CHAPTER III

COMPLIANCE AUDIT OBSERVATIONS

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3. COMPLIANCE AUDIT OBSERVATIONS

Important audit findings emerging from test check of transactions made by the State Government companies/ corporations have been included in this chapter.

Government companies

Transformers and Electricals Kerala Limited

3.1 Management of cost of production

Introduction

3.1.1 Transformers and Electricals Kerala Limited (Company) was incorporated (December 1963) with the main objective to establish manufacturing units for the manufacture of heavy electrical equipments such as transformers, turbines and other electrical and allied machinery required by power sector institutions. The Company commenced its commercial activities in 1966. The Company is presently manufacturing power transformers, current and potential transformers in the range of 33kV[1] to 400 kV. The major raw materials used in production process are copper, steel, press boards and transformer oil.

3.1.2 The cost of production per MVA[2] of transformer manufactured by the Company increased from ₹3.21 lakh in 2009-10 to ₹3.89 lakh in 2013-14, registering an increase of 21.18 *per cent.* As a result, the Company had incurred operating loss of ₹0.73 lakh per MVA during 2013-14 as against profit of ₹0.70 lakh per MVA during 2009-10. The hike in cost of production was due to increase in cost per MVA of raw materials from ₹2.13 lakh in 2009-10 to ₹2.51 lakh in 2013-14 and the employee cost from ₹0.74 lakh in 2009-10 to ₹1.07 lakh in 2013-14 as shown below:

Table 3.1: Cost of production per MVA

Period	Production (MVA)	Cost of Materials consumed		Employee Cost		Others[3]		Grand Total	
		Total (₹crore)	Per MVA (₹ lakh)	Total (₹ crore)	Per MVA (₹ lakh)	Total (₹ crore)	Per MVA (₹ lakh)	Total (₹ crore)	Per MVA (₹ lakh)
2009-10	5080.73	108.03	2.13	37.55	0.74	17.72	0.34	163.30	3.21
2010-11	5168.92	124.06	2.40	39.06	0.76	17.38	0.34	180.50	3.50
2011-12	5789.31	120.24	2.08	45.26	0.78	16.89	0.29	182.39	3.15
2012-13	5175.69	95.35	1.84	49.14	0.95	13.61	0.26	158.10	3.05
2013-14	4260.68	107.14	2.51	45.61	1.07	13.39	0.31	166.14	3.89

[1] Kilo Volts, 1000 volts; one volt is defined as the difference in electric potential between two points of a conducting wire when an electric current of one ampere dissipates one watt of power between those points.
[2] Mega Volt Ampere.
[3] Manufacturing, administration, selling expenses, finance cost, depreciation, etc.

The major reasons for increase in cost of production are deficiencies in procurement of raw materials and payment of unproductive wages as discussed in the succeeding paragraphs:

Absence of procurement through open tender

3.1.3 The basic principle of any public buying is to procure the materials of the specified quality at the most competitive prices and in a fair and transparent manner. As per clause 7.11 of Kerala Stores Purchase Manual, all purchases exceeding ₹10 lakh must be made through open tender.

Open tender was, however, defined in the Purchase Manual framed by the Company as "where enquiries were made with all the known sources, not less than six, and responses were received from not less than four sources". This was contrary to the provisions in the Kerala Stores Purchase Manual according to which tenders are required to be invited by public advertisements by giving wide publicity.

On a review of the procurements made by the Company during 2009-10 to 2013-14, following deficiencies were noticed in the system of procurement:

3.1.4 The Company made purchases from few sources without resorting to open tender as prescribed in the Kerala Stores Purchase Manual and thus violated the purchase rules. Out of the total 289 product groups procured during 2011-12, the Company had only single vendor each for 121 product groups and two vendors each for 69 product groups when 9 to 15 suppliers were available for these items in India and abroad. Out of 5141 purchase orders for ₹240.69 crore placed by the Company during the period from January 2011 to December 2013, 45 major purchase orders[4] for ₹106.65 crore[5] were checked by Audit and the position was as follows:

Table 3.2: Comparison of purchase orders issued

Year	Enquiries made with more than three sources		Enquiries made with two to three sources		Enquiries made with single source		Total (₹ crore)
	Number	Value of PO (₹ crore)	Number	Value of PO (₹ crore)	Number	Value of PO (₹ crore)	
2011	1	1.68	11	29.87	1	2.45	34.00
2012	0	0	15	30.62	1	2.01	32.63
2013	0	0	16	40.02	0	0	40.02
Total	**1**	**1.68**	**42**	**100.51**	**2**	**4.46**	**106.65**

In the absence of obtaining competitive quotes, the Company did not have price discovery mechanism and was deprived of the advantages of competitiveness in the prices.

[4] **Costing more than ₹1 crore per PO.**
[5] **Represented 44.30 *per cent* of total purchases.**

The Government replied (September 2014) that major customers specify their approved vendors for major raw materials and components along with tender specifications and that was the reason for procurement from limited sources. The reply was not acceptable because the conditions about tendering in Company's purchase manual were in contravention of Kerala Stores Purchase Manual. Further, despite the fact that the customers had specified a range of 6 to 15 vendors, the Company had failed to send tender enquiries even to those vendors preferred by customers **(*Annexure 13*).** Thus, purchases were made by ignoring not only the provisions of the Kerala Stores Purchase Manual but were limited only to few vendors even ignoring wide range of the vendors preferred by customers which calls for review of procedure.

Extra expenditure due to dependence on few vendors

3.1.5 Audit analysed the trend of prices at which the Company purchased raw materials *vis-a-vis* the market prices of these items over five years from 2009-10 to 2013-14. It was noticed that the increase in market price[6] of copper[7], when compared to that in 2009-10 ranged from 28.03 *per cent* in 2010-11 to 48.44 *per cent* in 2013-14, whereas the increase in actual procurement rate of the Company ranged from 32.18 *per cent* in 2010-11 to 60.88 *per cent* in 2013-14. The reason for such increase in rate was Company's dependence on two sources[8] for the purchase of Paper Covered Copper Conductor (PCC)[9] and on three to four sources[10] for Continuously Transposed Copper Conductor (CTC) despite presence of many suppliers in India and abroad for these items. Due to its dependence on few vendors, the Company was deprived of the benefit of fair competition and had to procure materials at higher rates incurring extra expenditure of ₹7.29 crore ***(Annexure 14)***.

The Government replied (September 2014) that Sterlite Industries Limited and Hindalco Industries Limited were the only major approved suppliers for copper rods in India. The reply is not acceptable since the customer-preferred vendor list furnished by the Government itself contained names of six suppliers, which is a matter of investigation.

Failure to utilise export incentive

3.1.6 The Company has been exporting transformers to the Sultanate of Oman for the last five years. As per the foreign trade policy in vogue from time to time, the Company was issued[11] Advance Authorisations (AAs) which allow duty free import of inputs, which are physically incorporated in the exported product. The main inputs used for manufacture of transformers are CRGO[12] steel sheets, copper wire rods, transformer oil and press boards. The Company also has the option to procure materials indigenously from domestic suppliers by invalidating the AAs in favour of the suppliers who, in turn, can obtain and utilise the same for duty free import. The suppliers pass on the benefit of duty exemption to the Company.

