# CHAPTER IV: ECONOMIC SECTOR (PUBLIC SECTOR UNDERTAKINGS)

## 4.1 Overview of State Public Sector Undertakings

***Audit of Government companies is governed by Section 619 of the Companies Act, 1956. The accounts of Government companies are audited by Statutory Auditors appointed by Comptroller and Auditor General of India (CAG).These accounts are also subject to supplementary audit conducted by CAG. Audit of Statutory corporations is governed by their respective legislations. As on 31 March 2013, the State of Meghalaya had 14 working State Public Sector Undertakings (SPSUs) (12 companies and two statutory corporations) and one non-working company, which employed 4518 employees. The working SPSUs registered a turnover of ₹ 461 crore for 2012-13 as per their latest finalised accounts as of September 2013. This turnover was equal to 2.48 per cent of State Gross Domestic Product indicating a moderate role played by SPSUs in the economy. However, the working SPSUs incurred an overall loss of ₹ 82.08 crore in the aggregate for 2012-13 as per their latest finalised accounts as on 30 September 2013.***

***Investments in SPSUs***

***As on 31 March 2013, of the total investment in SPSUs, 99.70 per cent was in working SPSUs and the remaining 0.30 per cent in one non-working SPSU. This total investment consisted of 33.53 per cent towards capital and 66.47 per cent in long-term loans. The investment has increased by 14.83 per cent from ₹ 1372.41 crore in 2007-08 to ₹ 1575.92 crore in 2012-13.***

***Performance of SPSUs***

***During the year 2012-13, out of 14 working SPSUs, two SPSUs namely Meghalaya Government Construction Corporation Limited and Meghalaya Industrial Development Corporation Limited earned profit aggregating to ₹ 2.44 crore and remaining twelve SPSUs incurred loss of ₹ 84.52 crore. The major losses were incurred by Mawmluh Cherra Cements Limited (₹ 18.71 crore) and Meghalaya Energy Corporation Limited (₹ 58.43 crore). The losses of working SPSUs were mainly attributable to deficiencies in financial management, planning, implementation of projects, operations and monitoring. A review of the latest Audit Reports of CAG shows that the SPSUs incurred losses to the tune of ₹ 60.23 crore which was controllable with better management. Thus, there is tremendous scope to improve the functioning of SPSUs and minimise losses.***

***Quality of accounts***

***The quality of accounts of SPSUs needs improvement. All the 17 accounts finalised by working SPSUs during October 2012 to September 2013 received qualified certificates. There were thirty seven instances of non-compliance with the Accounting Standards. Reports of Statutory Auditors on internal control of the companies indicated certain weak areas.***

***Arrears in accounts***

***Fourteen working SPSUs had arrears of 51 accounts as of September 2013. The SPSUs need to set targets for the work relating to preparation of accounts with special focus on arrears. There was one non-working company as on 31 March 2013.The company is under liquidation process as all its employees had opted for VRS in December 2006. As no purpose was served by keeping this non-working company in existence, the Government needs to expedite the process of closure of this company.***

### 4.1.1 Introduction

The State Public Sector Undertakings (SPSUs) consist of State Government Companies and Statutory Corporations. The SPSUs are mandated to carry out activities of commercial nature while keeping in view the welfare of people. In Meghalaya, the SPSUs occupy a modest position in the State economy. The State working SPSUs registered a turnover of ₹ 461 crore for 2012-13 as per their latest finalised accounts as of September 2013. This turnover was equal to 2.48 *per cent* of Gross State Domestic Product (GSDP) for 2012-13. The working SPSUs incurred an overall loss of ₹ 82.08 crore in the aggregate for 2012-13 as per their latest finalised accounts as on 30 September 2013. They had employed 4518 employees as of 31 March 2013.

As on 31 March 2013, there were 15 SPSUs as per details given below. Of these, no company was listed on the stock exchange(s).

**Table 4.1.1**

| Type of SPSUs | Working SPSUs | Non-working SPSUs[1] | Total |
|---|---|---|---|
| **Government Companies[2]** | 12 | 1 | 13 |
| **Statutory Corporations** | 2 | - | 2 |
| **Total** | **14** | **1** | **15** |

### 4.1.2 Audit Mandate

Audit of Government companies is governed by Section 619 of the Companies Act, 1956. According to Section 617, a Government company is one in which not less than 51 *per cent* of the paid up capital is held by Government(s). A Government company includes a subsidiary of a Government company. Further, a company in which not less than 51 *per cent* of the paid up capital is held in any combination by Government(s), Government companies and corporations controlled by Government(s) is treated as if it were a Government company (deemed Government company) as per Section 619-B of the Companies Act.

The accounts of the State Government companies (as defined in Section 617 of the Companies Act, 1956) are audited by Statutory Auditors, who are appointed by the Comptroller and Auditor General of India (CAG) as per the provisions of Section 619(2) of the Companies Act, 1956. These accounts are also subject to supplementary audit conducted by CAG as per the provisions of Section 619 of the Companies Act, 1956.

Audit of Statutory Corporations is governed by their respective legislations. Out of two Statutory Corporations, CAG is the sole auditor for Meghalaya Transport

[1] Non-working SPSUs are those which have ceased to carry on their operations. It includes one 619-B Company namely Meghalaya Electronics Development Corporation Limited.

[2] Including three subsidiaries companies of Meghalaya Energy Corporation Limited (MeECL) *viz*. Meghalaya Power Generation Corporation Limited (MPGCL), Meghalaya Power Transmission Corporation Limited (MPTCL) and Meghalaya Power Distribution Corporation Limited (MPDCL) which were incorporated on 18 December 2009 . These Subsidiaries are yet to start functioning (October 2013).

Corporation. In respect of Meghalaya State Warehousing Corporation, the audit is conducted by Chartered Accountants and the supplementary audit by CAG.

### 4.1.3 Investment in SPSUs

As on 31 March 2013, the Government investment (capital and long-term loans) in 15 SPSUs was ₹ 1575.92 crore as per details given below:

**Table 4.1.2**

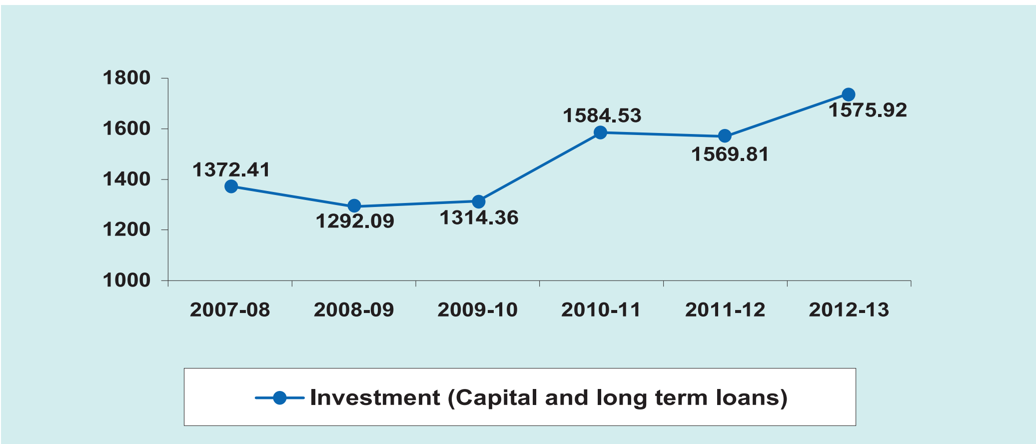
**(₹ in crore)**

| Type of SPSUs | Government Companies | | | Statutory Corporations | | | Grand Total |
|---|---|---|---|---|---|---|---|
| | Capital | Long Term Loans | Total | Capital | Long Term Loans | Total | |
| Working SPSUs | 436.03 | 1,047.53 | 1,483.56 | 87.64 | - | 87.64 | 1,571.20 |
| Non-working SPSUs | 4.72 | - | 4.72 | - | - | - | 4.72 |
| **Total** | **440.75** | **1,047.53** | **1,488.28** | **87.64** | **-** | **87.64** | **1,575.92** |

A summarised position of Government investment in SPSUs is detailed in **Appendix 4.1**.

