Hydrographic Office, Dehradun*

TPT decided to dissolve the tender (29 July, 2006) due to high rates quoted by the tenderers by referring the matter to the Ministry. Based on the recommendations of the tender committee, the Ministry dissolved (August 2006) the tender and entrusted the entire work on nomination basis to DCI in October 2006.

TPT embarked on the second round of bidding in February 2006 for dredging at Adams Bridge and Palk Strait even before the receipt of the full borehole test report in January 2007. Ministry's instructions on removing the uncertainties were not carried out and TPT was allowed to proceed with the tendering leaving the geo technical aspects as uncertain as before. Ministry also did not take any action to ensure that its instructions were followed.

SCL stated (February 2012) that TPT had successfully completed rock dredging strata more or less similar to that existing in the Adams Bridge area. Besides, the implementing agency, TPT, had a strong technical background and knowhow to carry out major works including dredging in offshore condition. Sufficient care had been taken to incorporate as many technical details as required for dredging works.

SCL further stated that the time gap between the first and second round of tendering was only seven months and thus did not warrant any updating of estimates.

Management's contention above is not acceptable as the physical quantity and cost estimations were formulated on insufficient data as detailed. Further, the time gap was more than 12 months between DPR (November 2004) and second round of tendering (February 2006).

Admittedly, it was a difficult tender with limited windows of calm weather. However, the preparatory geo technical work required to manage such a complex tender was not done. The bidders kept insisting on more information in respect of the soil conditions and TPT had to enlarge the scope of soil investigation. As per DPR, at least 20 marine boreholes were to be dug in Adams Bridge area, against which only 10 boreholes were dug before issue of first round tenders. As such, the recommendation in the DPR with regard to the number of boreholes was not attended to. The second round of bidding again based on incomplete data had to be dissolved due to the high rates quoted. To expect bidders to come up with acceptable technical and price bids under these circumstances was overly optimistic. Instead of addressing these issues, the Ministry took the decision of awarding the entire work of dredging to DCI on nomination basis.

Ministry in its reply stated that TPT, the Nodal Agency for Implementing SSCP while calling the ICB tender had duly updated the estimates by considering various factors prevailing at that time. The rate for dredging was not an item available in the approved schedule of rates and the same was influenced by prevailing market forces of demand and supply, availability of dredgers and other factors. The TPT while floating the second ICB tender had considered all the above factors prevailing at that point of time and decided not to update the estimates since the gap between the 1st ICB and the 2nd ICB tender was only seven months and did not warrant any updation of estimates.

Ministry's reply should be seen in the context of the fact that the total estimated cost of ₹ 974 crore and ₹ 364 crore (including mobilisation and demobilisation cost) for Adams Bridge and Palk Strait respectively was not changed between ICB I and ICB II. When viewed against the L1 rate for that area of ₹ 2817 crore for Adams Bridge and ₹ 923 crore for Palk Strait during ICB II, it would be apparent that the estimated cost was way below the L1 cost. Ministry or TPT never analysed the reasons for such a difference. Moreover, DCI consortium was L4 during ICB II for Adams Bridge area.

Ministry further stated that TPT had taken the initiative to call all the prospective bidders before preparation of tender documents for ICB 1 to understand the bidder's view and incorporate in the tender documents to avoid ambiguity in execution of works. During the meeting, a presentation was given by Port detailing the work A, B & C and the details of the soil investigation carried out by the Port through NIOT.

Since bidders wanted additional detailed soil investigation, TPT suggested for a combined soil investigation with cost sharing by the prospective bidders subject to the condition that the cost of investigation be reimbursed by the successful bidders as was done in the case of dredging of Panama Canal.

Since there was no understanding among the bidders, port conducted additional 41 Borehole investigations covering the entire length of the dredging area spread over Adams bridge area and Palk Strait.

These soil investigation results were hosted in the port website for easy access to the prospective bidders. Bidders were also permitted to witness the soil investigation at site to have a better understanding.

During the second round of bidding, the results of 37 out of 50 boreholes investigations were supplied to the bidders. In this particular case, the executing agency TPT, made available all the available documents to the bidders as hard copies and through website. Hence it is not correct to say that inadequate soil data was the stumbling block in the culmination of tender procedure.

However, the fact remained that the first round of tendering resulted in conditional bids due to lack of data. The necessity for more boreholes for correct estimation was recognised before the second round of tendering, but comprehensive results of such an exercise were not utilised for ICB-II indicating indifference towards essential information necessary to obtain actionable bids.

More importantly, it needs to be considered that the dredging work for all the sections was awarded to DCI on nomination basis after Cabinet approval. The issue of lack of adequate data on sub soil conditions was never resolved and it was not explained to the Cabinet as to how DCI would be more successful at dredging at a much lesser cost than the international bidders in view of the lack of adequate sub soil data.

16.1.3.3 Nomination of DCI

The Ministry nominated DCI for work D in June 2005 and for all the remaining segments viz Works A, B and C in October 2006 and the method of determination of rates payable was "prevailing market rates".

DCI did not participate in the first round of bidding by TPT due to shortage of dredgers. In the second round, they participated as consortium with Dredging International for Work C and A-B section at Adams Bridge area. On 16 September 2006, in reply to an enquiry from SCL, DCI wrote back in unequivocal terms that they have "constraints in terms of the manpower, technology and equipment for executing dredging work in Adams Bridge area."

The Planning Commission also expressed (15 September 2006) its reservation and stated "due to inadequate capacity of DCI, award of the contract on nomination basis may result in time and cost overrun. Furthermore, award of the contract to DCI may result in the cost of the project becoming open ended."

SCL itself commenting on the capacity of DCI had noted on 16 September 2006 that "DCI will have to rely to a very large extent on outsourced equipments and expertise which can be forthcoming through chartering of equipments and engagement of experts besides the possibility of joint ventures/ sub contracting which are both worldwide phenomena.....Admittedly DCI has limitations of own equipments and expertise but these can be remedied through outsourcing."

More interesting, however, was DCI's own letter dated 16 September 2006 addressed to Secretary (Shipping), Government of India. DCI categorically stated that for Work A and B- Adam's Bridge area, "DCI has no equipment or manpower, other than one Cutter Suction Dredger i.e. Aquarius, which currently is on charter overseas." DCI further pointed out inter-alia that "due to time constraints, DCI may have to take on nomination the above vessels, which involves deviation from the prescribed procedures."

Despite these uncertainties, the Ministry submitted the note for Cabinet Committee on Economic Affairs on 19 September 2006 seeking approval to the proposal of nominating DCI for the packages A, B & C within the revised escalated cost of ₹ 2171.40 crore.

Ministry finally issued order on 13 October 2006 nominating DCI for dredging contract for packages A, B and C as well.

Ministry replied that in spite of the known limitations of the DCI, the Government decided to award the SSCP work to DCI as it was the only viable option available under the circumstances. DCI's capacity was allowed to be enhanced by chartering dredgers, given the magnitude of the dredging involved and DCI utilized the services of TRANSCHART for chartering dredgers.

16.1.3.4 Chartering of dredgers through Transchart

Transchart, the chartering wing of Ministry of Shipping for making shipping arrangements, deals with imports and exports of Government cargos. In a meeting in February 2009 of the Standing Committee of the Ministry to fix responsibility of time and cost over run for the project, the representative of the Chartering wing of the Department of Shipping explained the methodology adopted by them for chartering the dredgers on behalf of DCI. "They explained that at the request of DCI, they issued the specifications given by DCI to various agents, brokers and shipping companies and obtained the quotes. The suitability of the dredger was examined basically by the DCI who finally selected a suitable dredger. No tendering process was resorted to while chartering the dredger as chartering wing of the Ministry is not in a position to invite tenders for dredgers etc. but was only assisting DCI to invite interested parties for dialogue/ negotiation with a view to suitable dredgers."

In practice, DCI intimated its requirements of dredgers to Transchart who floated enquiries to shipping companies and brokers. The responses were communicated to DCI, who inspected the dredgers and negotiated the price. DCI took the approval of SCL who in turn would get it approved by its Board. They would then intimate Transchart who entered into contracts for the dredgers.

Transchart floated nine global enquiries during 2006-2008 to 100 shipping companies/brokers and received 34 offers of which 7 offers were accepted by DCI. The suitability of dredgers was examined by DCI prior to chartering. The terms and conditions were prepared by DCI and forwarded to Transchart which signed the charter party on behalf of DCI.

The principles of procurement in Government were not followed. The price was decided based on negotiations and lacked transparency. Also the dredgers were engaged without finalising the basic information for technical specifications as discussed above and without analysing the reasons as to why the two attempts at international competitive bidding in which international firms had participated had failed.

Payment terms to DCI for dredging work kept open

On the failure of the retendering in February 2006, the Ministry entrusted the entire work to DCI on nomination basis in October 2006 with the payment terms kept open. In the note to Cabinet Committee on Economic Affairs dated 19 September 2006, it was proposed that the "rates to be paid to DCI may be arrived at by way of mutual discussion between DCI and SCL based on benchmark of rate quotes used for estimation purposes while preparing the DPR and also taking into account the estimated cost based on utilization of the chartered equipments and/or DCI's own equipments within the revised calculated cost of ₹ 2171.40 crores."

It was noted in Audit that the "benchmark of rate quotes used for estimation purposes while preparing the DPR" was not *rate quotes.* At current prices in October 2004, the DPR consultant arrived at a capital cost estimates of ₹ 2233 crore by adopting four methods: namely, (i) budgetary quotes and discussion with

suppliers (ii) rates taken from current works of similar nature (iii) updating rates of works of similar nature completed in the recent past and (iv) consultant's estimates.

In its letter dated 13 October 2006 conveying the sanction of the Ministry to the award of the works A, B and C to DCI on nomination basis, the Ministry further ordered that in order to impart transparency to the process of determination of the amount to be paid to DCI, a two member committee comprising Additional Secretary & Financial Advisor, Department of Shipping and Chief Advisor (Cost), Department of Expenditure, Ministry of Finance be constituted to determine the amount to be paid to DCI.

The award of major works involving more than ₹ 2000 crore to DCI on nomination basis thus kept open the question of rates at which DCI would be paid.

Ministry stated (October 2012) that Chartering wing in the Ministry of Shipping makes shipping arrangements for and on behalf of Government, Departments/PSUs primarily for movement of cargo and provides assistance as and when requested by indenting Departments for specialized requirements.