[6] Based on London Metal Exchange rates.
[7] Both PCC and CTC which accounted for nearly 35 *per cent* of total purchase expenditure of raw materials.
[8] Sterlite Industries Limited and Hindalco Industries Limited.
[9] Except one more source, namely HCL in 2012-13 with whom the Company had placed orders for smaller quantity.
[10] Chandra Proteco, KSH International, Asta India and Sree Cables.
[11] By Joint Director General of Foreign Trade, Ministry of Commerce and Industry.
[12] Cold Rolled Grain Oriented.

The validity of an AA is initially for two years which can be extended for a further period of six months on request.

In the production process, the copper wire rod is used in two forms viz., CTC and PCC. The former is directly procured in finished state and the latter is got fabricated through job contractors by supplying copper rod. The rate of copper quoted by the suppliers was *'(LME*[13] *CSP*[14] *rate + premium)* x *multiplication factor* x *exchange rate'* for supply through domestic route and for supply through deemed export route, the multiplication factor was not considered. Thus, for procurement through deemed export route the rate was lower.

On audit scrutiny, it was noticed that the Company had invalidated nine AAs for 185.29 MT of copper wire rod during the period from December 2010 to July 2011 in favour of two suppliers[15] after getting specific consent from them to supply through deemed export route against each AA. The Company, however, procured 185.29 MT copper wire rod through domestic route at higher rates incurring extra expenditure of ₹41.36 lakh[16]. Audit observed that the suppliers had utilised these AAs for duty free import but the benefit of duty exemption was not passed on to the Company. Failure of the Company to procure copper through deemed import route even after invalidating the AAs in favour of the suppliers resulted in extending undue benefit to private firms.

The Government admitted in the reply (September 2014) that there was avoidable expense but stated that the suppliers had returned the original unutilised invalidation letters to the Company. It was, however, evident from the records of Joint Director of Foreign Trade, Cochin that the suppliers had utilised the nine AAs for import of copper to the fullest extent. The Company may, therefore, take up the matter with private firms for recovery of the amount in question.

Other deficiencies in procurement

3.1.7 The Company failed to comply with the procedures and practices prescribed in the purchase manual as mentioned below:

- The manual stipulated that a purchase committee consisting of heads of departments of materials, planning, design, finance and production has to be constituted for deliberating and taking decisions on purchases exceeding ₹15 lakh. Though the purchase committee was constituted, the committee never met. Instead, purchase decisions were taken by circulating the purchase files among the members. Thus, the objective of doing deliberations behind formation of purchase committee was defeated.
- As per the manual, the purchase department shall prepare an annual purchase budget based on the price data/trends, market information, etc. However, the Company did not prepare purchase budget thereby losing the benefits of getting best materials at competitive prices.

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[13] London Metal Exchange.
[14] Cash Settlement Price.
[15] Sterlite Industries Limited and Precision Wires Limited.
[16] ₹41.36 lakh = 5 *per cent* of (185.29 MT x ₹446441).

- The manual further stipulated that the purchase department shall have a price discovery mechanism for the major high value items like CRGO steel, copper conductors, transformer oil, mild steel and press board and that it shall make price trend analysis of the major materials based on past records, prices prevailing in the market from time to time and also possible changes due to Government regulations. However, such procedures were not complied with, due to which the Company lost the opportunities of discovery of actual market price of various materials.
- As per General Financial Rules, for the best public procurement practices, a financial limit shall be prescribed for adopting various modes of procurement viz., open, limited and single tendering procedure. However, such transparent procedure was not put in place by the Company. It was noticed that out of 45 purchase orders test checked by Audit, only 1.57 *per cent*[17] were made through open tender[18] during 2011 to 2013. The Government replied (September 2014) that open tender could be resorted only for general items but not for specific raw materials for manufacturing customised product. The reply is not acceptable due to the fact that the customer specifications were not restricted to any single supplier but to a group of suppliers. Thus, the action of the Company was arbitrary in nature which needs investigation.

In the circumstances, the Company may broaden its vendor base for raw materials to promote competition and obtain best rates and may also resort to import of raw materials wherever found economical. The Company may also go in for LME based long term contracts with suppliers.

Incidence of high employee cost

3.1.8 The employee cost per MVA of transformer manufactured had increased from ₹0.74 lakh in 2009-10 to ₹1.07 lakh in 2013-14 registering an increase of 45 *per cent*. The major reasons for the increase in employee cost per MVA of transformers manufactured were low labour productivity, abnormal idle time and abnormal absenteeism as discussed below:

Unproductive wages

3.1.9 Scrutiny of monthly production reports by audit revealed that though the Company had fixed norms for production per man day in each shop, the actual production was much lower resulting in payment of unproductive wages of ₹31.02 crore as detailed in the table below:

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[17] **₹1.68 crore / ₹106.65 crore x 100.**

[18] **As defined in the Company's purchase manual, Open tender means – where enquiries were made with all the known sources, not less than six, and responses were received from not less than four sources.**

Table 3.3: Details of unproductive wages paid in different shops

SL No.	Particulars	Coil & Insulation Shop	Core Shop	Plate Shop	Assembly Shop	OLTC Shop	CTPT Shop
1	Nature of job in the Shop	Coil winding	Assembly of core	Fabrication of tank	Final assembly of transformer	Manufacture of OLTC	Manufacture of CTPT
2	Norm/Man day	31.36 kg	170 kg	66.80 kg	0.303 MVA	0.36 SU[19]	0.80 SU
3	Executed quantity during 2010-11 to 2013-14	23.31 lakh kg	28.63 lakh kg	25.99 lakh kg	14,668 MVA	201.82 SU	728.47 SU
4	Man days' requirement as per the norm	74,331	16,840	38,907	48,410	561	911
5	Actual utilisation of man days	1,12,113	20,956	72,446	54,557	8,409	15,695
6	Excess utilisation of man days than norms	37,782	4,116	33,539	6,147	7,849	14,784
7	Unproductive wages (₹ in crore)[20]	11.37	1.21	9.91	1.83	2.25	4.45
8	Total unproductive wages for six shops: ₹31.02 crore						

The Government replied (November 2014) that the higher productivity was envisaged under the assumption that modern jigs and production techniques would be introduced and that due to bad market situation and paucity of funds, most of the plans were deferred.

The reply is not tenable in view of the fact that it was agreed (June 2012) between the workers and the Company during long term wage settlement to increase labour productivity by a minimum of 25 *per cent* from the existing level. This proves that there was scope for improvement in productivity.

Abnormal idle time

3.1.10 The main reason for poor labour productivity was abnormal idle time. The management assessed that out of 14.12 lakh man hours booked during the period 2011-14, 2.35 lakh (16.63 *per cent*) man hours were unproductive due to abnormal idle time resulting in payment of unproductive wages amounting to ₹9.85 crore as mentioned in the following table:

Table 3.4: Year-wise details of unproductive wages paid

Year	Total wages paid (₹ lakh)	Total man hours booked	Idle man hours	Unproductive wages (₹ lakh)
1	2	3	4	5 (2x4/3)
2011-12	2103.53	604601	106635	371.00
2012-13	2155.43	457085	82236	387.79
2013-14	1726.21	350745	45969	226.23
Total	**5985.17**	**1412431**	**234840**	**985.02**

The idling was on account of prolonged lunch break, tea break, waiting for want of instructions, crane and materials, etc.