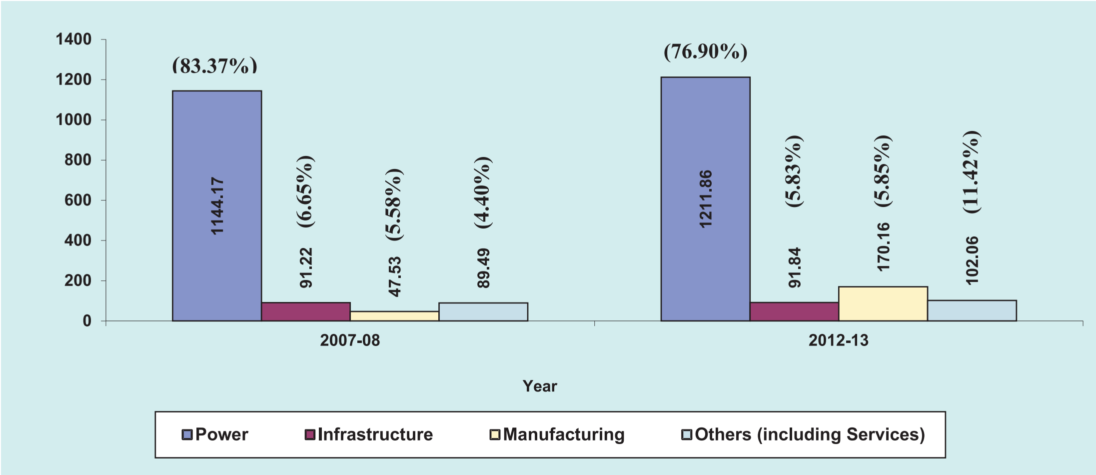
As on 31 March 2013, of the total investment in SPSUs, 99.70 *per cent* was in working SPSUs and the remaining 0.30 *per cent* in one non-working SPSU. This total investment consisted of 33.53 *per cent* towards capital and 66.47 *per cent* in long-term loans. The investment has increased by 14.83 *per cent* from ₹ 1372.41 crore in 2007-08 to ₹ 1,575.92 crore in 2012-13 as shown in the graph below:

**(₹ in crore)**




The investment in various important sectors and percentage thereof at the end of 31 March 2008 and 31 March 2013 are indicated below in the bar chart. The thrust of Government investment in the State was mainly in Power Sector during last five years as the share of Government investment (in SPSUs) in Power Sector was 83.37 *per cent* in 2007-08 and 76.90 *per cent* in 2012-13.

**(₹ in crore)**




*(Figures in brackets show the percentage of total investment)*

## 4.1.4 Budgetary outgo, grants/subsidies, guarantees and loans

The details regarding budgetary outgo towards equity, loans, grants/ subsidies, guarantees issued, loans written off, loans converted into equity and interest waived in respect of SPSUs are given in **Appendix 4.3.** The summarised details are given below for three years ended 2012-13:

**Table 4.1.3**

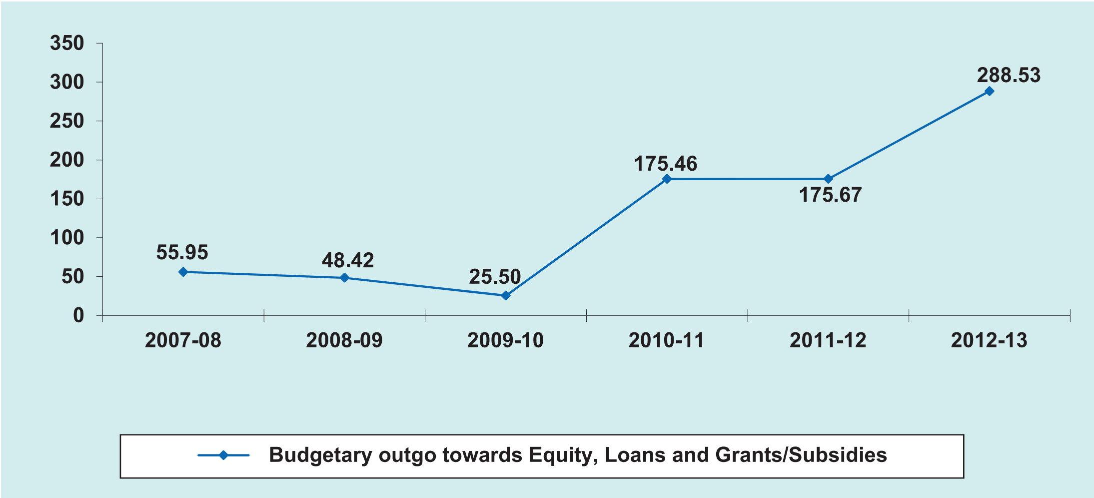
**(₹ in crore)**

| Sl. No. | Particulars | 2010-11 | | 2011-12 | | 2012-13 | |
|---|---|---|---|---|---|---|---|
| | | No. of SPSUs | Amount | No. of SPSUs | Amount | No. of SPSUs | Amount |
| 1. | Equity(E) Capital outgo from budget | 5 | 15.99 | 4 | 27.00 | 2 | 38.57 |
| 2. | Loans given from budget | 1 | 23.44 | 2 | 31.63 | - | - |
| 3. | Grants(G)/Subsidy (S) received[3] | 3(G)<br>2(S) | 131.47(G)<br>4.56(S) | 5(G)<br>3(S) | 99.27(G)<br>17.77(S) | 5<br>3 | 235.45(G)<br>14.51(S) |
| 4. | **Total Outgo[4] (1+2+3)** | **9** | **175.46** | **9** | **175.67** | **6** | **288.53** |
| 5. | Loans converted into equity | - | - | - | - | - | - |
| 6. | Guarantees issued | 1 | 31.77 | 2 | 239.76 | 1 | 56.10 |
| 7. | Guarantee Commitment | 2 | 646.51 | 3 | 881.23[5] | 2 | 888.43 |

The details regarding budgetary outgo towards equity, loans and grants/ subsidies for past six years are given in a graph below:

[3] Includes grants and subsidies provided through State Government Budget only.
[4] Depicts actual number of SPSUs which received Equity, loans, grants/subsidies out of budget.
[5] Excluding interest portion of guarantee of ₹ 457.56 crore in respect of MeECL.

**(₹ in crore)**




The budgetary outgo during 2012-13 was all time high at ₹ 288.53 crore in the past six years. This was mainly due to extension of budgetary support of ₹ 225.81 crore to Meghalaya Energy Corporation Limited (MeECL) in the form of grants (₹ 215.44 crore) and subsidies (₹ 10.37 crore).

The guarantee commitment by the State Government against the borrowings of SPSUs had increased from ₹ 646.51 crore (2010-11) to ₹ 888.43 crore (2012-13). Fresh guarantees of ₹ 56.10 crore were issued by the State Government during 2012-13.