Chartering Wing does not float tenders for inviting shipping offers for Indian/foreign shipping lines. The methodology adopted is Open Enquiry-cum-Negotiation mode of chartering which has been in vogue for the past five decades, in line with the industry practice. The Wing floats enquiries based upon the requirements of the indentors/projects and all these are widely circulated in the International market, a fact well known in shipping circles.

For cargo requirements, Transchart float enquiries directly to Indian Ship owners and among the panel of shipbrokers for inviting offers from foreign ship owners from International market. Offers finalized based on negotiations are conveyed to the indenting Department for their approvals. Once approvals are conveyed Transchart concludes shipping fixtures and signs an agreement (Charter party) for all terms and conditions including freight rates for and on behalf of concerned indenting Department.

In the case of specialized requirement of DCI for dredgers also, the above procedure was followed for floatation of enquiries to Indian Ship owners and foreign ship owners in the International market. Since Transchart is not fully conversant with in-chartering of dredgers, the offers received by Transchart were forwarded to DCI for ascertaining technical suitability/ workability and also acceptability of charter hire rates. DCI after inspection of the concerned Unit conducted meeting with the respective dredger owners, alongwith TRANSCHART officials for arriving at final charter hire rates and terms/conditions of agreement. Once an agreement is reached, DCI took the approval of SSCP and its Board of Directors before conveying the same to Transchart for final confirmation to the ship owner. Draft Charter Party received from owners was forwarded to DCI for their vetting before same were signed by Transchart for and on behalf of DCI.

SSCP floated tenders in the open market inviting bids from owners world over on the basis of the specifications decided for the project. Since sufficient numbers of suitable offers were not received by SSCP despite re-tendering, the Ministry was requested to use the office of the TRANSCHART for inviting offers for TSHDs (Trailer Suction Hopper

Dredger). Since the available units of equipment for which offers were received were not meeting the entire requirements of DCI for SSCP on the request of DCI, Indian Missions abroad were also requested to approach dredger owners/interested parties to offer their equipment. Advertisements were also inserted in foreign newspapers through the good offices of some of the Indian Missions abroad.

No published benchmark/trend was available to ascertain the charter hire rates for dredgers unlike cargo charters where published indices, like Baltic Index for Dry Cargo and Tankers for various types/sizes of vessels are available and Transchart was being guided only by DCI in this regard for charter hire and terms/conditions depending on the type/suitability of dredger.

Chartering Wing played a role of facilitator in case of chartering of dredgers for DCI for the prestigious project of national importance namely Sethusamudram Ship Channel Project. DCI being experts in the field of dredging, chartering wing utilized the expertise of DCI and the rates finalized in each case depended mainly upon the availability, the specific nature of the equipment and the urgency involved vis-a-vis requirement of DCI.

Since the rates discovered through the global tenders was considered to be very high including the rate quoted by DCI as part of a consortium during the second invitation, the rates payable to DCI, had to be worked out through a different mechanism. Therefore, the Government constituted a two member Committee comprising AS &FA, Ministry of Shipping and Advisor (Cost), Department of Expenditure, Ministry of Finance to determine the rate payable to DCI. The arrangement was as per the decision communicated by the Ministry in October 2006.

Ministry's reply above acknowledges that competitive bidding was not adhered to. As acknowledged by the Transchart representatives, no tendering procedure was adopted. The chartering was entirely carried out on the basis of enquiries and negotiations. It is also important to note that TRANSCHART has no experience to charter dredgers as its responsibilities do not include chartering of dredgers. The issue of rates payable to DCI was kept open in the note to the Cabinet and subsequently. As the later events would prove, no reconciliation had been done between SCL and DCI regarding payment to DCI on account of deployment of dredgers.

16.1.4.1 Commencement of dredging work

The DPR had indicated that dredging area in Adams Bridge consisted of hard strata soil for a quantity of 18 million cum and required deployment of cutter suction dredger (CSD). The geo-technical investigations through borehole tests confirmed the presence of hard materials such as sand stone and calcarenite in addition to medium to dense sand in Work A, particularly in stretch 0 to 12.5 Km in this area. Hence, it was well known that dredging in the Adams Bridge area would be far more challenging than the Palk Strait area.

It had been specifically brought out in the DPR that the starting point of the project was South of Adams Bridge which comprised GA (4.322 km) and AB (17.267 km). The deliberations of PIB meeting (April 2005) also indicated that proposed channel would start from Gulf of Mannar and end in the Bay of Bengal.

Despite this evidence, award of work D in Palk Strait area on nomination basis to DCI and taking up the work as early as in July 2005 without tying up work in other sections was injudicious. If the work had commenced first in the Adams Bridge area, the inadequacy of DCI could have come to light earlier than it did and course correction attempted.

The Company stated (February 2012) that the programme of completing the entire dredging works in Palk Strait was linked with the completion of other segment of the channel i.e. Adams Bridge.

The Ministry in its reply of October 2012 termed the conclusion that if the work had commenced in Adams Bridge area first, the inadequacy of DCI would have come to light as factually incorrect. The Ministry stated that since DCI could execute sand dredging efficiently and as it did not own high power cutter suction dredgers and knowing fully well the limitations of DCI, a portion of work at Palk Bay / Palk Strait which consisted only of sand dredging was awarded to DCI. Simultaneously, TPT took action to invite global tenders to award other portions of dredging at Gulf of Mannar and Bay of Bengal.

16.1.4.2 Work at Adams Bridge area

For dredging at Adams Bridge area, deployment of CSD and TSHD was vital as the area consisted of hard materials. Therefore, in order to commence the dredging work at Adams Bridge area, DCI mobilized its own CSD Aquarius (built in 1977) from Spain in October 2006 by foreclosing its existing charter party with Dredging International. **DCI initially claimed from SCL an amount of ₹ 31 crore towards mobilisation of CSD Aquarius from Spain to India and compensation payable to Charter party owners due to premature closure of agreement. This at the behest of the Ministry was reduced to ₹ 15.15 crore. Further, DCI incurred an expenditure of ₹ 30.69 crore in operating this CSD on SCL project.**

This dredger commenced operation on 17 December 2006 in the southern side of Adams Bridge which had to be stopped on 26 December 2006 as the auxiliary spud of the CSD broke and fell into the dredging area in the sea. DCI's efforts to retrieve the broken part of the spud failed and the broken part is still lying in the dredging area of the channel.

DCI redeployed the dredger after repair on March 27, 2007 but suspended the operation on April 13, 2007 itself due to heavy swell conditions. Thereafter, DCI did not deploy any CSD in the Adams Bridge area. During the brief period, DCI dredged a meagre quantity of 83917 cum, **which was dumped in the side of the channel and not at the prescribed site.**

DCI, however, continued the dredging operations in northern side of Adams Bridge by deploying four TSHDs from February 2007. Out of these four, three were owned by DCI whereas one (Prof Gorjunov) was chartered. It suspended the entire operations by middle of September 2007 after Supreme Court's orders. During this brief period, DCI dredged an in-situ quantity of only 9.52 million cum. The dumping of this dredged material is dealt with in the subsequent paragraph. From the point of view of navigation of the channel, dredging on the northern side would be infructuous if the southern side of the Adams Bridge was not dredged.

It would thus be seen that dredging in the most difficult area was carried out without dredgers of required number and type. The dredging completed was only 20 per cent of the target of in-situ quantity of 48 million cum to be dredged in Adams Bridge area. This should also be viewed in the light of the fact that DCI also had confirmed in its letter dated 16 September 2006 for work in the Adams Bridge area, it had no equipment or manpower other than one CSD Aquarius. Dredger Aquarius also failed.

It is to be noted that in several parts of the reply of the Ministry to this audit report, it has been claimed that the project was being implemented well before judicial intervention. The above facts will however indicate that the dredging work in the Adam's Bridge area never really took off and a very small amount of dredging was carried out. The reasons for such lack of progress were not any legal impediment but lack of capabilities and preparations on the part of DCI to carry out the work. It reinforces the acknowledged position of DCI that it lacked capacity.

It was also noticed in Audit that the work was started without signing MOU between SCL and DCI for the work in Adams Bridge area. The MOU was signed on 29 November 2007, even later than stoppage of work in September 2007 consequent on judgment of the Apex Court. There was no mention of number of dredgers to be deployed in the MOU. The MOU was never converted into an agreement as was done in case of Palk Strait area.

The Ministry replied (October 2012) that DCI and SCL agreed to the effect that the MOU would be construed as a part the agreement which was signed between SCL and DCI for the dredging work at Palk Bay/Palk Strait. Due to Hon'ble Supreme Court's order, no separate agreement could be entered for Adam's Bridge works as the work had to be suspended. The Ministry reply added that normally SCL was not to point out the number of dredgers to be deployed by DCI and that DCI had to deploy the required number under a clause in all the agreements/MOU.

As regards the audit observation regarding dumping of dredged material on the side of the channel and not at the prescribed dumping site, Ministry stated that during the working of CSD Aquarius, TSHD VI was deployed to convey the dredged material from South of Adam's Bridge to designated dumping site.

Ministry's assertion contradicts Note to the Agenda Item 224/8 of DCI Board meeting on 28 November 2007 in which it was stated that "it has also been observed that the material dredged by Dredge Aquarius, and side casted with floating pipeline could not be rehandled by TSHDs because the material consists of sandstone and calcarenite".

16.1.4.3 Dumping of dredged material

The environmental clearance for the project was accorded subject to the following conditions for dumping of dredged materials.

- The dredged material will be disposed of in the identified sites in the sea. No dredged material will be disposed of on land.

- During dredging and disposal activities, monitoring marine environment quality should be done periodically and necessary navigational steps should be taken up in case of increase in turbidity beyond the prescribed limits. Environmental monitoring cell was to be constituted to monitor all the environmental parameters associated with the project. The environment management plan recommended by NEERI should be implemented.

The DPR identified two dumping sites viz **Dumping site 1**, which was 25 - 30 kilometres away from Adams Bridge area at the Gulf of Mannar and **Dumping site 2**, off shore in Bay of Bengal as indicated in the map below. The dredged material was to be disposed of in the sea at a depth of 25 to 30 metres.

DCI commenced dredging work at the southern side of the Adams Bridge in December 2006 but the work was affected adversely due to insufficient depth across the Adams Bridge for manoeuvrability of the dredgers. DCI informed (July 2007) the Ministry of Shipping that due to shallowness in segment A of Adams Bridge area, it was not possible to dump the material in the identified dumping site viz Dumping site 1. TPT also sought (July 2007) clearance/approval for an additional dumping site on the Northern side of Adams Bridge from Ministry of Environment & Forests. Ministry of Environment & Forest accordingly granted necessary environmental clearance in August 2007 for a third dumping site Viz. **Dumping site 3** in Palk Bay at specific geographical coordinates.