[19] **Standard Unit.**
[20] **At the average man hour rate.**

The Government replied (November 2014) that the number of hours spent would vary from unit to unit depending on factors like availability of crane, condition of raw material, etc. The reply is not acceptable since the assessment of idle time was made by the management itself and the reasons cited were prolonged lunch break, waiting for want of instructions, crane, material, etc. which were documented in the monthly production statements. The Government also confirmed (November 2014) the audit observation by stating that constant efforts were being made through regular communication with trade unions for improving engagement time by reducing the tea break and lunch break time.

Abnormal absenteeism

3.1.11 The Company fixed the norm of 10 *per cent* for absenteeism among permanent workers. Audit, however, noticed that the actual absenteeism among permanent workers during the three years from 2011-12 to 2013-14 ranged from 20.35 *per cent* (Plate shop in 2012-13) to 12.34 *per cent* (Assembly shop in 2011-12) and as such 3.19 lakh man hours (17.30 *per cent*) were lost out of the total available man hours of 18.45 lakh. The man hours loss due to abnormal absenteeism was compensated by engaging workers on overtime and by engaging contractual workers. During the period from 2010-11 to 2013-14, the Company engaged workers for 47,302 man hours on overtime incurring ₹3.94 crore towards overtime wages. Similarly, the Company employed workers on contract basis incurring ₹1.02 crore.

The Government replied (November 2014) that the absenteeism was due to eligible leave availed by the permanent workers. The reply was not tenable as the cost of production had increased due to payment of overtime wages and payment of wages to contract workers in addition to leave salary to the workers on leave.

Non-compliance of long term labour agreement assurances

3.1.12 As per the long term wage settlement entered into (June 2012) between the workers and the Company, it was agreed to increase labour productivity by a minimum of 25 *per cent* from the existing level. The productivity, however, had either declined or remained the same in the subsequent years. The Company, however, did not take measures to improve productivity but paid increased wages as per the revised pay structure. Further, it was agreed to introduce third shift from 1 April 2012 which was also not implemented and thereby the Company lost the benefit of better contribution by the optimum utilisation of the available infrastructure and workforce.

The Government replied (September 2014) that the third shift was not introduced since the Company did not have either orders or other factors of production to run third shift. The reply is not acceptable since outsourcing part of Plate Work Shop operations indicated that working of first and second shift was not sufficient to meet the requirements.

Thus, the Company should take steps to increase productivity by optimal utilisation of labour force by reducing idling time and absenteeism.

Malabar Cements Limited

3.2 Avoidable loss

Loss due to delay in payment of deferred KVAT- ₹2.84 crore

Malabar Cements Limited (Company) is a manufacturer of Cement (Portland Pozzolana Cement) using Fly ash as raw material. It has two units at Walayar and Cherthala. Government of Kerala exempted (August 2004)[21] industrial units owned by PSUs manufacturing cement using fly ash as raw material from payment of Kerala General Sales Tax (KGST) for a period of nine years from the date of commencement of commercial production or until full utilisation of exemption of 500 *per cent* of the fixed capital investment in the unit whichever was earlier. Accordingly, the Company being a Public Sector Undertaking (PSU), got exemption from payment of sales tax with effect from August 2004.

The exemption notification issued under KGST Act became inoperative w.e.f 01/04/2005 consequent to the introduction of the Kerala Value Added Tax (KVAT) Act, 2003. However, section 32(1) of the KVAT Act empowered the Government to issue notification permitting industrial units which were enjoying tax exemption under KGST Act to defer payment of the unavailed portion of the exemption granted under KGST Act. Accordingly, Government issued (October 2007) notification permitting the Company to defer the unavailed portion of sales tax exemption sanctioned under KGST Act for a period up to 06 August 2010. The amount of tax deferred was ₹20.08 crore. The KVAT Act stipulated for remittance of the tax so deferred on the date of the expiry of the period of such deferment. The Company, however, instead of remitting the amount on due date of 06 August 2010, requested (03 August 2010) the Government to grant further deferment for a period of two years stating that the Board of Directors (BoD) had approved a capital expenditure budget of ₹80 crore for Plant modernisation/ Upgradation which was to be implemented in a time-bound manner. Government rejected (February 2011) the request stating that on 6 August 2010, the Company was liable to pay tax. The Company remitted the amount only on 2 August 2011 after a delay of almost one year. As a result, the Assistant Commissioner (Assessment) Special Circle, Palakkad levied (February 2013) interest from 7 August 2010 as per KVAT Act 2003. The Company remitted the interest amount of ₹2.84 crore on 9 March 2013.

Audit scrutiny revealed that as on 6 August 2010, i.e. the due date for remitting the amount of tax deferred, the Company had funds aggregating to ₹75.94 crore in short/long term deposits with different banks/Government treasury. Thus, non remittance of statutory dues by the Company despite having surplus funds, resulted in avoidable payment of interest of ₹2.84 crore.

The Government replied (August 2014) that after providing financial assistance of ₹38 crore to six PSUs as per its direction (June 2010 to July 2010), the balance fund available with the Company was only sufficient for its modernisation projects. The reply was not acceptable as the Company was bound to remit

[21] **S. R. O.No.859/2004 dated 9/08/2004 under Kerala General Sales Tax Act.**

statutory dues on due date and plan its modernisation projects with the funds available after payment of statutory taxes.

Thus, failure of the Company to remit the deferred tax on due date despite having surplus funds resulted in avoidable payment of interest amounting to ₹2.84 crore.

The Kerala State Mineral Development Corporation Limited

3.3 Illegal payment of ₹1.09 crore as *Nokkukooli*[22]

As per Rule 51 of Kerala Financial Code, expenditure on behalf of the Government shall be incurred after entering into contract for supply of stores or for the execution of work. Contracts so executed should be in the form of a written agreement. Further, as per Rule 173 of the Code, work should be started only after proper estimate of the work had been prepared and sanctioned by the Competent Authority.

Section 6 of the Kerala Loading and Unloading (Regulation of Wages and Restriction of Unlawful Practices) Act, 2002, stipulates that no worker shall individually or jointly commit any unlawful practices in connection with or relating to or ancillary to the purposes included in the Act. The unlawful practice has been defined in the Schedule to the Act which includes intentionally putting an employer in fear of any injury or damage to goods, intimidation demanding or claiming or receiving any amount without executing any work or for the work done by others, etc.