### 4.1.5 Reconciliation with Finance Accounts

The figures in respect of equity, loans and guarantees outstanding as per records of SPSUs should agree with that of the figures appearing in the Finance Accounts of the State. In case the figures do not agree, the concerned SPSUs and the Finance Department should carry out reconciliation of differences. The position in this regard as at 31 March 2013 is stated below:

**Table 4.1.4**

**(₹ in crore)**

| Outstanding in respect of | Amount as per Finance Accounts | Amount as per records of SPSUs | Difference |
|---|---|---|---|
| Equity | 299.74[6] | 514.56[7] | (-)214.82 |
| Loans | Not available[8] | 58.06 | - |
| Guarantees including interest | 1,283.24 | 1,327.46[9] | (-)44.22 |

[6] Includes ₹ 2.14 crore in MSWC, ₹ 68.97 crore in MTC, ₹ 89.00 crore in MIDC, ₹ 122.79 crore in MCCL, ₹ 2.32 crore in MMDC, ₹ 1.97 crore in FDCM, ₹ 0.75 crore in MGCCL, ₹ 9.06 crore in MTDC and ₹ 2.74 crore in MH&HDC.

[7] Includes ₹ 2.14 crore in MSWC, ₹ 77.47 crore in MTC, ₹ 209.50 crore in MeECL, ₹ 91.09 crore in MIDC, ₹ 117.80 crore in MCCL, ₹ 2.32 crore in MMDC, ₹ 1.77 crore in FDCM, ₹ 0.75 crore in MGCCL, ₹ 7.96 crore in MTDC and ₹ 3.76 crore in MH&HDC. (As per details furnished by the management of the respective SPSUs)

[8] State Government's loans to SPSUs are extended through the Government Departments. These Government Departments reallocate the loan funds to different SPSUs. Hence, the SPSU-wise figures of State Government loans are not available in the Finance Accounts.

[9] Guarantee commitment given by the State Government against loans were ₹ 1,282.24 crore (Principal = ₹ 843.21 crore and interest = ₹ 439.03 crore) for MeECL, and ₹ 45.22 crore (Principal only) for MCCL.

Audit observed that the differences in equity investment pertained to 10 SPSUs and some of the differences were pending reconciliation since 2007-08. Though the Principal Secretary, Finance Department, Government of Meghalaya as well as the SPSUs concerned were apprised by Audit about the differences from time to time stressing upon the need for reconciliation, no significant progress was noticed in this regard. The Government and the SPSUs should take concrete steps to reconcile the differences in a time-bound manner.

### 4.1.6 Performance of SPSUs

The financial results of SPSUs, financial position and working results of working Statutory corporations are detailed in **Appendix 4.2, 4.5** and **4.6** respectively. A ratio of SPSU turnover to State GDP shows the extent of SPSU activities in the State economy. Table below provides the details of working SPSUs' turnover and State GDP for the period 2007-08 to 2012-13:

**Table 4.1.5**

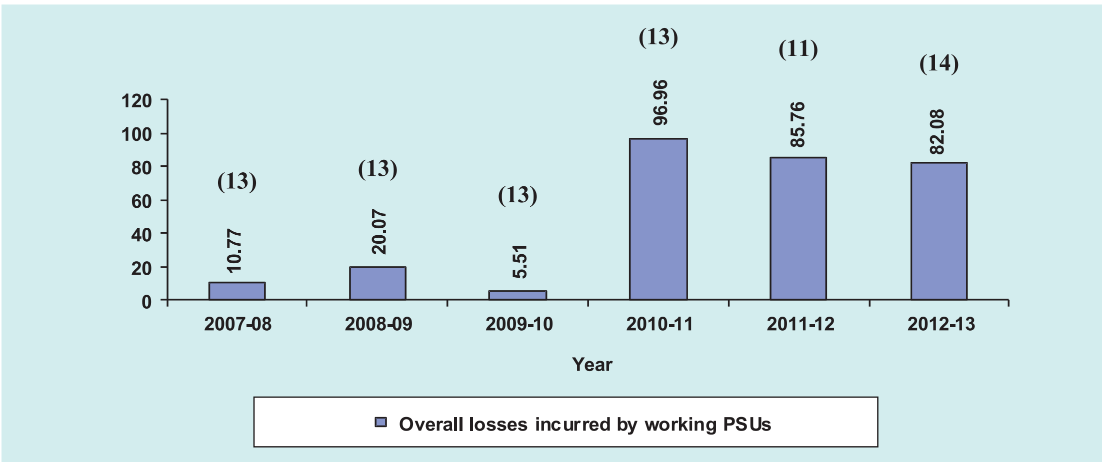
**(₹ in crore)**

| Particulars | 2007-08 | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 |
|---|---|---|---|---|---|---|
| Turnover | 365.47 | 386.20 | 440.72 | 457.06 | 463.14 | 461.00 |
| State GDP[10] | 9734.73 | 11617.04 | 12709.10 | 14582.56 | 16433.86 | 18563.84 |
| Percentage of Turnover to State GDP | 3.75 | 3.32 | 3.47 | 3.13 | 2.82 | 2.48 |

It can be seen from the above that during six years period ending 2012-13, the percentage of turnover to State GDP had declined from 3.75 *per cent* (2007-08) to 2.48 *per cent* (2012-13) indicating that the turnover of SPSUs did not register a proportionate increase with the rise in the State's GDP.

Losses[11] incurred by working SPSUs during 2007-08 to 2012-13 are given below in a bar chart.

**(₹ in crore)**




*(Figures in brackets show the number of working SPSUs in respective years)*

[10] The Gross Domestic Product of Meghalaya at current prices as furnished by Government of Meghalaya, Directorate of Economics and Statistics vide EST.5/2011/Addl.1/5 dated 31.07.2012.
[11] Losses as per latest finalised accounts as shown in Appendix 4.2

During 2006-12, the working SPSUs incurred losses every year. The overall losses incurred by working SPSUs were an all time high (₹ 96.96 crore) during 2010-11 and at ₹ 82.08 crore during 2012-13. During the year 2012-13, out of 14[12] working SPSUs, only two of the SPSUs *viz* Meghalaya Government Construction Corporation Limited and Meghalaya Industrial Development Corporation Limited earned profit (₹ 2.14 crore and ₹0.30 crore respectively) and the other 12 SPSUs incurred loss of ₹ 84.52 crore. The major losses were incurred by Meghalaya Energy Corporation Limited (₹ 58.43 crore), Mawmluh Cherra Cements Limited (₹ 18.71 crore) and Meghalaya Transport Corporation (₹ 3.55 crore).

The losses of working SPSUs were mainly attributable to deficiencies in financial management, planning, implementation of projects, operations and monitoring. A review of the latest Audit Reports of CAG show that the SPSUs incurred losses to the tune of ₹ 60.23 crore which was controllable with better management. Year wise details from Audit Reports are stated below:

**Table 4.1.6**

**(₹ in crore)**

| Particulars | 2010-11 | 2011-12 | 2012-13 | Total |
|---|---|---|---|---|
| Net Loss | 96.96 | 85.76 | 82.08 | 264.80 |
| Controllable losses as per CAG's Audit Report | 48.06 | 1.28 | 10.89 | 60.23 |
| Infructuous Investment | -- | -- | | |

The above losses pointed out by Audit Reports of CAG are based on test check of records of SPSUs. The actual controllable losses would be much more. The above table shows that with better management, the losses could be minimised substantially. The SPSUs can discharge their role efficiently only if they are financially self-reliant. The above situation points towards a need for professionalism and accountability in the functioning of SPSUs.

Some other key parameters pertaining to SPSUs are given below.