A pictorial presentation of the three dumping sites is shown below:

1: Southern side of Adams Bridge
2: Palk Strait in Bay of Bengal Area
3: Palk Bay

Before getting MoEF clearance for an additional dumping site, SCL and TPT decided to shift the dredgers to the north of Adams Bridge and commence dredging there from February 2007. They decided that the dredged material could be dumped within the channel alignment itself in the existing depth of 9-12 m. Between February and September 2007, an in situ quantity of 9.52 million cum was dredged and dumped in the channel alignment between chainage 30-35 km.

The decision to dump the dredged material in the channel alignment itself was a violation of the conditions imposed in the environmental clearance. Dumping in a site that has not been assessed for environmental impact cannot rule out serious disturbances to the marine eco system there. It has been estimated that nearly 5 million cum out of 9.52 million cum of dredged and dumped material needs to be re handled. Therefore, further threat of disturbances to the eco system looms large.

SCL accepted (February 2012) that the dredged materials were dumped in the alignment of channel itself as per the decision taken by the then Chairman. It added that the dredging site on the southern side of Adams Bridge area was not accessible due to sand dunes and other dumping site identified was in the Northern side about 160 km away.

Audit observed that SCL and TPT sought approval for an additional dumping site after commencement of dredging and dumping dredged material in the channel alignment unauthorisedly. Further, they kept their unauthorised deed of dumping in the channel alignment itself under wraps and did not disclose it to the Ministry while seeking approval for an additional site.

The Ministry did not provide specific reply to the audit observations. It however stated (October 2012) that the Ministry had constituted a High Powered Committee under the chairmanship of Prof S Ramachandran, the then Vice Chancellor of Madras University, which had monitored the environment management plan and the environmental parameters. It further stated that "while the dredging site on the southern side of the alleged Adam's Bridge area was not accessible due to presence of sand dunes, the other dumping site identified in the northern side was about 160 kms away from the dredging location. Since SCL had engaged DCI for carrying out the dredging on cost plus basis, the dredger had to traverse nearly about 320 kms up and down to dispose one load of dredged material. In other words, the cost of dredging would have gone up nearly 6 to 8 times of normal dredging. Hence a decision was taken by the then Chairman TPT to dump the dredged material only in the alignment of channel where depth of the water was between 9-12 metres for rehandling by TSHD...... Had the work continued…....., the material dumped in the channel alignment would have been removed and transported to the identified dumping site at a later date."

The reply added that collecting of materials in one particular location for rehandling can neither be termed as disposal of materials nor would tantamount to violation of environmental stipulations. A continuous independent monitoring was resorted to till stoppage of all dredging activities and it was ensured that there was no exceeding of the permissible limits.

The Ministry's position was that when dredging and dumping activities were in progress, it was ascertained by the Environmental Monitoring Committee that there was no impact. Since there was no dredging and dumping activity beyond July 2009, there may not be any possibility of further impact on account of dredging and dumping already completed.

Ministry's reply confirms lack of planning and preparation. If avoidance of additional cost was the main factor behind this decision, the rehandling cost was not assessed.

16.1.4.4 Work at Palk Strait

Again, from the point of view of navigation of the channel, both the stretches viz Adams Bridge area and Palk Strait area would have to be available. While, the dredging in Adams Bridge area was stopped in September 2007, the same commenced in Palk Strait area in July 2005 and continued up to July 2009 much after the work at Adams Bridge area had stopped.

A total of 13 dredgers (6 owned by DCI and 7 chartered) were deployed at different points of time. DCI dredged an in situ quantity of 30.18 million cum from July 2005 to July 2009 against the targeted in situ quantity of 34.50 million cum. In July 2009, DCI withdrew all its dredgers as SCL had not extended the agreement with DCI and there were disputes in the amount claimed and paid.

Agreements with charterers

Transchart entered into agreement with the charterers on behalf of DCI. The five dredgers engaged with guaranteed production failed to achieve the guaranteed production. The three others did not have any provision of guaranteed production. The position was as in the table below:

Sl. No.	Dredger Name	Expected Production as per Guarantee (mcm)	Actual Production (mcm)*	Shortfall (mcm)	Per cent of shortfall
1	Prof. Gorjunov	No Guarantee			
2	Pacifique - Phase I	No Guarantee			
	Pacifique – Phase II	1.769	1.526	0.243	13.73
3	Sagar Hansa	No Guarantee			
4	Triloki Prem	3.915	2.486	1.429	36.51
5	Banwari Prem	4.816	2.759	2.057	42.72
6	Daryamantan	3.719	3.675	0.044	1.18
7	Bhagvati Prem	2.670	1.706•	0.964	36.10

****These are net hopper quantities and as such, will not tally with the in situ quantities indicated in the table below.***

Strangely, dredgers were chartered on daily hire rate basis while DCI was to be paid by SCL on quantity dredged. It was calculated in Audit that DCI suffered heavy losses on account of chartered dredgers as would be evident from the table below:

Sl. No.	Dredger Name	Actual Production (mcm in-situ)	Payment made (₹ in crore)	Payment receivable from SCL (₹ in crore)	Profit(+)/ Loss(-) (₹ in crore)
1	Prof. Gorjunov	7.105	129.06	191.88	+ 62.82
2	Pacifique - Phase I	1.349	37.08	33.77	-3.31
	Pacifique - Phase II	1.131	39.63	32.37	-7.26
3	Sagar Hansa	1.511	43.83	37.85	-5.98
4	Triloki Prem	1.912	64.93	53.69	-11.24
5	Banwari Prem	2.036	71.03	57.96	-13.07
6	Daryamantan	2.637	133.30	75.37	-57.93
7	Bhagvati Prem	2.016	71.88	57.71	-14.17
Total					**-50.14**

• ***This includes quantity dredged upto April 2009. The dredger was also deployed after April 2009 upto July 2009 for which no performance guarantee was obtained.***

It would be seen that on account of seven dredgers, DCI suffered a loss of ₹ 112.96 crore, which was partially offset by a profit of ₹ 62.82 crore on account of Prof. Gorjunov, resulting in a net loss of ₹ 50.14 crore.

Out of seven chartered dredgers, five dredgers were flying the Indian flag. DCI however, settled payments in foreign currency to four out of the five dredgers stated above. As a result, SCL had to bear avoidable exchange rate variation of ₹ 29.41 crore claimed by DCI.

The Ministry did not offer any remarks regarding loss sustained by DCI on account of engaging the chartered dredgers.

Deployment of dredgers

DCI had deployed 13 TSHDs including 7 chartered dredgers of various hopper capacities from July 2005 to July 2009 (3506 days utilized). DCI did not choose to charter more dredgers because of additional tax liabilities in case its chartering exceeded 50 *per cent* of its own dredgers Though the number of dredgers deployed (13 dredgers of different capacities) was as per the requirement of SCL (September 2006), all these dredgers were not utilised throughout the four year period i.e. from July 2005 to July 2009.

Against the available dredging of 12550♥ days, DCI actually deployed its own and chartered dredgers for 3506 days only which worked out to 26.5 *per cent.* Work D in Palk Strait, which had to be completed in July 2007, was completed in January 2009. For Work C, only 38 *per cent* of the dredging work was completed by July 2009, when the work stopped.

SCL stated (February 2012) that the programme of completing the entire dredging works in Palk Strait is linked with the completion of other segment of the channel i.e. Adams Bridge. When there was a stay and an alternative alignment was under consideration, their decision not to persuade DCI for deployment of more dredgers was in their financial interest.

When the work at Adams Bridge was suspended based on Supreme Court's orders, the Company continued dredging at Palk Strait and expended ₹ 325.27 crore between September 2007 and July 2009 in respect of four dredgers for which contract was signed after September 2007. This was not a considered decision after examining the economic wisdom of the options viz. continuance or abeyance of dredging in the light of the fact that channel cannot be operated in segments and there would be continuous siltation. In fact, the interim survey conducted through NHO in September 2009 itself showed negative dredging output, indicating siltation even then.

The Ministry replied (October 2012) that assuming the Court cases would be completed in short period, dredgers were engaged on the north side of Adam's Bridge to complete the dredging works as much as possible. The reply added that siltation was a common phenomena and that maintenance dredging would have commenced on completion of capital dredging.

♥ ***(July 2005 - September 2006)1500 days + (October 2006 - July 2009) 11050 days = 12550.***

Had the dredging work in Palk Strait Area been stopped along with the work in the Adam's Bridge area, there would have been reduction in the expenditure to the extent of ₹ 325.27 crore which was incurred between September 2007 and July 2009.

16.1.4.5 Surveys

Adams Bridge: The Company's MoU with DCI stipulated that interim survey would be carried out by DCI along with SCL's representative utilizing DCI's own survey resource.

Though pre-dredging survey was done by NHO in Adams Bridge Area in November 2006 - January 2007, no progress survey was done by DCI for the period between February and September 2007 and **the dredged materials were dumped in the alignment itself.**

Ministry replied (October 2012) that from February to September 2007, since much work was not carried out at Adam's Bridge interim survey was not carried out and thereafter based on the Hon'ble Supreme Court's order, the work at Adam's Bridge was temporarily suspended.

Palk Strait

As per the agreement (March 2007) between SCL and DCI, the entire channel of 54.24 km stretch in Palk Strait was to be handed over by DCI to SCL after completing the entire dredging and the post survey. After suspension of dredging work in July 2009, NHO conducted survey in August/September 2009 and certified a dredged quantity of 18.9 million cum, as against dredged quantity of 21.43 million cum assessed by DCI in its survey in January 2009. This was due to the siltation process.

16.1.4.6 Incorrect computation of siltation factor in the cost estimate

Based on the inputs furnished by DCI, the AS&FA committee, in the rate structure, considered four percent additional quantity to cater to siltation* and over-dredging. However, the siltation was later (November 2009) assessed to be 10 *per cent* per annum by an expert engaged by DCI. Considering the DCI's experience of more than three decades in dredging activities in general and of more than two years in the Sethusamudram Project, DCI could have foreseen the siltation pattern.

DCI did not bring the siltation factor to the notice of AS&FA committee. DCI suffered siltation of more than 30 per cent (in four years) for which no compensation could be claimed under the terms of the agreement with SCL.