The Kerala State Mineral Development Corporation Limited (Company) is engaged in the work of exploring, mining, processing, selling, etc. of minerals and mineral substances in the State. In view of the scarcity of construction grade sand in Kerala, Government of Kerala (GoK) directed (December 2009) the Company to propose the technology and *modus operandi* to desilt the Malampuzha Dam. Based on the proposal, GoK accorded[23] (January 2010) sanction to the Company for sand mining at Malampuzha Dam under the monitoring and supervision by a Core Committee chaired by the District Collector, Palakkad. The operations including loading of sand were to be carried out in a mechanised way. Subsequently, the work relating to the desilting of sand in Chulliar and Walayar dams was also entrusted (February/March 2010) to the Company.

The work, relating to disilting of sand and its transportation at dam sites which included its loading and unloading, was awarded by the Company to a contractor for ₹100 *per* cubic meter of sand excavated. The work was commenced in February 2010.

On scrutiny of records relating to work, i.e. disilting of sand, including loading and unloading, Audit noticed that during excavation of sand, the Company had engaged 316 head load workers at Malampuzha (192), Chulliayar (72) and Walayar (52) dam sites on daily wages at the rate of ₹300 per day for laying of

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[22] ***Nokkukooli*** **is the amount demanded by head load workers of an area when a person or organisation loads material on to or unloads from a vehicle without their help.**

[23] **G.O.(Rt) No.124/2010/WRD dated 27/01/2010.**

sand bags on the outer side of the bund, construction of temporary bund, removal of light jungle and vegetation from the site and disposal at suitable places, etc. They were engaged, based on the directions of GoK, as the head load workers obstructed (29 March 2010) the mechanised lifting of sand from the site demanding manual loading of sand in trucks instead. The Company had reported[24] to GoK that though said workers were engaged for the work, they were not ready to work as per directions of the Company and were demanding *Nokkukooli*.

The Company did not change the terms of contract to get the desilting work done manually instead of using mechanised method when GoK directed them to engage head load workers.

The Company paid ₹1.35 crore to head load workers during the years 2010-11 and 2011-12 which was booked under 'desilting dam expenses' in the Company's books of accounts. Out of this, ₹1.09 crore was paid as *nokkukooli* as reported by the Managing Director before Core Committee meeting held on 28 July 2011.

Audit observed that head load workers were engaged against financial rules i.e. Rule 51 and 173 of the Kerala Financial Code and Section 6 of the Kerala Loading and Unloading (Regulation of Wages and Restriction of Unlawful Practices) Act, 2002.

Thus, the engagement of the head load workers and payment of *nokkukooli* was illegal[25] and irregular and resulted in excess expenditure of ₹1.09 crore.

The Company stated (September 2014) that though there was a demand for *nokkukooli* no *nokkukooli* was really paid to the workers and acquittance roll and vouchers did not specify to any payment of *nokkukooli*. The reply of the Company is not tenable due to following reasons:

- The then MD who authorised the cash vouchers himself admitted before the Core Committee headed by District Collector that an amount of ₹1.09 crore was paid as *nokkukooli.*
- The Vigilance and Anti-Corruption Bureau report[26] that an amount of ₹20.51 lakh was spent by the Company for paying *nokkukooli* at Chulliar dam buttressed the audit findings.
- The Company while forwarding the remarks on vigilance enquiry to the Government agreed (August 2013) with Vigilance report and assured to take required corrective action on payment of *nokkukooli*.

Thus, the engagement of the head load workers and payment of *nokkukooli* to them in violation of Kerala Financial Code and Kerala Loading and Unloading (Regulation of Wages and Restriction of Unlawful Practices) Act, 2002, resulted in illegal and irregular payment of ₹1.09 crore.

The matter was reported (August 2014) to Government; their reply is awaited (November2014).

[24] **Letter containing detailed report regarding activities related to desilting work dated Nil.**
[25] **The State Police Chief issued a circular (March 2012) observing collecting *nokkukooli* as offence similar to robbery which attracts provisions of criminal law.**
[26] **No. VE/09/11/PKD dated 29/10/2012.**

The Travancore Cochin Chemicals Limited

3.4 Avoidable payment of interest

Non-collection of lease rent resulted in avoidable payment of interest of ₹43.18 lakh on working capital loan.

Kerala State Electricity Board (KSEB) executed (May 1999) a long term Power Purchase Agreement (PPA) with BSES Kerala Power Limited (BKPL), which expires in October 2015. Consequently, as directed (November 1998) by Government of Kerala (GoK), The Travancore Cochin Chemicals Limited (Company), a company engaged in the manufacture of caustic soda and other allied chemicals, leased out 20 acres of its land to BKPL for 15 years from 31 March 1997 for setting up a power plant**.** The annual lease rent was fixed at ₹1.57 crore[27] for the period April 2007 to March 2012 and was payable in two half-yearly instalments in advance on 15th January and 15th July. On expiry of 15 years, the lease period was extendable by mutual agreement between the lessor and lessee on the order of GoK.

BKPL set up the power plant in the leased land and remitted the lease rent at the rates[28] fixed from time to time upto 31 March 2012 (15 years). Before the expiry of the lease period, BKPL requested (November 2011) the Company for extension of the lease period for a further period of 15 years and also paid (January 2012) ₹78.75 lakh towards six months' rent for the period from 01 January 2012 to 30 June 2012 in advance. The Company, instead of initiating action to renew the lease agreement, refunded (January 2012) ₹39.38 lakh being the lease rent for a period of three months from April to June 2012 remitted by the lessee. The lessee, however, is continuing to occupy the leased land till date (December 2014) without renewing lease deed.

In the absence of a legally enforceable agreement after March 2012, pending GoK order and fixation of revised lease rent, the Company did not accept any advance/ provisional rent. Delay in revising the rent affected the financial health of the Company as it was borrowing for its working capital. The Company could have atleast collected ₹3.15 crore at existing rate during the period from 01 April 2012 to 31 March 2014 and reduced the interest burden on borrowing for working capital by ₹43.18 lakh as shown below:

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[27] **As per the lease agreement, the Company was entitled to annual lease rent of ₹ 70 lakh with effect from 01/04/1997. On expiry of every five years the lease rent was increased by 50 *per cent*. ₹1.57 crore is the enhanced lease rent on completion of 10 years of lease period.**

[28] **₹70 lakh *per annum* from 31 March 1997, ₹105 lakh from 01 April 2002 and ₹157.50 lakh from 01 April 2007.**

Table 3.5: Details of interest loss

Rent due	Period to which pertains	Amount (₹)	Interest savings at 11.75 *per cent*	Months	Amount (₹)
January 2012	April-June 2012	39,37,500	February 2012 - March 2014	26	10,02,422
July 2012	July-December 2012	78,75,000	August 2012 - March 2014	20	15,42,188
January 2013	January -June 2013	78,75,000	February 2013 - March 2014	14	10,79,531
July 2013	July –December 2013	78,75,000	August 2013 - March 2014	8	6,16,875
January 2014	January - March 2014*	39,37,500	February 2014 - March 2014	2	77,109
	Total	**3,15,00,000**			**43,18,125**

**Loss worked out till March 2014.*

Government replied (November 2014) that the lease agreement could not be renewed as the Company could not fix the market value of land. Subsequently, based on District Collector's valuation, annual lease rent was fixed at ₹4.72 crore and as a result, the Company had actually gained. It was also stated that had the Company accepted the lease rent based on old agreement, they would have been forced to accept lease rent at old rate and not at revised rate as per the District Collector's valuation.