**Table 4.1.7**

**(₹ in crore)**

| Particulars | 2007-08 | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 |
|---|---|---|---|---|---|---|
| Return on Capital Employed (*per cent*) | 2.93 | 1.87 | 2.26 | - | - | - |
| Debt | 968.28 | 864.76 | 872.19 | 1129.38 | 1080.12 | 1047.53 |
| Turnover[13] | 365.47 | 386.20 | 440.72 | 457.06 | 463.31[14] | 461.00 |
| Debt/ Turnover Ratio | 2.65:1 | 2.24:1 | 1.98:1 | 2.47:1 | 2.33:1 | 2.27:1 |
| Interest Payments | 38.08 | 37.69 | 43.76 | 42.35 | 42.65 | 40.80 |
| Accumulated Losses | 524.13 | 518.36 | 515.89 | 620.74 | 668.37 | 671.82 |

*(Above figures pertain to all SPSUs except for turnover which is for working SPSUs )*

[12] Number of working SPSUs excludes erstwhile Meghalaya State Electricity Board which ceased to exist wef 1 April 2010 .

[13] Turnover as per the latest finalised accounts as of 30 September 2012.

[14] including the turnover figure (₹ 415.74 crore) of erstwhile Meghalaya State Electricity Board (MeSEB), which ceased to exist with effect from 01 April 2010 but included in Appendix 4.2 (serial no.B-1) to reflect overall financial results of the SPSUs as new Company (Meghalaya Energy Corporation Limited) formed in its place was yet to finalise accounts for the year 2010-11 and 2011-12.

The State Government had not formulated any dividend policy for payment of any minimum return by SPSUs on the paid up share capital contributed by the State Government. As per their latest finalised accounts, none of the SPSUs earned any aggregate profit.

### 4.1.7 Arrears in finalisation of accounts

The accounts of the companies for every financial year are required to be finalised within six months from the end of the relevant financial year under Sections 166, 210, 230, 619 and 619-B of the Companies Act, 1956. Similarly, in case of Statutory corporations, their accounts are finalised, audited and presented to the Legislature as per the provisions of their respective Acts. The table below provides the details of progress made by working SPSUs in finalising their accounts by 30 September 2012.

**Table 4.1.8**

| Sl. No. | Particulars | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 |
|---|---|---|---|---|---|---|
| 1. | Number of Working SPSUs | 13 | 13 | 11 | 14 | 14[15] |
| 2. | Number of accounts finalised during the year | 12 | 10 | 15 | 20 | 17 |
| 3. | Number of accounts in arrears | 61 | 64 | 51 | 52 | 51 |
| 4. | Average arrears *per* SPSU (3/1) | 4.69 | 4.92 | 4.64 | 3.71 | 3.64 |
| 5. | Number of Working SPSUs with arrears in accounts | 13 | 13 | 10 | 13 | 14 |
| 6. | Extent of arrears (Years) | 1 to 15 | 1 to 15 | 1 to 16 | 1 to 15 | 1 to 15 |

It can be seen from the above that the quantum of arrears in accounts and the average arrear per SPSU remained high showing an average arrears per SPSU at 3.64 Accounts, while the extent of arrears ranges from one to 15 years. While Meghalaya Tourism Development Corporation Limited had arrears in accounts of 15 years (since 1998-99), Meghalaya Forest Development Corporation Limited and Meghalaya Handloom and Handicrafts Development Corporation Limited has arrears of nine and eight years respectively.

The State Government had invested ₹ 232.65 crore (Equity: ₹ 223.31 crore and Grants: ₹ 9.34 crore) in nine SPSUs during the years for which accounts have not been finalised as detailed in **Appendix 4.4.** Delay in finalisation of accounts of these SPSUs may result in risk of fraud and leakage of public money apart from violation of the provisions of the Companies Act, 1956.

The Administrative departments have the responsibility to oversee the activities of these entities and to ensure that the accounts are finalised and adopted by these SPSUs within the prescribed period. Though the attention of the concerned administrative departments and officials of the Government on the issue of the arrears in finalisation of accounts was regularly drawn by the Principal Accountant General on quarterly basis, no remedial measures were taken. As a result of this, the net-worth of these

[15] Excluding one company (Meghalaya Electronics Development Corporation Limited) which became non-working during 2010-11 with nine accounts in arrears. Further, three new companies (serial no.A-9, 10 & 11 of Appendix 4.2) incorporated on 18 December 2009 have been included. Each of these three companies has accounts for three years (2010-11 and 2011-12 and 2012-13) in arrears.

SPSUs could not be assessed in audit. The matter of arrears in accounts was also taken up with the Principal Secretary of the concerned Department and the Principal Secretary, Finance Department in the form of quarterly demi-official letters to clear the arrears in accounts in a time bound manner.

In order to speed up the clearance of arrear in accounts, in line with the instruction of the Ministry of Corporate Affairs (MCA), Government of India, to finalise latest two years account within a reasonable period during 2012-13, CAG office had taken up the matter with the Chief Secretary of the concerned departments of the State Government and SPSUs for effective action plan for compliance of the MCA instruction. But out of 15 SPSUs, 8 SPSUs were yet to finalise latest two years accounts as on 30 September 2013.

**In view of the above state of arrears, it is recommended that:**

- **The Government may set up a cell to oversee the clearance of arrears and set the targets for individual companies which would be monitored by the cell.**
- **The Government may consider outsourcing the work relating to preparation of accounts wherever the staff is inadequate or lacks expertise.**

### 4.1.8 Winding up of non-working SPSUs

There was one non-working SPSU as on 31 March 2013. The Company is under process of liquidation as all the employees of the Company had opted for VRS in December 2006 and were awaiting full settlement of VRS compensation.

The non-working SPSU is required to be closed down as its existence was not serving any purpose.

### 4.1.9 Accounts Comments and Internal Audit

12 companies forwarded 17[16] audited accounts to Principal Accountant General (Audit) during the year 2012-13. Of these, seven accounts of six companies were selected for supplementary audit and 10 accounts were issued non-review certificate. The audit reports of Statutory Auditors appointed by CAG and the Supplementary Audit of CAG indicate that the quality of maintenance of accounts needs to be improved substantially. The details of aggregate money value of comments of Statutory Auditors and CAG are given below:

[16] Including one year accounts of one Non-working company namely Meghalaya Electronics Development Corporation Limited.

**Table 4.1.9**

**(₹ in crore)**

| Sl. No. | Particulars | 2010-11 | | 2011-12 | | 2012-13 | |
|---|---|---|---|---|---|---|---|
| | | No. of accounts | Amount | No. of accounts | Amount | No. of accounts | Amount |
| 1. | Decrease in profit | 1 | 21.06 | 1 | 0.31 | 2 | 3.41 |
| 2. | Increase in loss | 4 | 1.80 | 4 | 0.34 | 7 | 4.77 |
| 3. | Non-disclosure of material facts | 2 | 6.51 | 2 | 3.34 | 3 | 2.54 |
| 4. | Errors of classification | 3 | 0.86 | 1 | 0.23 | 1 | 0.21 |

During the year, the Statutory Auditors had given qualified certificates to all the seventeen accounts. In respect of compliance of companies with the Accounting Standards, there were 37 instances of non-compliance in ten accounts during the year.