The Ministry stated (Nov 2012) that initially, AS &FA Committee considered siltation factor of 4 per cent on the basis of DPR. As the actual siltation was much more, it was agreed on 21.10.2008 that the in-situ to hopper conversion factor will be 0.7 for dredging for the period commencing from 1.1.2008 and that this will be 0.8 upto 31.12.2007.

Thus, preparation of DPR was not accurate.

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* ***Egress of sand and silt into the dredged area due to underwater currents and wave movement***

Dredging Corporation of India Limited

16.2 Avoidable loss

Acceptance of dredging assignment without adequate assessment of site conditions and availability of suitable dredging equipment for executing the work resulted in avoidable loss of ₹ 4.99 crore and blocking of revenue of ₹ 36.07 crore.

Dredging Corporation of India Limited (DCIL) was awarded (July 2009) the work for maintenance dredging for three years viz. 2009, 2010 and 2011 and capital dredging in 2009 at a price of ₹ 141.30 crore (₹ 91.35 crore for maintenance dredging and ₹ 49.95 crore for capital dredging) on lowest tender basis by Mormugao Port Trust (MPT). As per the work order, the capital dredging was scheduled to be completed by January 2010. Accordingly, DCIL took up capital and maintenance dredging work at MPT as per the terms of the agreement.

In this regard, Audit observed that:

- DCIL was unable to complete the assigned work of capital dredging within scheduled time i.e. Jan 2010, which remained incomplete till December 2011. MPT accordingly withheld capital dredging charges of ₹ 36.07 crore.
- DCIL did not have clarity regarding availability of dredgers, while submitting the quotation. DR XVIII – Cutter Suction Dredger which was proposed to be used for the capital dredging work was not available with DCIL at the time of submitting the quotation. Further, DR V-Trailer Suction Hopper Dredger(TSHD), proposed to be deployed in MPT was a committed dredger as per contract with Kolkata Port Trust. Moreover, there were questions on the availability of Professor Gorjunov, TSHD, due to repairs and technical limitations.
- MPT did not accept the contention of DCIL that delay was due to external factors like soil conditions, presence of water debris etc. MPT took the view that DCIL should have inspected and acquainted themselves with the dredging site conditions as stipulated in the 'tender instructions'. Consequently, DCIL's bank guarantee of ₹ 4.99 Crore was encashed by MPT (November 2011) and the contract for capital dredging was terminated (December 2011) at the risk and cost of DCIL.

DCIL in its reply stated (December 2013) that:

- Capital dredging was delayed mainly due to presence of hard sea bed conditions such as boulders, wreck and other foreign materials, which were beyond the scope of work of normal capital dredging.
- Dredger-XVIII was planned for deployment expecting its availability in September 2009 since initial trial of Dredger was already done at the time of bidding; but the dredger was actually delivered to the Company only in April 2010. Another planned Dredger-V was sent to Haldia Port since Dredger-XVIII was not available. Other dredgers were thus deployed for the work.

- By December 2011, 76 *per cent* of the capital dredging was completed when MPT took decision to terminate the contract and execute the same at the risk and cost of DCIL.

Ministry reiterated (January 2014) the views of the management furnished in December 2013.

DCIL's reply needs to be viewed in the light of the following:

- Its failure to complete the capital dredging work within scheduled time was clearly attributable to avoidable deficiencies in appreciating the importance of instructions to bidders issued by the Port and to submitting quotation without even availability of dredgers. Clauses 5, 8 and 14 of "instructions to bidders" clearly stipulated that quote should be submitted after inspection of the dredging site, thoroughly acquainting with the soil and other conditions, restrictions about frequency of shipping movements, underwater obstructions, and delays/damages due to any unforeseen reasons. Presence of hard sea bed, wreck and other foreign materials were not such as could not have been anticipated by the management before quoting the bid.
- DCIL was itself aware at the time of submission of quotation that Dredger-XVIII was not available and therefore the expectation about the availability of the dredger by September 2009 was without any valid basis.
- In the minutes of the meeting held (July 2009) before the award of the contract, MPT categorically stated that requests for time extensions would be examined only on merits. MPT rejected the Company's reasons for the delay quoting contractual provisions and tender conditions, which were not factored in by DCIL while quoting the bid.

Thus, accepting the dredging assignment without adequate assessment of site conditions and availability of suitable dredging equipment for executing the work resulted in avoidable loss of ₹ 4.99 crore and blocking up of capital dredging revenue of ₹ 36.07 crore.

The Shipping Corporation of India Limited

16.3 Implementation of SAP ERP System

Deficiencies in implementation of SAP ERP System in the Shipping Corporation of India Limited, Mumbai

16.3.1 The Shipping Corporation of India Limited (the Company) had gone into computerization as early as 1967. In the year 2000 all the applications were converted as per HP Unix MF COBOL requirements. The system had constraints like delay in availability of external data, non-digital data and non-existence of integrated information from heterogeneous data sources, legacy technologies, scattered applications, outdated man machine interface and lack of workflow. In view of the constraints, the Board decided (August 2007) to implement SAP ERP System at a budgeted cost of ₹100 crore. The project had been named as SCI's Enterprise Transformation through Information

Technology (SET-IT). The Company covered its entire operations through three modules viz. Financial Accounting through SAP FICO, Personnel Information and Payroll through SAP HCM (except fleet HCM) and Material/Inventory Management through SAP MM Module. The Company also implemented two more modules viz. SAP Project System (PS) and Plant Maintenance (PM) and adopted shipping specific COTS applications viz. DANAOS[1] and AFSYS[2]. The system was being made operational in a phased manner. All finance related and other business processes in SAP, DANAOS and AFSYS were fully implemented by February 2011.

16.3.1.2 Total cost incurred on the project as on 31 March 2013 was ₹ 71.27 crore. The Company also incurred recurring expenditure of ₹ 30.51 crore towards annual maintenance cost of SAP licenses, data centre managed services, support services, wide area network charges, internet charges, etc. from October 2009 to 31 December 2013. Audit reviewed the implementation of SAP ERP system and noticed the following deficiencies.

16.3.2 Audit findings

16.3.2.1 Organisational and Management Controls

- There were no appropriate policies and procedures in relation to retention of electronic records.
- There was no rotation of staff in key areas where uninterrupted functioning was essential. Job rotation allows other staff to perform a job normally carried out by another person and can lead to the detection and identification of possible irregularities and also acts as a preventive control.

The Management stated (December 2013) that as every area of operation in IT was highly specialised in nature, it was very difficult for SCI to rotate the trained officers to other areas. Presently, only a few officials (one or two officials in each area) from SCI were dedicated for support and development activities and hence rotation of staff in key areas became difficult.

The Ministry stated (March 2014) that the back-up policy was approved and implemented and also stated that rotation of staff was difficult to implement.

16.3.2.2 Absence of IT Security Policy

The Company did not have any approved security policy which defined logical and physical access. This may lead to security breaches, data loss, fraud and errors.

The Management stated (December 2013) that security audit for the data centre was carried out (June 2012 to February 2013) and some of the recommendations have already been implemented and rest would be implemented based on the Management approval.

1 Danaos Management Consultant S.A. – used by the Operations Divisions of Bulk & Tanker and Technical & Offshore

2 Information Dynamics L.L.C. – Agent Control System used in the Liner Division

It further stated that a comprehensive policy on the IT security would be prepared and put up to the Management in due course.

The Ministry explained (March 2014) the security measures adopted by SCI, and stated that SCI has not experienced any security breach after implementation of the system. The Ministry also fixed timeline for completion of compliance as 30 April 2014.

Verification of reply in audit revealed that IT security policies relating to Email, Internet and Mobile Computing were approved (February 2014) by the Management and implemented.

16.3.2.3 Password change policy

The Company does not have a separate password policy. However, every six months a mail is being sent to active directory users for change of password. It was noticed that out of 1,129 active users as on 16 September 2013, 1,070 users had not changed their password for more than 180 days. Not changing the password for a prolonged time enhances the risk of unauthorised access and manipulation of the system.

The Management stated (December 2013) that a password policy document would be prepared and the same would be put up to the management for approval.

The Ministry stated that SCI was in the process of implementing a password change policy and fixed timeline for completion of compliance as 31 March 2014.

Verification of reply in audit revealed that password protection policy was approved (February 2014) by the Management and implemented.

16.3.2.4 Accounts Receivable

The Company went live with the new IT system from February 2011. However, while uploading the legacy data in the new system the data was not cleaned. Freight reconciliation in the old legacy system was not completed for the earlier years at the time of data migration to the new system. As such, all open items were also migrated to the new system without indicating the date from which the amount was due. The amount transferred from legacy system to the new system was ₹ 672.62 crore as on 31 March 2011 and the amount outstanding as on 31 March 2013 was ₹ 296.75 crore. It was thus not possible to obtain age-wise analysis of 'Sundry Debtors' of legacy period from the system. The Company was analyzing this outside the system through manual process.

Trade receivables of ₹ 886.41 crore as on 31 March 2013 were arrived at after netting advance received from customers amounting to ₹ 340.21 crore on a global basis, without any reconciliation. The Company should introduce a system whereby trade receivables are adjusted against pending advance.

The Management stated (December 2013) that the date for the transactions of legacy data uploaded was recorded as 31 January 2011. Regarding netting of advances from customers on global basis, the Management stated that liner freight reconciliation was completed to the tune of 99 *per cent* and for Technical and Offshore Services Division, it was under reconciliation and expected to be completed by 31 March 2014.

While endorsing the reply of the Management, the Ministry stated (March 2014) that outstanding of Sundry Debtors pertaining to legacy period as on date was ₹ 157.95 crore and fixed a timeline for completion of compliance as 31 March 2014 for Liner Division and Technical and Offshore Services Division and September 2014 for Bulk Carrier and Tanker Division.

Verification of reply in audit revealed that sundry debtors of legacy system in respect of Liner Division and Technical and Offshore Services Division are yet to be completed and in respect of Bulk Carrier and Tanker Division, the clearance was in progress (April 2014).