The reply was not acceptable due to following reasons:

- Reply is contrary to facts as the Company had estimated (March 2012) higher annual lease rent based on the market value of land. But there was delay in renewal of lease deed.
- In view of the expected delay in revising the lease rent of land, the Company should have collected the lease rent provisionally at old rates and avoided the loss of interest.
- Company had availed loan of ₹21 crore during the period 2012-14 for meeting its working capital requirements and incurred ₹1.67 crore towards interest. Advance/provisional rent during the period could have reduced their interest burden on borrowing for working capital as brought out above.

Thus, non-acceptance of rent provisionally at the existing rate until revision of lease rent and renewal of lease deed had resulted in loss of interest of ₹43.18 lakh to the Company.

Roads and Bridges Development Corporation of Kerala Limited

3.5 Loss of interest

Loss of interest of ₹16.23 lakh due to dilution of tender conditions

Roads and Bridges Development Corporation of Kerala Limited (Company) is engaged in construction of Highways, Roads, Bypasses, Bridges, Over-bridges etc. The Company invited (January 2010) tenders for the work of construction of

Road Over Bridges (ROBs) at Parappanangadi, Palakkad Town, Kainatty, Payyannur and Mulankunnathukavu and the work was awarded (April 2010) to GPT Infra Projects Ltd at the agreed Probable Amount of Contract (PAC) of ₹53.36 crore. The terms and conditions of tender provided for payment of 10 *per cent* of contract price as mobilisation advance bearing simple interest at 14 *per cent per annum*. Accordingly, the Company released (August 2010) ₹5.34 crore as mobilisation advance to the contractor. The rate of interest is a cost factor which affects the quote of bidders. CVC guidelines require that contract specifications should not be modified to the benefit of the contractor after award of contract.

Audit noticed that subsequent to the award of contract, based on the request (June 2010) of the contractor, the Company reduced (July 2010) interest rate to 11 *per cent* on mobilisation advance which resulted in loss of interest to the tune of ₹13.25 lakh. Similarly, another contractor[29] also requested (March 2012) for reduction of interest rate against 14 *per cent* specified (September 2010) in tender to which Company agreed which resulted in loss of interest of ₹2.98 lakh.

Thus, dilution of tender conditions after awarding the contract in an arbitrary manner resulted in loss of interest of ₹16.23 lakh.

The Management stated (November 2014) that rate of interest on mobilisation advance was reduced to make it comparable with market rates as the interest on loans availed by the Company had come down.

The reply of the Company is not acceptable since the tender condition stipulated levy of interest on mobilisation advance at 14 *per cent per annum* which was not subject to any change depending on market rate of borrowings.

Thus, reduction of interest rate on mobilisation advance in violation of tender conditions after awarding the contracts resulted in loss of interest of ₹16.23 lakh.

The matter was reported (October 2014) to Government and reply is awaited (November 2014).

Kerala State Electricity Board Limited

3.6 Avoidable loss

Loss due to non-execution of agreement: ₹3.36 crore

Kerala State Electricity Board (KSEB) follows two bid system (Technical bid and financial bid) for procurement of electrical equipment/machinery for generation/ transmission/ distribution system. The successful bidder is required to furnish security deposit (SD) at the rate of five *per cent* of the value of contract and execute an agreement within 15 days of receipt of purchase order (PO) to ensure prompt execution of order. If the party does not supply ordered items after entering into contract, KSEB can arrange alternate purchase by inviting fresh tenders at the risk and cost of the original supplier.

[29] **Cherian Varkey Construction Company (P) Ltd for construction of ROBs at Ponnurini, Anayara, Thirunavaya, Devdhar and Cheruvathur.**

KSEB invited (July 2010) tenders for purchase of 32 11KV 10 panel sets, used for control of 11 KV feeders at Sub Station end, with spares on fixed price basis. The validity of bid was six months from the date of opening pre-qualification bid or four months from the date of opening of the price bid whichever was earlier. The pre-qualification bids were opened on 12 August 2010 and the Pre Qualification Committee (PQC) met on 17 February 2011. The rate of ₹21.83 lakh per unit offered by Electroteknica Switchgear Private Limited (ESPL) being L1 was accepted. KSEB placed two purchase orders - one dated 04 June 2011 for four sets and another dated 04 July 2011 for remaining 28 sets. In line with the terms of the purchase orders, agreements were to be executed within 15 days after receipt of purchase order by the supplier.

ESPL intimated[30] (August 2011) their inability to execute the order unless price variation as per IEEMA[31] price variation formula was accepted by KSEB as there was undue delay[32] in finalising tender and their drawings were approved only on 28 July 2011. After receipt of firm's letter demanding price escalation, the Chief Engineer (TC&M)[33] directed (September 2011) the firm to execute an agreement and furnish security deposit. As the firm was not willing to execute the order unless price variation was allowed, they did not execute the agreement.

The firm's request for price variation was rejected by KSEB as the tender was floated on fixed price basis and the Purchase Committee[34] in its meeting held on 18 October 2011 decided to cancel the order and to invite fresh tenders at the risk and cost of ESPL and to black list the firm for five years. Further, it was noticed that the extended validity of offers of other firms had expired as early as in April 2011. Accordingly, KSEB invited (November 2011) fresh tenders and purchase order on fixed price basis was placed (July 2012) for supply of 32 panel sets with spares with Megawin Switch Gear (P) Limited (MSGL) at an all inclusive rate of ₹32.49 lakh per unit which was higher by ₹10.66 lakh of L1's offer in the previous tender. The firm supplied 32 panel sets during October 2012 to November 2013 at a total cost of ₹10.40 crore. KSEB had to incur extra expenditure of ₹3.41 crore for purchase of panel sets as shown below:

Table 3.6: Details of extra expenditure

Sl. No	Particulars	₹ crore
1	Total cost of 32 panel sets at the rate of ₹21.83 lakh as per first tender	6.99
2	Total cost of 32 panel sets at the rate of ₹32.49 lakh as per retender	10.40
	Extra expenditure (2-1)	**3.41**

It was noticed during audit that a notice was sent by KSEB to the supplier (ESPL) to pay risk and cost amount but ESPL replied that in the absence of any agreement they did not violate any condition of the contract.

[30] Letter no. ESPL/2121/MKM dated 23/08/2011.
[31] Indian Electrical and Electronics Manufacturers Association.
[32] Purchase order was placed on 04/06/2011 for which tenders were invited on 12/07/2010.
[33] Chief Engineer (Technical, Contracts & Materials) was later redesignated as Chief Engineer (Supply Chain Management).
[34] Comprising of Chief Engineer (Supply Chain Management), Deputy Chief Accounts Officer in charge of Financial Adviser, Members (Generation Projects/Transmission & Generation Operation/ Distribution/ Finance) and Chairman.

KSEB stated (September 2014) that office concerned had directed the firm to execute the agreement and furnish security deposit which was not acceded to by the firm. It was also stated that firm's request for IEEMA price variation was main reason for blacklisting them and invitation of fresh tenders.