Some of the important comments in respect of accounts of companies are stated below:

### *Mawmluh Cherra Cements Limited (2011-12)*

- The Royalty payable, on Limestone, to the Government of Meghalaya was revised (13 August 2009) from ₹ 45 per Metric Tonne to ₹ 63 per Metric Tonne. However, the Company revised the rates from the date of issue of notification i.e 1 October 2010 onwards instead of 13 August 2009 onwards. Thus, the Trade Payables were understated by ₹ 14.83 lakh with a corresponding understatement of Royalty payable and Loss for the year by the same amount.

- The Company had not made any provision against the energy bills for the period during failure of meter (March 2011 to May 2011), on the basis of average consumption during last six months. This had resulted in understatement of Trade Payables by ₹ 94.29 lakh and understatement of loss by the same amount {exceptional items (prior period) by ₹ 31.43 lakh and current year expense by ₹ 62.86 lakh}.

- The Company did not include an amount of ₹ 39.93 lakh being the penal interest (₹ 16.16 lakh up to 31.3.2011 and ₹ 23.77 lakh for the year 2011-12) payable by the Company for delay in payment of Royalty and cess on limestone to the Directorate of Mineral Resources. This had resulted in understatement of loss (exceptional items: ₹ 16.16 lakh and current year's expense: ₹ 23.77 lakh) and understatement of other liabilities by ₹ 39.93 lakh each.

- The Tangible Assets included work-in-progress (Plant and Machinery) of ₹ 13.33 lakh as on 31 March 2012. Thus, Tangible Assets were overstated by ₹ 13.33 lakh and Capital Works-in-progress understated by the same amount.

- Other Income was arrived at after deducting an amount of ₹ 45.13 lakh being the Prior Period Expenses. However, as per the revised Schedule VI, Prior Period Expenses forms part of Exceptional Items. Thus, Other Income for the year has been understated by ₹ 45.13 lakh with corresponding understatement of Exceptional Items by the same amount.

***Meghalaya Bamboo Chips Limited (2009-10)***

- The Company had not suitably disclosed the fact that as on 31 March 2010, the Company spent an amount of ₹ 8.99 lakh out of the funds received from Ministry of Urban Development, Government of India, while balance amount of ₹ 1.01 lakh remained unspent.
- The expenditure did not include ₹ 18.59lakh being electricity charges payable as on 31 March 2010. Non-provision against known liability had resulted in understatement of Current Liabilities and loss for the year by ₹ 18.59 lakh.

***Meghalaya Handloom and Handicrafts Development Corporation Limited (2004-05)***

- The Statutory Auditor's incorrectly mentioned in their report that Meghalaya Industrial Development Corporation Limited (MIDC) had written off loans and interest amounting to ₹ 26.61 lakh instead of actual write-off of loans and interest amounting to ₹ 35.63 lakh.

***Forest Development Corporation Limited (2003-04)***

- The debit balance of ₹ 4.91 crore in Profit and Loss Account was not adjusted against the General Reserve of ₹ 40 lakh in accordance with Schedule VI of the Companies Act 1956. Non-adjustment of the same had resulted in over statement of Reserve & Surplus and accumulated losses by ₹ 40 lakh.
- The Sundry Creditors were understated by ₹ 8 lakh on account of non-inclusion of a claim of royalty from Divisional Forest Office, Garo Hills amounting ₹ 8 lakh.
- The Company did not include an income of ₹ 6.77 lakh relating to current financial year. This had resulted in understatement of current year income and overstatement of loss for the year by ₹ 6.77 lakh.
- The accounting policy adopted and method of presentation of Government Grants in the Financial Statements has not been disclosed as required in Accounting Standard – 12.

Only one working Statutory Corporation forwarded one account to Principal Accountant General during the year 2012-13 and the audit was completed during the year. The audit reports of Statutory Auditors and the sole/ supplementary audit of CAG indicate that the quality of maintenance of accounts needs to be improved substantially. The details of aggregate money value of comments of CAG are given below:

**Table 4.1.10**

**(₹ in crore)**

| Sl. No. | Particulars | 2010-11 | | 2011-12 | | 2012-13 | |
|---|---|---|---|---|---|---|---|
| | | No. of accounts | Amount | No. of accounts | Amount | No. of accounts | Amount |
| 1. | Increase in loss | 2 | 5.98 | 1 | 5.09 | - | - |
| 2. | Non-disclosure of material facts | 2 | 16.71 | 1 | 8.58 | 1 | 0.36 |
| 3. | Errors of classification | 1 | 0.76 | 1 | 1.92 | - | - |

It can be seen from the above that the average impact of comments per account under '*Non-disclosure of material facts*' category decreased from ₹ 8.58 crore during 2011-12 to ₹ 0.36 crore in 2012-13. During the year, one Statutory Corporation received qualified certificates.

Some of the important comments in respect of accounts of Statutory Corporation are stated below:

***Meghalaya State Warehousing Corporation (2011-12)***

- The Corporation had not disclosed the Accounting Policy in accordance with Accounting Standard-12 for Government Grants amounting to ₹ 36.11 lakh received as financial assistance from the State Government for extension of 2000 MT Warehouse at Khanapara.

The Statutory Auditors (Chartered Accountants) are required to furnish a detailed report upon various aspects including internal control / internal audit systems in the companies audited in accordance with the directions issued by the CAG to them under Section 619(3)(a) of the Companies Act, 1956 and to identify areas which needed improvement. An illustrative resume of major comments made by the Statutory Auditors on possible improvement in the internal audit/internal control system and other areas in respect of seven companies[17] for the year 2011-12 and eight companies[18] for the year 2012-13 are given below:

**Table 4.1.11**

| Sl. No. | Nature of comments made by Statutory Auditors | 2011-12 | | 2012-13 | |
|---|---|---|---|---|---|
| | | Number of Companies where recommen-dations were made | Reference to serial number of the Companies as per Appendix 4.2 | Number of Companies where recommen-dations were made | Reference to serial number of the Companies as per Appendix 4.2 |
| 1. | Auditors Report & Comments / Draft paras/Mini Reviews not discussed in Audit Committee | 1 | A5 | 1 | A5 |
| 2. | Non prescribing of Maximum / Minimum level of stock | 4 | A1, A7, A5, A12 | 5 | A1, A2, A5, A7, A12 |
| 3. | No ABC analysis adopted to control the inventory | 4 | A1, A7, A5, A12 | 5 | A1, A2, A5, A7, A12 |
| 4. | Inadequate scope of Internal Audit | 3 | A1, A7, A5 | 3 | A1, A5, A7 |
| 5. | Absence of proper maintenance of Fixed Asset Register | 5 | A1, A7, A3, A5, A12 | 5 | A1, A3, A5, A7, A12 |
| 6. | Inadequate credit policy | 4 | A1, A3, A5, A12 | 7 | A1, A2, A3, A4, A5, A7, A12 |
| 7. | Inadequate system of giving discount | 2 | A7, A12 | 2 | A7, A12 |
| 8. | Inadequate system for timely recovery of outstanding dues | 4 | A1, A7, A3, A5 | 4 | A1, A2, A4, A7 |
| 9. | No system of obtaining confirmation of balances from debtors. | 6 | A1, A7, A8, A3, A5, A12 | 8 | A1, A2, A3, A4, A5, A7, A8, A12 |
| 10. | Non recoverable of ledger (Debtor Advances) | - | - | - | - |

[17] Sl. No. A-1, 2, 4, 5, 6, 7, 8 and C-1 in Appendix – 4.2
[18] Sl. No. A-2, 3, 5, 6, 7, 12 and C-1 in Appendix – 4.2

### 4.1.10 Status of placement of Separate Audit Reports

The following table shows the status of placement of various Separate Audit Reports (SARs) issued by the CAG on the accounts of Statutory Corporations in the Legislature by the Government.