16.3.2.5 Delay in reconciliation of payable accounts

Following deficiencies were observed in approvals, disbursement and settlement of accounts submitted by agents and accounts payable:

- Accounts payable transferred from legacy period to the new system was ₹ 163.24 crore (credit) as on 31 March 2011 which became ₹ 77.64 crore (credit) as on 3 January 2014. The Management should have uploaded the legacy balances only after maximum possible reconciliation. Further, as a result of uploading of legacy data without dates, ageing analysis of accounts payable of legacy period was not possible from the system.
- Due to dependence on manual intervention for clearance of Final Disbursement Account entered into the system by the agents, there was delay in approval and adjustment of advances given to the agents. Audit observed that as on 2 April 2013, only 72.12 *per cent* of total 146735 lines items (monetary value not provided by the Company) pertaining to 2011-12 and only 20.34 *per cent* of total 103767 line items pertaining to 2012-13 were approved and cleared. As a result, trade payables of ₹ 803.58 crore as on 31 March 2013 was arrived at after netting advance to vendors amounting to ₹ 1499.39 crore on a global basis without any reconciliation. In order to overcome this situation, the Company should upload tariff or contract rates in the system, wherever available and clear the same through the system like goods receipt / invoice receipt clearance.
- When a new advance was released, the earlier outstanding balances were not adjusted.

The Management stated (December 2013) that:

- The legacy period advances included vendors of all locations / departments, the list would be given to each department for review;
- The agency contracts were already uploaded for majority of the agents. Validation of contracts and the rates were being tested and expected to have system generated validation in respect of agency remuneration payments shortly. A similar exercise was being made in respect of statutory dues and port dues. All the above features are part of the Phase II of SET-IT project and would be implemented progressively after due testing.

The Ministry stated (March 2014) that at the time of implementation of the new system, there was a backlog of about two years and after implementation of the new system, 99 *per cent* of scrutiny of accounts for 2011-12 was completed and considerable progress has been made for the financial year 2012-13. The Ministry also fixed timeline for completion of compliance as 31 March 2014 for Indian Ports and Bills Department and 31 July 2014 for Foreign Ports.

Verification of reply in audit revealed that reconciliation of accounts payable in respect of Indian Ports and Bills Departments are yet to be completed and in respect of Foreign Ports, the reconciliation was in progress (April 2014).

16.3.2.6 Business continuity and disaster recovery

Business Continuity Planning (BCP) is the only effective protection against serious disruption on account of earthquake, storm, lightening, flood, terrorist attack, internal sabotage, vandalism, human error, etc. to the business. BCP outlines plans and procedures to keep business operations ongoing following any disruption. The goal of BCP is to ensure maximum availability and least downtime of the applications, technology and infrastructure ensuring continuity of the business. BCP cannot be restricted to technology alone, but needs to cover important facets like people, processes and infrastructure of the organization.

SCI categorised priority requirements for the IT application systems as high, medium and low. High priority requirements are in the areas of infrastructure applications, finance, voyage management, fleet management, chartering, repairs and maintenance, medium priority requirements are in the areas of cargo operations, port operations, sales and marketing, equipment control, materials management, vessels operations, fleet human resources and low priority requirements are in the areas of insurance claims and passenger booking.

Though the Company prepared (March 2007) a Business Continuity and Disaster Recovery Plan, it was never reviewed or updated. Documents of the system and disaster recovery plan were not appropriately backed up, the back-up and recovery procedures were not appropriately tested and there were no procedures to update the business continuity and disaster recovery plan. The business continuity plan for the information system should be tested and / or exercised periodically (at least annually) using test and / or exercise scenarios to determine the effectiveness and readiness to execute the plan.

The Management stated (December 2013) that a disaster recovery site was being constructed at Kolkata Office and that servers were installed and the operating system was being implemented.

The Ministry stated (March 2014) that the disaster recovery site was prepared, all the servers, operating system were installed, applications were being installed, data was being migrated and the disaster recovery site would be ready soon. The Ministry also fixed timeline for completion of compliance as 30 April 2014.

Verification of reply in audit revealed that major activities pertaining to the disaster recovery site have been completed but disaster recovery drill scheduled by 30 April 2014 has been postponed to 31 May 2014 due to account closing activity.

Conclusion

The Company needs to address the deficiencies mentioned above and strengthen the SAP ERP system so that the intended benefits accrue properly and completely.

The Ministry stated (March 2014) that the processes implemented were stabilized and by and large there was no critical system issue with respect to the processes that have gone live.

CHAPTER XVII: MINISTRY OF STEEL

KIOCL Limited

17.1 Injudicious expenditure on Pig Casting Machine in Blast Furnace Unit

Kudremukh Iron and Steel Company Limited (KISCO), Bangalore, a joint venture company promoted by KIOCL Limited, MECON Limited and MSTC Limited, was established with the objective of producing low sulphur low phosphorous pig iron and to convert a part of it into ductile iron spun pipes (DISP).

KISCO was incurring continuous losses from the very first year of its operations (2001-02). It became (June 2006) wholly owned subsidiary of KIOCL and was finally merged with KIOCL w.e.f. 1 April 2007 becoming a unit of KIOCL, i.e., Blast Furnace Unit (BFU). Even after merger, BFU continued to incur losses and was shut down from 5 August 2009.

In the meanwhile, KIOCL decided (August 2008) to set up a third Pig Casting Machine (PCM) a downstream equipment for BFU. This was in addition to the existing two PCMs. The decision on the third PCM was on the advice of MECON Limited (October 2007) to attend to the breakdowns of existing machines without exposing workers to the hazards and also improve productivity by continuously running the BFU. KIOCL placed (September 2009) a work order for design, manufacture, supply, construction, erection, testing and commissioning and performance guarantee tests of PCM at a cost of ₹ 3.89 crore. KIOCL incurred ₹ 4.20 crore towards procurement and installation of PCM.

Examination in Audit revealed that:

(i) Though the Board decided (July 2009) to stop production at BFU from August 2009, KIOCL issued (September 2009) work order for third PCM which was not commissioned (March 2013).

(ii) The existing two PCMs were operating below 65 *per cent* of their capacity in 6 years and about 75 *per cent* in rest of the years.

(iii) The Board decided (March 2010) to keep the operations of BFU suspended till integration of both backward (Coke Oven Plant) and forward operations (DISP Plant). DISP Plant was to get its input from PCMs and was proposed (October 2011) to be set up in partnership through a Special Purpose Vehicle (SPV). The gestation period for setting up a DISP project was to be 24 months from the issue of Letter of Intent. As of March 2013, KIOCL was yet to identify the partner for implementation of DISP project. In this scenario, the third PCM which was already idle for 26 months from January 2011 would remain idle for a minimum period of another 24 months until the DISP project was completed.

The Company stated (July 2013) it had, at the time of taking decision to install a third PCM, examined all aspects viz. increase of productivity, safety of workforce, easy maintenance etc. However, due to recession in the market for pig iron, which was beyond its control, operations of BFU had to be suspended and it was making all efforts to restart the operations of BFU. With the operation of two PCMs, continuity in production at BFU was getting affected, besides leading to overlooking of safety aspects. Further, there were technological improvements in the design of third PCM and metal handling system. The new PCM had much improved technological aspects.

The reply is not acceptable in view of the following:

- The financial consultant, in his appraisal note on KISCO (June 2000), had opined that pig iron operation is not viable on a standalone basis. CMD of KIOCL also noted (August 2008) that there was no ready market for pig iron already manufactured and it was lying in stock. Disposal of stock was also cited as the reason for shutdown of BFU in the first instance. The closing stock of pig iron for the year 2006-07, 2007-08 and 2008-09 was 20348 MT, 5845 MT and 43462 MT respectively. In this scenario, with the stock lying unsold, procurement of additional machinery to increase productivity lacked justification. The Company could not succeed in setting up SPV for DISP making the utility of PCM doubtful.

- Continuity in BFU production was not a viable reason for installation of third PCM as it was noticed that BFU was also shut down during 2008-09 owing to clearance of pig iron stocks. Technological improvements needed to be viewed in the background of time elapsed between decision to install the third PCM in 2009 and the time that would be needed to actually put it to use.

Ministry in its reply (September 2013) reiterated the views of the Company and stated that BFU was still shutdown and the Company was pursuing the establishment of DISP Plant and Coke Oven Plant, which were yet to materialise.

Hence, despite knowing that BFU was not viable on standalone basis and having closed its operations, KIOCL ordered for setting up a third PCM which has been idle for the past 26 months and would remain idle for a minimum of another 24 months from the issue of letter of intent, which has also not been issued so far (September 2013). This has resulted in idling of funds and injudicious expenditure of ₹ 4.20 crore.

MSTC Limited

17.2 Loss due to non recovery of dues

Financing of import of scrap when market price was falling, coupled with unrealistic increase of exposure limit and imprudent action of return of documents resulted in loss of ₹ 60.56 crore

MSTC Limited (the Company) acted as a facilitator to its customer Sesa International Limited (Sesa) and financed its imports. As per the terms of the agreement (November 2006) the Company would endorse the purchase order as facilitator for imports as per the indent of Sesa. The Company would also open Letter of Credit (L/C) with the bank. The materials so imported were to be pledged with the Company and to be lifted by Sesa on 'cash and carry' basis.

In March 2008, Sesa approached the Company to facilitate import of 5000 MT shredded scrap of UK origin valuing ₹ 10.25 crore. The proposal was accepted and L/C was opened by the Company in March 2008 through Indian Overseas Bank (IOB). The original shipment date of April 2008 was subsequently extended to September 2008 by Sesa. Out of the total consignment of 4718 MT, Sesa accepted (September 2008) only the first two consignments of 2632 MT and refused to accept the remaining 2086 MT (October 2008) of scrap on the plea of non-compliance of the related documents with the revised terms of L/C.

Thereafter, Sesa again approached (August 2008) the Company to finance import of 22000 MT steel scrap valuing ₹ 56.45 crore against eight contracts. Though scrap from previous proposal remained unlifted and price of ferrous shredded scrap started falling in the international market since August 2008, the Company enhanced (August 2008) the existing exposure limit of ₹ 60 crore to ₹ 100 crore for accommodating the current proposal. However, between October 2008 and December 2008, Sesa again refused to accept 16398 MT of scrap on similar grounds of non-compliance of the related documents with Ls/C.

Examination in audit revealed that even while the Company discussed the minor nature of the discrepancy, it acceded to the request of Sesa and returned the documents to IOB with whom Ls/C were opened. Ultimately, IOB had to pay (April 2009) ₹ 52.71 crore to two suppliers as per order of the High Court in London through their negotiating banks[1] and recovered (between April 2009 and February 2010) the same (₹52.71 crore) from the Company alongwith interest and legal charges of ₹ 0.61 crore and ₹ 8.57 crore respectively. The Company, in turn, preferred a claim (March 2010) on Sesa for ₹ 57.08 crore excluding interest @ 12.5 *per cent* on the said amount from March 2010. Sesa, however, refused to entertain such claim stating that they had returned the documents to the Company for necessary action and did not receive the materials.