The reply was not tenable as KSEB directed (September 2011) the firm to execute agreement only after receiving demand for price escalation and not within 15 days of issue of purchase order.

Thus, non-execution of agreement absolved the supplier from the liabilities and KSEB could not recover the extra expenditure of ₹3.36 crore[35] from the said firm by invoking risk and cost Clause due to absence of a valid agreement.

The matter was reported (August 2014) to Government and reply is awaited (November 2014).

Statutory Corporations

Kerala Industrial Infrastructure Development Corporation

3.7 Implementation of Textile Centre at Kannur

Introduction

3.7.1 Government of India (GoI) launched (March 2002) 'Textile Centres Infrastructure Development Scheme' (TCIDS)[36] in line with National Textile Policy 2000. The scheme envisaged creation of infrastructure facilities like construction of roads, common effluent treatment plant, strengthening of power supply, improving water supply, etc., for which maximum central assistance of ₹20 crore for each centre was to be given on reimbursement basis. Government of Kerala (GoK) entrusted (August 2003) Kerala Industrial Infrastructure Development Corporation (KINFRA) the work to implement TCIDS project at Kannur[37] and the Empowered Committee[38] (EC) approved (February 2004) the project to be implemented in 168 acres within a period of 18 months at a total cost of ₹30.15 crore.

KINFRA authorised (July 2004) Kinfra International Apparel Parks Limited[39] (Company) to execute the project. The major decisions in the implementation of the project were taken by KINFRA[40] and execution and supervision were done by the Company.

The implementation of the project was commenced in November 2004. The Company incurred ₹50.31 crore on the project upto March 2014 and received

[35] ₹3.41 crore – ₹0.05 crore (EMD forfeited).

[36] A scheme for improving infrastructure facilities at potential textile growth centres and to remove bottlenecks in exports so as to achieve the target of textile and apparel export of US$ 50 billion by 2010 as envisaged in the National Textile Policy 2000.

[37] Earlier known as Canannore.

[38] Committee for sanctioning projects under TCIDS

[39] A fully owned subsidiary of KINFRA formed for creating infrastructure facilities in the State for apparel industries.

[40] Projey KINFRA for the implementation of the Projects.

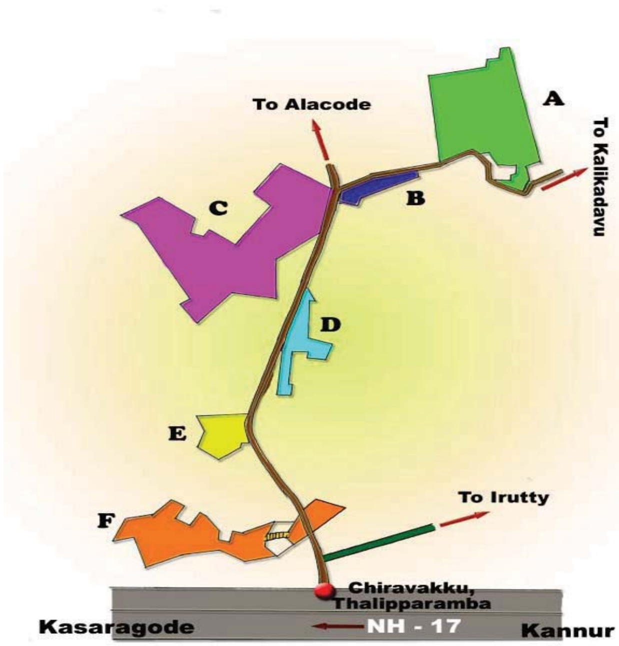
financial assistance of ₹28.85 crore under TCIDS (₹19.85 crore) and ASIDE[41] Scheme (₹9 crore). The Company, however, allotted only 13 *per cent* of allottable land upto March 2014 and there were no takers for the built-up space in the building constructed. Audit, therefore, decided to conduct a study to assess deficiencies in the implementation of the project with reference to the guidelines issued by GoI.

Audit findings

Delay in obtaining approval

3.7.2 GoI suggested (August 2001) GoK to prepare and furnish project report for getting assistance for development of Textile Centre at Kannur under TCIDS. KINFRA, however, submitted (October 2001) the project proposal for improvement of infrastructure facilities at the existing Apparel Park at Thiruvananthapuram. The proposal was returned (September 2002) by GoI stating that the scheme was meant for developing infrastructure at established textile centres like Kannur and not at existing parks. KINFRA submitted (October 2003) a new project proposal for setting up textile centre in 168 acres of land at Kannur and the EC approved (February 2004) the project. Non-adherence to the directions of GoI regarding the project location resulted in avoidable delay of two years in obtaining approval for the project.

The Management stated (October 2014) that there was no delay in submission of application or preparation of the reports. The reply is not acceptable as approval of EC for the project was obtained only in February 2004 after a delay of two years**.**



Site map of new location

Change of project site to an unsuitable location

3.7.3 As the transfer of 168 acres of land identified for implementing the project was delayed and the implementation of the project was to be started within three months after the date of sanction, the project was shifted to another location having a total area of 124 acres in Thaliparamba taluk of Kannur district without conducting any feasibility study. The land at new site was scattered in different locations spreading across 1.5 kilo meters away from each other. The strata in almost all places were medium rock (*narikkal)* excavation of which was extremely difficult and time consuming.

Since the availability and suitability of land for the proposed textile centre was not ensured well in advance, the project was hastily shifted to an unsuitable location. The project report was not revised considering the features of the new project site.

The Management stated (October 2014) that the land identified earlier was notified as Coastal Regulation Zone, water was found to be saline in nature and was partially water logged. The reply indicated that the selection of original site was wrong and the DPR based on that was not revised to suit the new site.

Award of contract to the consultants

3.7.4 As per guidelines issued (December 2004) by Central Vigilance Commission (CVC), a firm engaged by the PSU to provide goods or works for a project will be disqualified for providing consulting services for the same project and a firm hired to provide consulting services for a project will be disqualified from providing goods or for undertaking works related to the same project.

KINFRA appointed (November 2004) FACT Engineering and Design Organisation (FEDO) as Project Management Consultant (PMC) for technical evaluation of tenders, planning, scheduling and monitoring of projects and supervision of construction activities including certification of bills, etc. at a professional fee of five *per cent* of the value of the total work executed at site. The initial contract for a period of 24 months was extended up to 31 December 2008. Thereafter, FEDO discontinued the services and Kerala Industrial and Technical Consultancy Organisation Ltd., (KITCO) was engaged (December 2008) for the balance works at a fee of 4.50 *per cent* of the actual value of the work. The Company had incurred ₹1.82 crore towards PMC charges so far (March 2014).