**Table 4.1.12**

| Sl. No. | Name of Statutory corporation | Year up to which SARs placed in Legislature | Year for which SARs not placed in Legislature | | |
|---|---|---|---|---|---|
| | | | Year of SAR | Date of issue to the Government | Reasons for delay in placement in Legislature |
| 1. | Meghalaya Transport Corporation | 2004-05 | 2005-06 | 04 April 2012 | SAR received by the Government/ Management and is yet to be placed in the Legislature. |
| | | | 2006-07 | 10 April 2012 | |
| | | | 2007-08 | 12 April 2012 | |
| | | | 2008-09 | 12 April 2012 | |
| | | | 2009-10 | 12 April 2012 | |
| 2. | Meghalaya State Warehousing Corporation Limited | 2010-11 | 2011-12 | 05 September 2012 | |

Delay in placement of SARs weakens the legislative control over Statutory Corporations and dilutes the latter's financial accountability. The Government should ensure prompt placement of SARs in the Legislature.

### 4.1.11 Disinvestment, Privatisation and Restructuring of SPSUs

During the year 2012-13, no exercise was undertaken by the Government of Meghalaya for the Disinvestment, Privatisation and Restructuring of SPSUs.

# POWER DEPARTMENT

## MEGHALAYA ENERGY CORPORATION LIMITED

### 4.2 Extra Irregular Expenditure

**Failure of the Meghalaya Energy Corporation Limited to correctly regulate payments to a firm resulted in an extra irregular expenditure of ₹ 226.57 lakh[19].**

The Meghalaya Energy Corporation Limited[20] (MeECL) awarded a supply contract (July 2007) to M/s Marbaniang Enterprise, Shillong (Firm) for supply of various materials required for implementing the Rajiv Gandhi Grameen Vidyutikaran Yojna[21] in Jaintia Hills District at a cost of ₹ 27 crore. The contract was to be completed by June 2009. However, without any approval for extension of the contract beyond June 2009 it was amended in June 2010 due to change of scope of the work and accordingly the contract value was revised to ₹ 28.36 crore.

Audit reviewed the contractual payments released to the firm and observed the following two instances of irregular extra payments made to the firm.

**(i) Irregular extra expenditure of ₹ 120.95 lakh for supply of Transformers**

MeECL had changed the scope of the contract from supply of 316 No. of 25 KVA, 55 No. of 16 KVA and 70 No. of 10 KVA transformers to 304, 63 and 63 numbers of transformers respectively. Under the amended contract, the rate for these three types of transformers was also uniformly increased by ₹ 28,133 each on account of material cost (₹ 14,133) and freight cost (₹ 14,000).

It was noticed that the firm had supplied 301 numbers of 25 KVA transformers, 50 of 16 KVA transformers and 68 of 10 KVA transformers against the original contracted quantity, out of which 235 Nos, 52 Nos & 45 Nos of 25 KVA, 16 KVA and 10 KVA DTs respectively were installed prior to amendment of Letter of Award (LOA). The firm had accordingly submitted bills at the pre-revised rates for these items during the period between April 2008 and December 2009 and MeECL had made payments amounting to ₹ 337.85 lakh against these bills. Audit observed that MeECL allowed the firm various claims for the materials and equipments supplied before revision of rates, on account of the differential material and freight costs, amounting to ₹ 116.47 lakh as detailed below:

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[19] Transformers- ₹ 120.95 lakh; Service Tax - ₹ 105.62 lakh.
[20] Till 13th September 2009 known as the Meghalaya State Electricity Board.
[21] The Rajiv Gandhi Grameen Vidyutikaran Yojna (RGGVY), a centrally sponsored scheme, was launched in April 2005 by the Government of India with a view to accelerate the pace of village electrification by electrifying all villages and habitations, providing electricity to all households and giving electricity connections to Below Poverty Line families free of charge.

**Table 4.2.1**

| Trans-former capacity | Quantity to be supplied as per original contract (Nos) | No. of transfor-mers supplied prior to June 2010 | Quantity to be supplied as per amended contract | Rate per unit as per original contract | Rate claimed by the contractor | Amount admitted by MeECL | Amount which should have been paid | Differen-tial amount allowed to the contrac-tor |
|---|---|---|---|---|---|---|---|---|
| | | | | (Amount in ₹ lakh) | | | | |
| (1) | (2) | (3) | (4) | (5) | (6) | (7) = (3x6) | (8) = (3x5) | (9) = (7-8) |
| 25 KVA | 316 | 301 | 304 | 92,737 | 1,20,870 | 363.82 | 279.14 | 84.68 |
| 16 KVA | 55 | 50 | 63 | 76,666 | 1,04,799 | 52.40 | 38.33 | 14.07 |
| 10 KVA | 70 | 63 | 63 | 65,363 | 93,496 | 58.90 | 41.18 | 17.72 |
| **Total** | | | | | | **475.12** | **358.65** | **116.47** |

As per clause 5.0 of the letter of award (July 2007), all the components for the entire scope of work under the contract were firm and no price adjustment was applicable for the same. Contrary to the provisions of the original contract, MeECL, allowed claim of the supplier for price differences for the material already supplied under the original contract.

Thus, allowing the revised rates for the materials which were received and billed before amendment of the award of contract was not proper.

It was further observed that in respect of 3 numbers of 25 KVA and 13 numbers of 16 KVA transformers which were supplied after amendment of the contract, the MeECL admitted both the revised rate as well as the differential cost which resulted in double payment of ₹ 4.48 lakh[22].

Thus, the failure of the MeECL to correctly regulate payments to the firm resulted in an irregular and extra expenditure of ₹ 120.95 lakh[23] (material cost: ₹ 60.77 lakh; freight cost ₹ 60.20 lakh) and undue benefit to the contractor.

The Power Department, Government of Meghalaya (GoM) in its reply (December 2012) stated that the rate increase was due to inclusion of DT metering in the amended LOA amounting to ₹ 28,939, ₹ 29,106 & ₹ 29,223 for 25/16/10 KVA respectively.

The reply is not tenable in view of the fact that inclusion of Distribution Transformer (DT) metering in the revised LOA was already included in the original LOA which included Energy meter, meter box and all accessories for Distribution Transformer (DT).

### (ii) Irregular extra payment of Service Tax - ₹ 105.62 lakh

As per notification issued (March 2008) by the Central Board of Excise and Customs (CBEC), service tax on freight incurred during the course of supply of materials is to be levied on 25 *per cent* of the freight value.

[22] (25 KVA- 3 x ₹ 0.28 lakh = ₹ 0.84 lakh; 16 KVA- 13 x ₹ 0.28 lakh= ₹ 3.64 lakh)
[23] ₹ 120.95 lakh = ₹ 116.47 lakh + ₹ 4.48 lakh

A review of the payments made to a contractor (M/S Marbaning Enterprise, Laitumkhrah) revealed that contrary to the above notification of CBEC, MeECL had allowed service charges on freight at the rate of 12.24 *per cent* on the 100 *per cent* freight value instead of 25 *per cent* of the freight value. This had resulted in irregular extra payment of ₹ 105.62 lakh of service charges to the firm as detailed below.