Kolkata Port Trust auctioned the steel scrap not accepted by Sesa that lay at Haldia Dock Complex and sent (September 2010) an amount of ₹ 2.23 crore to the Company. Further, sale proceeds for balance material amounting to ₹1.02 crore was kept with the receiver as fixed deposit as per Court order. Due to the unrealistic increase of exposure limit as well as the imprudent action of return of documents based on admittedly minor discrepancy, the Company had to suffer a loss of ₹ 60.56[2] crore (December 2013) due to non-recovery of dues.

The Company stated (December 2012) that exposure limits of Sesa were increased based on long business relationship. It was also stated that the Ls/C were opened when the price of scrap was increasing in the international market. The reply admits that exposure limit was enhanced not on the basis of commercial justification. Further, the exposure limit was enhanced in August 2008 (from ₹ 60 crore to ₹ 100 crore) though, the prices of scrap

[1] ***Standard Chartered Bank of Dubai and Fortis Bank of London***

[2] ***₹62.79 crore - ₹2.23 crore***

had started falling in international market. The Company further contended that discrepancies in documents pointed out by Sesa should have been pointed out by the banker at the time of rejection of such documents. The Company has, however, failed to protect its financial interests while dealing with discrepancies in documents presented with the terms and conditions of L/C.

The matter was reported to the Ministry in September 2013; their reply was awaited (March 2014).

17.3 Loss due to failure to safeguard financial interests

The Company suffered a loss of ₹ 55.48 crore due to failure in safeguarding its financial interests while financing the procurements on behalf of Tirupati Fuels Private Limited

MSTC Limited (the Company) acts as a facilitator to its customers for import/procurement of materials. The Company financed procurement of coking coal by Tirupati Fuels Private Limited (TFPL) since 2007-08 without entering into any formal agreement or fixing any exposure limit. Further, the Company did not assess the performance of TFPL nor did it obtain any credit rating of TFPL from the external agencies. During the period, 2007-08 to 2008-09, the Company financed procurement of 91116.28 MT of coal but TFPL lifted only 43634.78 MT. The Company further approved (February 2010) additional financing of ₹ 33.61 crore to TFPL for procurement of coal though coal valuing ₹ 136.56 crore procured earlier was lying unlifted which increased the total financing to ₹ 170.17 crore. TFPL lifted only 49 *per cent* of materials procured till 2009-10 leaving unlifted stock valuing ₹ 91.26 crore. The Company, however, fixed (10 June 2010) an exposure limit of ₹ 200 crore for TFPL for 2010-11. The Company entered (18 June 2010) into a formal agreement with TFPL on import/procurement of LAM Coke and Coking Coal from indigenous and international sources. The agreement was valid for a year. The exposure limit for 2011-12 was fixed on 13 May 2011 at ₹ 175 crore.

The Company continued to finance TFPL for procurement of coking coal on various occasions (till November 2011) though materials remained unlifted. TFPL registered itself with the BIFR♠ in November 2012 for determination of its sickness where it did not acknowledge dues to the Company. BIFR, however, dismissed the reference of TFPL in December 2013. The Company also tried to e-auctiojn unlifted materials on two occasions (March 2013) but failed to attract any participant in such sale. In the meanwhile, the Company received (March 2013) an order from the High Court of Calcutta stating that no coercive action should be taken by the Company against TFPL without the consent of BIFR. As on February 2014, ₹ 65.64 crore remained unrecovered from TFPL against which security deposit of only ₹ 10.16 crore was available.

The Company stated (December 2012 and February 2014) that efforts were being made to realize the dues and further acknowledged (February 2014) that it filed an application before the High Court for recalling of the latter's order and approached BIFR for sale of

♠ ***Board for Industrial and Financial Reconstruction*** materials. The Company was, however, unable to sell unlifted ageing stock of TFPL and recover its outstanding dues, realization of which amounting to ₹ 55.48 crore[1], appears remote. Thus, the Company failed to safeguard its financial interests and thereby suffered loss of ₹ 55.48 crore due to additional financing to TFPL without evaluating its performance.

The matter was reported to the Ministry in September 2013; their reply was awaited (March 2014).

17.4 Non-recovery due to unrealistic financing of imports

Financing imports for a customer with unsatisfactory financial performance leading to non-recovery of ₹ 28.73 crore.

MSTC Limited (the Company) acts as a facilitator to its customers for importing materials. On being approached (June 2008) by MeherKiran Enterprises Limited (MKEL) the Company, despite being aware of the fact that MKEL had liabilities of ₹ 28.62 crore as against own fund of ₹ 11.72 crore as on 31 March 2008, decided (August 2008) to finance procurement of imported coal valuing ₹ 55 crore without signing any agreement which was in violation of the provisions of its Marketing Manual. The Company financed (August 2008) ₹ 60 crore being the value of coal (27500 MT) imported by MKEL which, however, lifted only 1825 MT of coal valuing ₹ 4.15 crore and did not lift the balance quantity on the plea of drastic fall in the market price of coal.

The Company subsequently entered (July 2009) into a Memorandum of Agreement (MoA) with MKEL for further financing of import of coal as well as to regularize financing of coal imported earlier (August 2008). The basic objective of the MoA was to reduce the average price of the high value imported coal procured in August 2008 and conversion of such coal into coke at an agreed conversion charges of ₹ 2000 per MT payable by the Company to MKEL. The entire sale proceeds of such converted coke were to be received by the Company in order to liquidate the outstanding dues.

The Company financed procurement of 50448 MT coal valuing ₹ 57.22 crore between November 2009 and November 2010. Though the entire quantity of coal procured in August 2008 and 47052.26 MT[2] procured subsequently was lifted and converted into coke, the sale proceeds of the same were not adequate to realize the entire dues from MKEL. Further, the Company had paid ₹ 4.54 crore towards payment of conversion charges to MKEL (September 2012).

The Company further financed procurement of 23666 MT of coal valuing ₹ 26.18 crore by MKEL during the period, August 2012 to February 2013, out of which 15842 MT was lying unlifted as on January 2014. Total outstanding dues of MKEL stood at ₹ 56.59 crore (January 2014). The Company had pledged coal[3] of ₹ 13.91 crore in addition to security deposit of ₹ 11.95 crore furnished by MKEL and mortgage of land valuing ₹ 2 crore (approximately) as collateral security. Thus, the Company stares at a

[1] *₹ 65.64 crore - ₹ 10.16 crore*

[2] *50448MT - 3395.74 MT lying unlifted*

[3] *₹ 12.91 crore for coal and ₹ 1 crore for coke*

financial loss of ₹ 28.73[1] crore (January 2014) as prospect of realisation of dues from MKEL are remote.

The contention of the Company (December 2012) that there was no financial loss as coal had remained pledged with the Company is not acceptable as the value of coal lying at the customer's premises was not sufficient to recover the total outstanding dues from MKEL. Thus, unrealistic financing of the imports of MKEL despite being aware of its unsatisfactory financial performance, has led to non-recovery of ₹ 28.73 crore.

The matter was reported to the Ministry in September 2013; their reply was awaited (March 2014).

Steel Authority of India Limited

17.5 Avoidable freight expenditure

Due to delay in completing the required documentation to avail concessional Class 180 rate for transportation of iron ore from captive mines to ISP Burnpur, the Company had to incur avoidable higher freight of ₹ 10.74 crore.

Railway Board notified the Rate Circular (RC) no. 36 of 2009 stipulating Class 180 rate for train load movement of iron ore meant for domestic consumption in the manufacture of Iron and Steel. It also stipulated that the distance based charge on the traffic would not be levied, if the following conditions were fulfilled:

(i) One time submission of documents[2]

(ii) Submission of certified copies of the relevant Monthly Excise Returns on a quarterly basis.

IISCO Steel Plant, Burnpur (ISP) of Steel Authority of India Limited (SAIL or the Company) uses the services of Indian Railways to transport iron ore from captive mines for consumption in steel plants. ISP should have fulfilled the above conditions to avail the benefits of Class 180 rate effective from 6 June 2009.

Examination in Audit revealed that ISP did not fulfill these conditions despite repeated reminders from Indian Railways in March 2011, June 2011 and July 2011. Indian Railways finally de-notified ISP from Class-180 from 18 September 2011 and charged higher freight rate applicable on exports resulting in ISP incurring avoidable expenditure

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1 ***₹ 56.59 crore – (₹ 12.91 + ₹ 1.00 + ₹ 11.95 + ₹ 2.00) crore***

2 ***including Industrial Entrepreneur Memorandum (IEM) or certificate from Joint Plant Committee under Ministry of Steel indicating the licensed capacity of the plant or copy of MoU between the PSU and the associated Ministry; Consent for operation from Pollution Control Board for the current year; Factory license for the current financial year; Certificate of registration under Contract Labor Act; Central Excise Registration Certificate; Monthly Excise Return for the month prior to the current month; Affidavit on non-judicial stamp paper in prescribed format certifying that only iron ore for domestic consumption will be received in their siding; and a stamped indemnity note to indemnify the Railways against mis-declaration of export iron ore as domestic iron ore or any other misuse of rules prescribed by the Railways from time to time, etc.***

of ₹ 10.74 crore between from 18 September 2011 and 22 October 2011. Indian Railways allowed Class 180 rate to ISP vide message dated 21 October 2011 after ISP management completed formalities required under RC-36.

Management stated (December 2013) that it did not take action to submit the required documents during June 2009 to March 2011 as RC-36/2009 was a modified circular of RC-24/2008; documents/returns required to be submitted as per RC-36/2009 were the same as those required as per RC-24/2008; need for re-submission of the documents was not mentioned in the revised RC; appropriate action was taken on each correspondence received from Indian Railways during March-July 2011; and it had claimed for refund of the excess deduction made. Ministry reiterated (February 2014) the views of the Management.

It is evident from the reply that the ISP/Company did not take prompt action to comply with the conditions as stipulated in circular dated 1 June 2009. Belated action of ISP also was not complete. Affidavit and Indemnity Bond submitted to the Railways on 26 July 2011 were returned by the latter on 4 August 2011 as the documents were not in the prescribed form. Request of ISP for refund of the excess freight deducted had not yet been accepted by the Railways (December 2013).

Thus, due to delay in completing the required documentation to avail concessional Class 180 rate for transportation of iron ore from captive mines to ISP, Burnpur, the Company had to incur avoidable higher freight of ₹ 10.74 crore.