With a view to availing TCIDS grant before the expiry of the 10^{th} plan scheme i.e by March 2007, KINFRA awarded (January 2007) the work of installation of Raw Water Pumping Pipeline to FEDO on deposit scheme basis at a fee of three *per cent* of the actual cost in addition to the PMC fee of five *per cent*. The work of construction of water treatment plant, overhead storage tanks and distribution pipelines was awarded (January 2007) to KITCO at a fee of 5.50 *per cent* on the actual cost of work on deposit scheme basis. As the grant was released on reimbursement basis, KINFRA paid the estimated cost of the works amounting to ₹3.01 crore and ₹3.64 crore respectively to FEDO (March 2007) and KITCO (July 2007) immediately after award of the works so as to claim reimbursement from GoI. FEDO subsequently awarded (February 2008) the contracts to sub contractor and the work was actually completed in March 2011. Award of works contracts to firms providing consultancy service for the projects was irregular.

The Management stated (October 2014) that certain portion of the work was awarded as deposit work to Government agencies like FEDO and KITCO to speed up the project and consultancy work and awarded contracts were different. The reply is not acceptable since the deposit work was also part of the project and therefore awarding of this work to the consultant was in violation of CVC guidelines.

Award of contract without tendering

3.7.5 As per Rule 179 of the Kerala Financial Code, open tenders were to be called for execution of work on contract basis if the value of works exceeded ₹10000 or more. KINFRA originally approved (July 2005) an estimate of ₹6.13 crore for the work of construction of Standard Design Factory (SDF) building specifying cement flooring and awarded the work accordingly. The flooring was subsequently changed to ceramic tiles as per the request from Bombay Rayons Fashions Ltd. KINFRA entrusted (March 2010) this work to Silpi Construction Contractors at ₹725 per square metre without tendering for completing the entire work within three months by June 2010. But the flooring work was completed only in December 2010 with a delay of six months incurring ₹0.73 crore.

The Management stated (October 2014) that the competitiveness of the rate was reasonably ensured and the work was awarded for the sake of project. The reply was not acceptable as work was awarded without resorting to tendering. Moreover, the work was not completed in time and the competitiveness of the rates not ensured.

Delay in implementation

3.7.6 As per the Project Report, the project was to be implemented within 18 months at a total cost of ₹30.15 crore. Though the project was approved in February 2004, Audit noticed delays at every stage of implementation leading to cost overrun of ₹20.23 crore as shown below:

Table:3.7: Details of projected and actual cost

Sl. No.	Particulars	Projected Cost[42]	Expenditure incurred upto March 2014	Excess cost	Delay (in months)	Remarks
		(₹in crore)				
1.	Land and Land Development	5.75	13.31	7.56	13-35	Included deposit work by PWD
2.	Civil Works	8.00	11.98	3.98	43	Original contract terminated
3.	Electrical Installations	3.20	2.37	NA	20	Included deposit work by KSEB
4.	Water Supply	3.00	9.47	6.47	26	Included deposit works by FEDO and KITCO
5.	Effluent Treatment Plant	3.50	3.07	NA	7 - 62	Guaranteed test run & final bill pending.
6.	Others	3.20	5.42	2.22	3 - 14	Civil and electrical works of Pilot Plant
	Total	**26.65**	**45.62**	**20.23**		

The Management stated (October 2014) that there was no unjustifiable delay as the time frame was kept compressed to pressurise the contractors and the cost

[42] **Excluding Testing, R&D and Training (₹3.50 crore).**

overrun was due to execution of certain works not included in the initial project. The reply substantiates the audit observation regarding wrong estimation and DPR.

Irregular payment for excavation in medium rock

3.7.7 The work relating to the construction of roads and development works was awarded (October 2005) to a local PWD contractor (Shri OV Sreedharan) for an agreed PAC of ₹1.67 crore i.e. 4.5 *per cent* above estimate with eight months' time for completion. The agreement was executed on 20 October 2005 and the work was to be completed by 20 June 2006. As per para 1.17 of the terms and conditions of tender, the contractor had to inspect the site and assess the soil conditions before quoting the rates. After commencement of the work, the contractor, however, requested (November 2005) the Company to sanction higher rates for earth work excavation stating that soil strata was "*narikkal*" (medium rock). KINFRA agreed to the same and sanctioned the rate of ₹204.11 per cubic meter (m^3) as against ₹54.56 per m^3 as per the work order. Accordingly, KINFRA paid ₹0.75 crore for the earth work of 35039 m^3 including tender excess of 4.5 *per cent*. As the contractor had to inspect the site and assess the soil condition before quoting the rates, enhancement of rates after award of contract as requested by the contractor was irregular.

The Management stated (October 2014) that estimate was prepared for medium rock that did not require blasting and chiselling, but later the rock was found to be harder and hence rate applicable for "*narikkal"* (CPWD schedule) was paid. The reply was not acceptable since presence of "*narikkal"* in the site was already known to the Management and as per Paragraph 1.17 of the terms and conditions of tender, survey was required to be done. Thus, the action of KINFRA to sanction higher rates was irregular.

Procurement of machineries based on limited tender

3.7.8 As per Rule 179 of the Kerala Financial Code, open tenders were to be called for execution of work on contract basis if the value of works exceeded ₹10000 or more.

The Company issued 15 orders for supply and commissioning of machineries for a total amount of ₹3.10 crore and incurred an amount of ₹2.87 crore so far (March 2014). Out of this, only three orders for machineries[43] costing ₹0.50 crore were placed against open tenders. The remaining 12 orders were issued based on limited tenders considering the commencement of land allotment in the park in June 2009 and urgency in commissioning the machineries. The procurement of machineries by resorting to limited tender without ensuring competitiveness citing urgency lacked justification and violation of store purchase manual as none of the machineries was commissioned as scheduled and delay ranged from 4 to 24 months ***(Annexure-15),*** which calls for fixing of responsibility for violation of basic rules. Further, High Temperature High Pressure (HTHP) vertical dyeing machines and Hydro Extractor & Cheese Pressing Device costing ₹0.86[44] crore

[43] Cabinet dyeing machine, Soft winding &rewinding machines and Laboratory equipments.
[44] ₹0.60 crore paid so far.

scheduled to be commissioned by February 2010 have not been commissioned so far (October 2014).

The Management replied (October 2014) that the manufacturers of textile machineries were less and they were not willing to take up the work as they were pre-occupied with works since the industry was flourishing and enough orders were there. The reply was not acceptable since it contradicts the reply to *Paragraph 3.7.10* where it was stated that the global melt down which started by 2007 end, made the industry lose many orders and was facing acute cash crunch and still the industry has not recovered from the setbacks. Thus, the reply was not correct.

Idling of infrastructure created

3.7.9 The infrastructure facilities created at the textile centre, Kannur by incurring ₹50.31 crore[45] have been idling as detailed below:

Land

3.7.10 The developed land in the textile centre consisted of six plots with a total area of 124 acres having an allottable area of 94.80 acres as given in the following table:

Table:3.8: Details of plot-wise available, allotted and vacant area

(Area in acres)

Sl. No.	Plot	Total area	Common area	Allottable area	Allotted area	Vacant area
(1)	(2)	(3)	(4)	(5)=(3-4)	(6)	(7)=(5-6)
1	A	40.18	9.05	31.13	5.75	25.38
2	B	5.10	1.15	3.95	0.00	3.95
3	C	33.76	7.69	26.07	0.00	26.07
4	D	9.70	0.05	9.65	0.00	9.65
5	E	4.41	0.41	4.00	0.00	4.00
6	F	30.84	10.84	20.00	6.70	13.30
Total		**123.99**	**29.19**	**94.80**	**12.45**	**82.35**

KINFRA commenced action for allotment of developed land in June 2009 and issued (June 2009 to December 2011) letters of intimation (LoI) [46] for allotment to all the 42 applicants for 39.05 acres till March 2012. As major portion of the land was lying vacant, KINFRA decided (March 2012) to allot the land in Plots C, E and F to entrepreneurs from general industrial sector also. As a result, 20 applications including 19 for general industries were received during April 2012 to March 2014 and KINFRA issued LoI to all.