**Table 4.2.2**

| Bill period | Value of freight paid to supplier | 25 *per cent* of the freight | Applicable rate of Service Tax on freight | Amount service tax charges permissible | Amount of service tax charges paid to the contractor | Over payment |
|---|---|---|---|---|---|---|
| | **(Amount in ₹)** | | | | | |
| **(1)** | **(2)** | **(3) = (25 *per cent* of 2)** | **(4)** | **(5) = (4*3)** | **(6)** | **(7) = (6-5)** |
| Up to 23-02-2009 | 49924856 | 12481214 | 12.36% | 1542678 | 5753292 | 4210614 |
| 24-02-2009 to18-01-2011 | 63228365 | 15807091 | 10.30 % | 1628130 | 7979420 | 6351290 |
| **Total** | | | | **3170808** | **13732712** | **10561904** |

Audit also observed that MeECL did not verify the details of Service Tax Code (STC)/ registration number on the invoices as required under CBEC circular No.97/8/2007 dated 23 August 2007. The firm did not even have service tax registration during the contract period.

The matter was reported to MeECL in December 2012 and in its reply, MeECL stated (February/June 2013) that actual service tax to be deducted from the contractor would be finalised during the closure of the scheme.

However, the Power Department, GoM in its reply (December 2013) stated that "as the total payment made to the firm is inclusive (i.e Freight value+ service tax), any change in the rate of service tax will not affect the total amount paid to the firm. The excess amount of service tax to the tune of ₹ 105.62 lakh paid to the firm is mere projection of calculation only at different rates of service tax which implies that there is no such excess amount paid in practice".

The Power Department reply is contradictory of the earlier reply of the MeECL and is not tenable in view of the following.

- At the time of finalisation of contract, MeECL had not ensured whether the contractor was registered with Service Tax Department and there was no cost breakdown indicated in the contract for the service tax portion. Further, the Government levies/ taxes should be payable to the contractor based on the actual payment and cannot be pre-fixed in the contract. MeECL did not ensure that service tax is allowed to the contractor on actual basis, which resulted in irregular extra payment.
- The total value of the contract is the overall limit and the payments should be regulated based on the actual work executed/ service received. MeECL did not ensure this while allowing payment of service tax charges.

It is recommended that MeECL, in future should ensure the Service Tax registration of the firm before releasing the contractual payments.

Thus, failure of the Meghalaya Energy Corporation Limited to correctly regulate payments to a firm resulted in an extra irregular expenditure of ₹ 226.57 lakh.

## 4.3 Avoidable Expenditure

**Faulty implementation of the solar lantern scheme by the Meghalaya Non-conventional and Rural Energy Development Agency resulted in an avoidable expenditure of ₹ 53.39 lakh besides ineligible retention of central assistance of ₹ 2 crore.**

In March 2006, the Meghalaya Non-Conventional and Rural Energy Development Agency (MNREDA) submitted a proposal to the Ministry of Non-Conventional Energy Resources[24] (MNRE), Government of India (GoI) to procure and sell 20,000 solar lanterns to eligible beneficiaries[25] in the state under the Solar Lantern Programme[26] (SLP) of the GoI. The proposal was approved by the Ministry the same month. Under the SLP, the Ministry provided a Central Financial Assistance (CFA) of ₹ 2,400 per solar lantern and in addition, ₹ 100 per lantern as service charge which was accordingly released in two instalments of ₹ 2.5 crore[27] each to MNREDA in May 2006 and September 2007.

Accordingly, MNREDA issued (October 2006 to May 2007) purchase orders on four firms for supply of solar lanterns for procurement of 20,000 solar lanterns. However, by April 2008, MNREDA procured only 12,000 solar lanterns at a cost of ₹ 4.67[28] crore, against the above purchase orders. For distributing the Solar Lanterns under the scheme, MNREDA fixed the subsidised cost of the lanterns at rate of ₹ 1765[29]per lantern.

In this connection audit observed that:

1. MNREDA distributed only 3,318 lanterns to the eligible beneficiaries till October 2011. However, it recovered only ₹ 42.75 lakh against subsidised cost of ₹ 58.56 lakh[30] from the beneficiaries. Thus, MNREDA had short-recovered an

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[24] Later renamed as Ministry of New and Renewable Energy

[25] Individuals and non-profit institutions/ organisations in unelectrified villages of Special Category States.

[26] The SLP would be implemented through State Nodal Agencies (SNAs). Fifty percent of Central Financial Assistance (CFA) would be released to the SNAs in advance along with the service charges and the remaining 50 percent would be released after completion of the project, inspection of at least 20 per cent of the lanterns distributed and submission of audited statement of expenditure/Utilisation Certificate (UC) in the prescribed format.

[27] (₹ 2,400 + ₹100) X 20,000 solar lanterns = ₹ 5 crore

[28] Including ₹ 2.67 lakh as transportation cost for direct delivery to district offices in respect of one firm

[29] 1.Cost of the system: ₹ 4215, MNES share: ₹ 2400, State Government Share: 50
Beneficiary's Contribution : ₹ 4215 –(2400+50) = ₹ 1765

[30] @ ₹ 1,765 per lantern X 3,318 lanterns = ₹ 58.56 lakh

amount of ₹ 15.81 lakh on distribution of 3,318 solar lanterns. The reasons for short-recovery were not on record.

2. On account of poor response to the scheme, MNREDA could not distribute the remaining 8,682 solar lanterns to the eligible beneficiaries till November 2011, therefore, MNREDA's Executive Committee decided to distribute the remaining these lanterns free of cost to school children. However, by then the batteries of the lanterns had become unusable due to prolonged storage. Therefore, in August 2012, MNREDA replaced the batteries of the 8,682 lanterns at a cost of ₹ 53.39 lakh and by June 2013 had distributed these lanterns to school children free of cost. Audit observed that the school children were not selected from un-electrified villages as envisaged in the original scheme. Thus, faulty implementation of the scheme resulted in avoidable expenditure of ₹ 53.39 lakh besides non-recovery of subsidised cost of solar lanterns amounting to ₹ 153.24[31] lakh.

3. Further, the Utilisation Certificate furnished by MNREDA stating that "*the conditions on which the grant-in-aid was sanctioned have been duly fulfilled*" was false and suppressed material fact that the agency had procured only 12,000 solar lanterns by utilising the CFA sanctioned for procurement and distribution of 20,000 solar lanterns to the beneficiaries. Consequently, MNREDA was liable to refund the CFA amounting to ₹ 2 crore for not procuring 8000 Solar Lanterns in accordance with the sanction of CFA.

Thus, due to faulty implementation of the scheme, the objective of providing Solar Lanterns to the eligible beneficiaries was not fully achieved. In addition, the MNREDA, had incurred and avoidable expenditure of ₹ 53.39 lakh on the scheme.

The matter was reported to the Government in July 2013; reply was awaited (February 2014).

# COMMERCE AND INDUSTRIES DEPARTMENT

# MEGHALAYA INDUSTRIAL DEVELOPMENT CORPORATION LIMITED

## 4.4 Sanction of loan to a Private Company where the interested Director held substantial shares

**The Meghalaya Industrial Development Corporation sanctioned and disbursed a loan of ₹ 45 crore and equity participation of ₹ 6 crore to a private company whose majority shares were held by a Director of MIDC and allowed undue benefit of ₹ 54.23 lakh.**

M/s CMJ Breweries Private Ltd (CMJ) in April 2009 applied for a loan of ₹ 26 crore and ₹ 3 crore equity participation from the Meghalaya Industrial Development

[31] Non-recovery of subsidised cost of ₹153.24 lakh (1765*8682)

Corporation Limited (MIDC) to set up a brewery at Byrnihat wih a project cost of ₹ 52.33 crore. Apart from the loan and equity participation by the MIDC, the project was to be financed through a bank loan of ₹ 8 crore and promoter's contribution of ₹ 15.33 crore.