17.6 Delay in commissioning of Reheating Furnace at VISP/SAIL

Deficiencies in planning and technical due diligence in deciding the scope of work delayed commissioning of new RHF by over 58 months. Visualized savings of ₹ 28.36 crore from new RHF on account of lower scale loss and furnace oil consumption were not achieved even after incurring an expenditure of ₹ 9.85 crore.

Visvesvaraya Iron and Steel Plant (VISP), Bhadravati, Karnataka, of Steel Authority of India Limited (SAIL) has two re-heating furnaces (RHFs), each having a rated capacity of 15 tonne per hour (TPH) to cater to reheating and rolling requirements of primary mill. These RHFs installed in 1965-66 had outlived their life; had inherent design limitations leading to abnormal generation of scale (more than 2.5 *per cent*); and were consuming furnace oil of more than 75 litre/tonne of the output as compared to about 50 litre/tonne consumed by modern furnaces.

Centre for Engineering and Technology (CET), an in-house consultancy wing of SAIL prepared a feasibility report and recommended (January 2006) replacement of two RHFs with a new RHF of 30 TPH capacity which would be more energy efficient consuming 53 litre furnace oil per tonne besides increasing overall yield of primary mill by 1 *per cent* due to decrease in scale loss. CET estimated capital investment of ₹ 8.79 crore and total savings that would accrue to VISP from the project at ₹ 9 crore per year.

VISP placed an order (March 2008) on M/s. Wesman Engineering Co. Pvt. Ltd., Kolkata (the contractor) for design, supply, erection, testing and commissioning of the RHF at a firm contract price of ₹ 10 crore (net of CENVAT). The contractor was to commission the facilities in twelve months i.e. by 28 February 2009. The new RHF, however, was not commissioned as of 31 January 2014, even after lapse of 58 months.

Examination in Audit revealed delay of 22 months in finalisation of drawings, 16 months in rectification of defects noted in the first hot trial, and 8 months to rectify defects noted in the second hot trial. Further scrutiny of the records revealed that CET feasibility report and provisions of the contract had provided four months for submission and approval of detailed design, engineering and drawings documents. VISP, however, took three and half months just to hold the kick-off meeting to finalise the protocol for submission of drawings and approval. As a result, VISP continued to incur higher scale losses and furnace oil consumption.

Management attributed (January 2014) delay in submission/approval of drawings and commissioning of the project to inefficient project management of the contractor and modification and changes in the design after preliminary acceptance and hot trial.

Reply does not deny the fact that there was inordinate delay in completing the project which deprived VISP of the benefit of energy efficient RHF. Faulty planning and lack of technical due diligence on part of CET in concluding the scope of work necessitated modification and changes in the design after preliminary acceptance.

Thus lack of proper planning, technical due diligence and coordination between contractor and VISP resulted in non-commissioning of RHF within the stipulated time. As a result, visualized saving of ₹ 28.36 crore from new RHF on account of lower scale loss and furnace oil consumption was not achieved despite incurring expenditure of ₹ 9.85 crore.

The matter was reported to the Ministry in February 2014; their reply was awaited (March 2014).

CHAPTER XVIII: MINISTRY OF TEXTILES

National Textile Corporation Limited

18.1 Non- availing option of negotiation resulted in sale of land at lower rates

National Textile Corporation concluded the sale of land of Bharat Textile Mills at rate lower than the rate for a sale concluded a week earlier for an adjacent land resulting in loss of opportunity to earn ₹ 156.97 crore more in sale of land

As per approved Revival Scheme, 2002 of Board for Industrial and Financial Reconstruction (BIFR), Bharat Textile Mills and Podar Mills (Process House), two adjacent mills of National Textile Corporation Limited (the Company), located in Upper Worli Mumbai, were identified as unviable mills and were ordered to be closed and sold in order to fund the revival of other viable mills. The reserve price for Bharat Textile Mills was fixed at ₹ 750 crore based on the highest rate considered by Government approved valuers on commercial usage basis. Reserve price for Podar Mills was ₹ 250 crore. E-auction was conducted from 29 July - 31 July 2010 for sale of 2.39 acres land of the Podar mills (Process House) and from 4 August - 6 August 2010 for sale of 8.38 acres land of the Bharat Textile Mills.

BIFR approved (September 2010) the sale of land of Podar mills (Process House) for ₹ 474 crore (at the rate of ₹ 198.32 crore per acre) in favour of Indiabulls Infratech Limited and Bharat Textile Mills for ₹ 1,505 crore (at the rate of ₹ 179.59 crore per acre) in favour of Indiabulls Infraestate Limited, the H-1 bidder in both e-auctions. No reasons for accepting a lower unit rate for Bharat Textile Mills were found on record. As per BIFR guidelines (August 2009), the bid of the highest acceptable responsive bidder was normally to be accepted. However, if the price offered by that bidder was not acceptable, negotiation could be held with that bidder only. In case such negotiation did not provide the desired result, reasonable or acceptable price could be counter-offered to the next highest responsive bidder(s).

Examination in Audit revealed that-

- The Company, instead of exploring the option of negotiating with the highest bidder, concluded (September 2010) sale of land of Bharat Textile Mills at the rate of ₹ 179.59 crore per acre despite having received a rate of ₹ 198.32 crore per acre in the then recently concluded sale of land of Podar Mills (Process House) only a week ago. The Company, thus, lost an opportunity to earn ₹ 156.97 crore[♠] more in sale of land.

[♠] *(₹ 474 crore/2.39 acres x 8.38 acres) – ₹ 1505 crore = ₹ 156.97 crore*

- Ignoring the option of negotiation was not a prudent decision especially in view of the fact that Bharat Textiles Mills and Podar Mills were adjacent mills and H-1 bidders of both the land sales were from the same group company i.e. India Bulls.

The Company stated (February 2014) that:

- BIFR guidelines state that bid of highest reasonable responsive bidder should normally be accepted.
- The Company had got a very good price for the property being more than double the reserve price and as such never thought of negotiating anymore.
- Normally small plots are sold at higher price vis-a-vis big chunk of land.

Reply needs to be viewed against the following facts:

- Though BIFR guidelines state that bid of highest reasonable responsive bidder should normally be accepted, right to negotiate has also been provided in the guidelines as well as tender conditions (Clause 9). The Company had a valid ground in this case for negotiation in view of the fact that it had received a higher price for the adjacent land only a week ago.
- The Reserve Price was fixed considering the valuations done by Government approved valuers based on the currently existing Floor Space Index (FSI) of 1.33 only. As per clause 1.3 (vi) of the Tender, however, mill land had higher FSI potential for various usages. This was not considered for fixation of Reserve Price. Further, the very fact that Company received more than double the reserve price in auction indicated that reserve price did not reflect fair market value.
- The Company had received post-bid offers of upto ₹ 1602 crore for the land which confirms that this land had potential to realize higher value.

Thus, the Company's decision to conclude the sale of land of Bharat Textile Mills, at a rate lower than the sale concluded a week earlier, without exercising the option of negotiation as per BIFR guidelines, resulted in loss of opportunity to earn ₹ 156.97 crore more from sale of land of Bharat Textile Mills.

The matter was reported to the Ministry in November 2013; their reply was awaited (March 2014).

CHAPTER XIX

Follow-up on Audit Reports (Commercial)

Audit Reports of the CAG represent the culmination of the process of scrutiny of accounts and records maintained in various offices and departments of PSUs. It is, therefore, necessary that appropriate and timely response is elicited from the executive on the audit findings included in the Audit Reports.

The Lok Sabha Secretariat requested (July 1985) all the Ministries to furnish notes (duly vetted by Audit) indicating remedial/corrective action taken by them on various paragraphs/appraisals contained in the Audit Reports (Commercial) of the CAG as laid on the table of both the Houses of Parliament. Such notes were required to be submitted even in respect of paragraphs/appraisals which were not selected by the Committee on Public Sector Undertakings (COPU) for detailed examination. The COPU in its Second Report (1998-99-Twelfth Lok Sabha), while reiterating the above instructions, recommended:

- setting up of a monitoring cell in each Ministry for monitoring the submission of Action Taken Notes (ATNs) in respect of Audit Reports (Commercial) on individual Public Sector Undertakings (PSUs);
- setting up of a monitoring cell in Department of Public Enterprises (DPE) for monitoring the submission of ATNs in respect of Reports containing paras relating to a number of PSUs under different Ministries; and
- submission to the Committee, within six months from the date of presentation of the relevant Audit Reports, the follow up ATNs duly vetted by Audit in respect of all Reports of the CAG presented to Parliament.

While reviewing the follow up action taken by the Government on the above recommendations, the COPU in its First Report (1999-2000-Thirteenth Lok Sabha) reiterated its earlier recommendations that the DPE should set up a separate monitoring cell in the DPE itself to monitor the follow-up action taken by various Ministries/Departments on the observations contained in the Audit Reports (Commercial) on individual undertakings. Accordingly, a monitoring cell is functioning in the DPE since August 2000 to monitor the follow-up on submission of ATNs by the concerned administrative Ministries/Departments. Monitoring cells have also been set up within the concerned Ministries for submission of ATNs on various Reports (Commercial) of the CAG.

Further, in the meeting of the Committee of Secretaries (June 2010) it was decided to make special efforts to clear the pending ATNs/ATRs on CAG Audit Paras and PAC recommendations within the next three months. While conveying this decision (July 2010), the Ministry of Finance recommended institutional mechanism to expedite action in the future.

A review in Audit revealed that despite reminders, the remedial/corrective ATNs on the transaction audit/compliance audit paragraphs/reviews contained in the last five years' Audit Reports (Commercial) relating to the PSUs under the administrative control of various Ministries, as detailed in Appendix-III, were not received by Audit for vetting. No ATN has been received in respect of 3, 3, 8, 12 and 25 transaction audit/compliance audit paragraphs/reviews contained in Audit Reports (Commercial) of 2008, 2009, 2010, 2011 and 2012 respectively. Further ATN for 40 transaction audit/compliance audit paragraphs/reviews contained in Audit Reports presented in Parliament during May to September 2013 was also awaited.

Out of 91 paras/reviews on which ATNs were awaited, 24 paragraphs related to PSUs under the Ministry of Finance (Banking and Insurance Division), 11 paragraphs related to PSUs under the Ministry of Petroleum & Natural Gas, 10 paragraphs related to PSUs under the Ministry of Defence and 6 paragraphs related to PSUs under the Ministry of Heavy Industries and Public Enterprises.

(USHA SANKAR)
Deputy Comptroller and Auditor General
and Chairperson, Audit Board

New Delhi
Dated: 26 May 2014

Countersigned

(SHASHI KANT SHARMA)
Comptroller and Auditor General of India

New Delhi
Dated: 30 May 2014

APPENDICES

Appendix-I

(Referred to in para. 13.3)

Recoveries at the instance of Audit during 2012-13

(Amount ₹ in lakh)

Name of Ministry/ Department	Name of the PSU	Audit observations in brief	Amount of recovery pointed out by Audit	Amount recovered by the Management
Finance/Insurance Division	General Insurance Corporation of India Limited	Non recovery of Service Tax in respect of Life Reinsurance Business.	21.83	23.93
Coal	Northern Coalfields Limited	Excess payment to Forest Department.	1874.29	69.47
Steel	Steel Authority of India Limited/ISP, Burnpur,	Non-recovery of amount for medical treatment to outsiders.	36.03	33.29
	Steel Authority of India Limited /VISP, Bhadravati	Irregularities in contract labour payment.	5.62	5.62
	NMDC Limited	Irregular payment of leased accommodation to Chairman-cum-Managing Director.	9.94	9.94
Petroleum and Natural Gas	Oil and Natural Gas Corporation Limited	Non-recovery of house rent, Electricity and Gas charges from the contractor.	1.57	1.57
		Payment made to contractor in force-majeure conditions.	25.00	25.00
		Non recovery from supplier towards demurrage paid and Non-recovery of advances granted to employees.	67.00	34.00
		Avoidable loss incurred due to failure in getting Essentiality Certificate (EC) on time from indenter.	34.00	29.00

Civil Aviation	Airports Authority of India	Violation of GOI's orders regarding expenditure from Passenger Service Fee Escrow account by Mumbai International Airport Ltd, resulting in loss to Government.	1522.00	1522.00
Heavy Industries and Public Enterprises	Bharat Heavy Electricals Limited, Jhansi	Non receipt of material from fabricators for more than two years.	151.86	66.91
Consumer affairs food and Public distribution	FCI, DO Ludhiana	Undue benefit to rice millers due to non recovery on account of short delivery of levy rice.	463.00	462.77
		Over payment of carry over charges of interest on wheat.	31.96	31.96
	FCI DO Kurukshetra	Non recovery of abnormal storage loss/gain.	93.54	1.00
		Non recovery of weighing charges of private hired godowns.	3.60	3.60
		Excess payment to State Agencies on account of storage gain on wheat.	23.48	23.48
	FCI DO Moga	Non recovery from Director of Food and Supplies and Consumer Affairs Department (DFSC) on account of non delivery of levy rice crop.	552.00	552.00
	FCI DO Jallandhar	Excess payment of storage charges to CWC.	13.71	13.71
	FCI DO Kapurthala	Short delivery of levy rice -non recovery of forfeited amount	630.00	630.00
	FCI	Excess payment of Mandi Labour Charges.	8516.00	8014.00
		Total	**14076.43**	**11553.25**

Appendix-II

(Referred to in para 13.4)

Corrections/Rectifications at the instance of Audit

(Amount ₹ in lakh)

Name of Ministry/Department	Name of the CPSE	Audit observations/suggestions in brief	Action taken by the Management
Ministry of Road Transport and Highways	National Highways Authority of India	National Highways Authority of India irregularly paid ₹ 40.68 crore on account of rent/lease rent facility to its employees on the basis of draft NHAI Regulations, which were not laid before both the Houses of Parliament and published in the official gazette as required under NHAI Act 1988. Further, based on approval obtained from NHAI Board of Director's (October 2000 and February 2011), the NHAI was paying two months' rent per annum to its employees towards petty repairs of leased accommodation. The payment made on this account during the same period worked out to ₹1.83 crore which was in violation of DPE guidelines of June 1999.	On being pointed out by Audit (April/May 2013) NHAI got the Notification of National Highways Authority of India (HRA & Leased Accommodation) Regulation, 1997 along with its amendments, published in the Gazette of India No. 329 dated 23-12-2013, with retrospective effect. NHAI further informed vide letter 21-3-2014 that the aforesaid Gazette Notification dated 23-12-2013 has been forwarded vide letter dated 13-01-2014 to the MORT&H for laying before each House of the Parliament.

Commerce and Industry	Export Credit Guarantee Corporation of India Limited	As per ECGC's circular, the payment of premium in respect of shipments under claim after the due date of payment/occurrence of default/ insolvency/ repudiation of contract was considered as category 'A' lapse, which was condoned by deducting minimum 10 *per cent* from the claim amount. The Board could not condone the violation of Act.	Company revised its circular to the effect that no condonation of the lapse shall be allowed by the Board, the claim has to be regretted.
Steel	Steel Authority of India Limited (SAIL/ISP Burnpur)	Loss of ₹ 37.12 lakhs due to under recovery of diet charges from patients.	Diet charges have been enhanced from ₹ 20.00 to ₹ 40.00 for entitled patients.
Heavy Industries and Public Enterprises	Bharat Heavy Electricals Limited	BHEL realized the rent on leased accommodation to executives at the slab rates fixed by it by ignoring the DPEs instructions according to which it had to realize the rent @ 10 *per cent* or standard rent whichever is lower resultantly there was short recovery of ₹ 35.58 crore during the period April 2004 to March 2012.	The issue of recovery of rent has been rectified by the company by issuing instructions on 3.1.2014 to recover rent @ 10 *per cent* of basic pay or actual rent whichever is lower.
	Bharat Heavy Electricals Limited, Trichy	Audit observed that due to ineffective planning in off loading the consignments, BHEL incurred avoidable extra expenditure on demurrage to the extent of ₹ 113.10 lakh.	Effective strategy for avoidance of demurrage has been finalized by way of system of proper monitoring of entry of wagons, smooth, safe and quick unloading operations involving the executives, supervisors and workmen.

ppendix-III

(Referred to in Chapter XIX)

Statement showing the details of Audit Reports prior to 2013 (Commercial) for which Action Taken Notes are pending

No. & year of Report	Name of Report	Para No.
Department of Atomic Energy		
13 of 2013	Compliance Audit	Para 1.1
Ministry of Coal		
3 of 2011-12	Compliance Audit	Para 3.2
10 of 2010-11	Performance Audit of activities of selected PSUs	Chapter IV
8 of 2012-13	Compliance Audit	Paras 3.1 and 3.2
13 of 2013	Compliance Audit	Paras 4.1 and 12.1
Ministry of Commerce and Industry		
13 of 2013	Compliance Audit	Para 5.1 and 5.2
Ministry of Consumer Affairs, Food and Public Distribution		
13 of 2013	Compliance Audit	Para 6.3
Ministry of Chemicals and Fertilizers		
10 of 2010-11	Performance Audit of activities of selected PSUs	Chapter IV
3 of 2011-12	Compliance Audit	Paras 8.1 and 8.2
13 of 2013	Compliance Audit	Para 8.1
Ministry of Civil Aviation		
8 of 2012-13	Compliance Audit	Para 2.1
13 of 2013	Compliance Audit	Paras 3.1, 3.2, 3.3, 3.4 and 3.5
Ministry of Defence		
24 of 2009-10	Compliance Audit	Para 6.1.3
9 of 2009-10	Compliance Audit	Para 7.1.1
10 of 2010-11	Performance Audit of activities of selected PSUs	Chapter IV
3 of 2011-12	Compliance Audit	Para 7.2

4 of 2011-12	Performance Audit of Procurement System in Bharat Electronics Limited	
8 of 2012-13	Compliance Audit	Para 7.2
13 of 2013	Compliance Audit	Paras 7.1, 7.2, 7.3 and 7.10
Ministry of Finance (Banking Division)		
CA 10 of 2008	Information Technology Applications in Central PSUs	Chapter IV
CA 11 of 2008	Compliance Audit	Para 2.2.1
Ministry of Finance (Insurance Division)		
24 of 2009-10	Compliance Audit	Para 8.2.1
10 of 2010-11	Performance Audit of activities of selected PSUs	Chapter V
9 of 2010-11	Compliance Audit	Paras 9.2.1, 9.4.1 and 9.4.3
3 of 2011-12	Compliance Audit	Paras 9.2, 9.3, 9.4, 9.5 and 9.6
8 of 2012-13	Compliance Audit	Paras 8.1, 8.2, 8.3, 8.4 and 8.6
13 of 2013	Compliance Audit	Paras 9.1, 9.2, 9.3, 9.4, 9.5, 9.6 and 9.7
Ministry of Heavy Industries & Public Enterprise		
24 of 2009-10	Compliance Audit	Para 9.3.1
3 of 2011-12	Compliance Audit	Para 14.1
8 of 2012-13	Compliance Audit	Paras 9.1, 9.2 and 9.3
13 of 2013	Compliance Audit	Paras 12.1
Ministry of Minority Affairs		
8 of 2012-13	Compliance Audit	Para 9.4
Ministry of Petroleum and Natural Gas		
8 of 2012-13	Compliance Audit	Para 11.6
11 of 2012-13	PA on Hydrocarbon Exploration efforts of ONGC Limited	
13 of 2013	Compliance Audit	Paras 10.1, 10.2, 10.4, 10.5, 10.6, 10.7, 10.8, 10.9 and 12.1
Ministry of Power		
11 of 2008	Compliance Audit	Para 20.1.1
10 of 2012-13	PA on Capacity Expansion in Hydro Power Sector by CPSEs	
13 of 2013	Compliance Audit	Paras 11.4 and12.1

Ministry of Road Transport & Highways		
8 of 2012-13	Compliance Audit	Paras 13.1 and 13.3
Ministry of Science and Technology		
8 of 2012-13	Compliance Audit	Para 9.4
Ministry of Shipping		
13 of 2013	Compliance Audit	Paras 12.1 and 13.1
Ministry of Social Justice and Empowerment		
8 of 2012-13	Compliance Audit	Para 9.4
Ministry of Steel		
8 of 2012-13	Compliance Audit	Para 15.1 and 15.2
20 of 2012-13	PA on Production and sale of Iron Ore by NMDC Limited	
13 of 2013	Compliance Audit	Paras 12.1 and 14.3
Ministry of Textiles		
10 of 2010-11	Performance Audit of activities of selected PSUs	Chapter X
8 of 2012-13	Compliance Audit	Para 16.1
Ministry of Tribal Affairs		
8 of 2012-13	Compliance Audit	Para 9.4
Ministry of Urban Development		
13 of 2013	Compliance Audit	Para 15.1