The Board of Directors (BoD) of the MIDC in its 172nd meeting held in June 2009 approved the loan of ₹ 26 crore and equity participation of ₹ 3 crore in the project. As per the terms of the loan agreement, the loan was to be repaid in eight years in seven annual installments along with interest of 12 *per cent* with each installment. First installment of the repayment of loan was due after 26 months from the date of the first disbursement of the loan. A penal interest of 3 *per cent* was leviable on any overdue installments or interest outstanding. The Company made first disbursement to the loanee on 7 April 2010[32] and as such the repayment of first installment was due in June 2012. However, CMJ voluntarily paid interest from 2010-11 onwards. In April 2011, the CMJ citing delay in commencement of commercial operations due to delay in obtaining the bank loan requested the MIDC to reschedule the loan repayment to the financial year 2014-15. This was agreed to by the MIDC with the condition that the CMJ would continue to pay interest on the loan every year i.e. by 31 March of each financial year.

CMJ again requested (September 2012) the Company to issue a 'No Objection Certificate' for obtaining a loan of ₹ 9.09 crore, for doubling the capacity of its plant, from a bank and to agree to extension of *pari passu*[33] charge with the bank on the resultant expanded assets of the CMJ. Both conditions were agreed to by the Company. In April 2013, CMJ submitted fresh proposal to the Company requesting for a loan of ₹ 19 crore to be utilised for expanding the brewery's capacity from 2,00,000 HLPA to 3,50,000 HLPA at a cost of ₹ 31.55 crore[34] to be financed by promoters (₹ 9.55 crore), loan from the MIDC (₹ 19 crore) and equity participation by the MIDC (₹ 3 crore). The BoD of the MIDC approved the additional loan and equity participation at its 189th meeting held in May 2013.

Audit observed that:

- A major shareholder and director in the CMJ, was also a member of the BoD of the MIDC, participated and voted in the 172nd and 189th meeting of BoDs that considered and approved the MIDC's loans and equity participation in the CMJ. However, the interested director had not disclosed his interest in the proposed loan

[32] 1st disbursement (7 April 2010)- ₹ 5 crore; 2nd disbursement (19 April 2010)- ₹10.00 crore; 3rd disbursement (24 June 2010)- ₹ 1.50 crore; 4th disbursement (26 October 2010) – ₹ 4.40 crore; 5th disbursement( 8 March 2011)- ₹ 1.50 crore; 6th disbursement (21 March 2011)- ₹ 2 crore; 7th disbursement (9 March 2012)- ₹ 1.60 crore

[33] Pari Passu is a term used in banking transactions which means that the charge to be created is in continuation of an earlier charge which might be held by the same institution or by another institution.

[34] Expansion cost ₹ 31.55 crore proposed to be financed by Term Loan from MIDC Ltd (₹ 19 crore) and equity from promoters ₹ 9.55 crore and equity from MIDC Ltd ₹ 3 crore.

arrangement, to the Board of Directors as required under Section 299[35] of the Companies Act.

- The action of the MIDC to give 'No objection' to the CMJ for availing loan of ₹ 9.09 crore and to agree to extension of *pari passu* charge with the bank was not in consonance with clause 5 of the loan agreement which *inter alia* stipulates that *"the borrower (CMJ) shall not create any charge, mortgage, lien or other encumbrance upon or over the same, or any part thereof except in favour of the lenders (MIDC)*." The BoD's approval was not taken for this deviation from the terms of the loan agreement.

- As per the MIDC's policy, all loanees who pay their interest and the principal amount on time will be allowed concession of two *per cent* on interest as an incentive bonus. For not paying interest on due date, the MIDC could levy a penal interest of three percent on the interest outstanding. CMJ availed the concession in interest for the financial years 2010-11 and 2011-12 by paying interest on due date i.e., by 31 March. For the year 2012-13, CMJ had deposited cheques amounting to ₹ 2.60 crore. However, CMJ requested the Company to postpone the encashment of the cheques and therefore MIDC encashed the cheques on 27 June 2013 instead of due date of 31 March 2013. Thus, CMJ was not eligible for concession of two *per cent*. However, the MIDC allowed the ineligible interest concession on the outstanding loan amount[36], and had also not levied the penal interest of 3 *per cent* on the interest outstanding[37], which resulted in total undue benefit of ₹ 54.23 lakh (₹ 52 lakh + ₹ 2.23 lakh). After being pointed out by Audit, MIDC, in August 2013, requested CMJ to pay the balance interest of ₹ 52 lakh but CMJ had not paid the interest till date (December 2013). The Company had not taken any action to recover the penal interest of ₹ 2.23 lakh so far.

The matter was reported to the Department in October 2013, reply was awaited (February 2014).

## 4.5 Irregular appointment of staff

**44 officers and staff were appointed during April 2004 to May 2013 in the Meghalaya Industrial Development Corporation Limited without following due procedures.**

The Articles of Association of the Meghalaya Industrial Development Corporation Limited (MIDC) empower the Board of Directors (BOD) to appoint officers and other staff of the MIDC. However, in March 2004[38], the BOD delegated this power to the

[35] Section 299 (1) of Companies Act, 1956 provides that every director of a Company, who is in any way, whether directly or indirectly, concerned or interested in a contract or arrangement, or proposed contract or arrangement, entered into or to be entered into, by or on behalf of the company, shall disclose the nature of his concern or interest at a meeting of the Board of directors

[36] Ineligible concession @ 2 *per cent* on ₹26 crore = ₹ 52 lakh.

[37] Loan amount=₹ 26 crore, interest outstanding 12 *per cent* on ₹ 26 crore = ₹ 3.12 crore, penal interest = 3 *per cent* on ₹ 3.12 crore for 87 days from 1-04-13 to 26-06-13 = ₹ 2.23 lakh

[38] 150th meeting of the Board of Directors held on 29 March 2004

Managing Director (MD) of the MIDC subject to approval of the Government of Meghalaya.

Consequent upon delegation of powers to the MD, 44 persons were appointed in the MIDC during the period April 2004 to May 2013 to various posts (peon to management trainee) as per details given in **Appendix 4.7.** All these 44 persons were in employment with the MIDC (as on 31 March 2013).

In June 2013, Audit examined the records relating to these appointments and it was revealed that the above appointments were made by the MD of the MIDC, without following due procedures in accordance with Section 4(1) of the Employment Exchanges (Compulsory Notification of Vacancies) Act 1959 and also the Supreme Court's observations (August 1996), that, for observing fair play, appointing authorities publicise the vacancy in news papers and display on its office notice boards or announce on radio, television and employment news-bulletins. It was seen in audit that while making the above 44 appointments, the MIDC did not follow the following procedures:

- *The employment exchange(s) was not notified of the vacancies;*
- *The vacancies were not publicised in newspapers, radio or television etc.; and*
- *There was no evidence on record to suggest that the vacancies had even been displayed on the MIDC's office notice boards;*

It was further observed that the powers of Board of the Directors of the Company to appoint officers and other staff of MIDC delegated to the MD were subject to approval of Government of Meghalaya. However, the Government of Meghalaya had not accorded its approval to the said delegation as on date (October 2013). Therefore, the Board of Directors was the competent authority to appoint officers and staff and not the Managing Director. Thus, powers of appointment exercised by the MD were ultra vires of the Articles of Association of the Company.

On this being pointed out, the Management stated (July 2013) that recruitment to the MIDC is need based and a majority of the appointments were done directly which was the practice all along.

The reply of the Management was not tenable as the rules and procedures were not followed for making appointments in the Company.

The matter was reported to the Department in August 2013, reply was awaited (February 2014).