[45] **Actual cost incurred upto March 2014 for implementation of project (₹45.62 crore); cost of machineries (₹2.87 crore) and consultancy charges (₹1.82 crore).**

[46] **Land Allotment Committee constituted by GoK for KINFRA considers the application of investors and on its approval, KINFRA issues *LoI* to the party informing the lease premium payable. On payment of the required lease premium by the party, KINFRA issues Allotment Letter to the party.**

Despite this, only 15 applicants (eight for textile industry and seven for general industry) remitted EMD and executed licence agreement and only 12.45 acres (8.15 acres for textile and 4.30 acres for general) of land in Plots A and F was allotted so far (March 2014) for a total lease premium of ₹1.64 crore. Out of the land allotted to textile industry (8 allottees), two allottees commenced their commercial operation and the projects of other allottees were under various stages of implementation. However, even after allotting the land to general industries, deviating from the main objective behind setting up of the textile centre, major portion (87 *per cent*) of the allottable area is lying vacant.

The Management stated (October 2014) that at the time of starting the project, the textile industry was booming and the global melt down which started by 2007 end had adversely affected the industry. The reply was not acceptable as the scheme was introduced to boost the textile industry as envisaged in the National Textile Policy 2000 but KINFRA failed to achieve this objective since only 13 *per cent* of the land could be allotted even after five years of commencement of allotment.

Built-up space in Standard Design Factory lying vacant

3.7.11 The project envisaged construction of a Standard Design Factory (SDF) having a total built up area of 1,20,000 square feet (sq. ft.) which could be leased out to units in modules of 5,000 sq. ft. each or more. KINFRA approved (July 2005) an estimate of ₹6.13 crore for construction of SDF building at KINFRA Textile Centre (KTC), Kannur. The construction of SDF building in Plot D was completed in December 2010 incurring ₹11.98 crore. The total allottable space of 1,33,891 sq. ft. in three modules[47] in SDF building has been lying vacant except partial occupation of two modules for a short period during October 2010 to December 2012 by Bombay Rayons Fashions Ltd (BRFL).

The Management stated (October 2014) that the whole area of SDF was allotted to BRFL by October 2010. However, the entire allottable space remains vacant since January 2013. Audit noticed that allotment of whole area to a single party was against the envisaged scheme of leasing out to units in modules of 5,000 sq.ft. each**.**

Dyeing and Winding Plant

3.7.12 KINFRA decided (May 2006) to set up a comprehensive pilot plant consisting of dyeing plant, winding plant, its ancillary machines and bonded warehouse in order to make KTC a world class destination for Textile/garment manufacturers and exporters. The work of construction of pilot plant building in Plot A was awarded in December 2006 and completed in July 2008 by incurring ₹3.49 crore. Meanwhile, it was decided (July 2007) to procure the machineries for dyeing, winding and rewinding availing subsidy under ASIDE Scheme of GoI. The State Level Empowered Committee of GoK sanctioned (April 2009) ₹9 crore and released the entire amount during 2009-10 as grant for procuring these machineries under ASIDE Scheme for providing cost effective amenities to small textile exporting units in the textile centre. The additional export revenue and

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[47] **Module 1-44419 sq.ft.; module 2–43867 sq.ft. and module 3-45605 sq.ft.**

generation of direct employment to 1000 persons and indirect employment to 2000 persons were the benefits expected from this plant.

The dyeing and winding plant was lying idle as the Company did not find any operating agency for taking over and running the plant. A newly formed (November 2011) 'Kannur Textile Processing Society' was engaged (January 2012) as operating agency for running the plant on a trial basis for a period of four months. During the trial run, the operating agency pointed out (June/August/November 2012) several technical complaints on the functioning of the machines and stopped the trial operations in November 2012. Further, they raised doubts (December 2012) about chances of operating HTHP dyeing machines as they were lying non-commissioned for long periods.

Management stated (October 2014) that no technical complaints were noted by the operating agency and the plant was allotted to Hindustan Textiles, Kannur. The Management further replied that the payment of HTHP machines was not made and the scope of the supplier to operate the machinery was still open.

The correspondence between the operating agency and the Company, however, indicated that there were several technical defects which were yet to be rectified. Though the plant was stated to be allotted, the letter issued (13 October 2014) to Hindustan Textiles was only an acceptance of their Expression of Interest and execution of agreement was yet to take place.

Audit analysed the major reasons for idling the infrastructure facilities and observed the following:

Non-obtaining of firm commitment

3.7.13 KINFRA intimated (September 2003) the Director (Exports Division), Ministry of Textiles, GoI that they had held series of meetings with exporters and textiles manufacturers of Kannur area to find out the deficit in infrastructure in that region and forwarded a project report for a total cost of ₹30.15 crore. Audit noticed that there were only a few takers for the project on its completion. On being pointed out this in Audit, KINFRA stated (October 2014) that slow down in the textile sector and non-availability of manpower were the reasons for the low demand for land and space in SDF. Failure of KINFRA to obtain firm commitment from potential allottees by way of advance identification of beneficiaries/booking/sale of plots as pointed out by the Additional Secretary & Financial Advisor (Textile & Commerce) in the EC meeting held in February 2004 and inordinate delay in implementing the project resulted in idling of 87 *per cent* of the developed plot and the entire built-up space.

The Company stated (October 2014) that major portion of the land would be allotted within a reasonable period as the market was improving.

The reply of Management was not acceptable as delayed allotment of land was mainly due to failure of KINFRA to obtain firm commitment from potential allottees by way of advance identification of beneficiaries/booking/sale of plots as pointed out by the Additional Secretary & Financial Advisor (Textile & Commerce) in the EC meeting held in February 2004.

Conclusion

The project approved (February 2004) with the delay of two years for a total cost of ₹30.15 crore to be implemented in 18 months in 168 acres of land was actually implemented at another location in 124 acres of land incurring ₹50.31 crore. KINFRA had also not revised the DPR while shifting the project to the new location and incurred an excess expenditure of ₹20.10 crore compared to the project cost. The entire space of 1,33,891 sq. ft., available for allotment in the SDF, 87 *per cent* of allottable area in the developed land (82.35 acres) and the dyeing and winding plant were idling.

Thus, the inordinate delay in implementation, shifting the project to an unsuitable location and non-obtaining of firm commitment from prospective entrepreneurs led to idling of the infrastructure facilities created without realising any of the benefits of the centrally funded scheme.

Kerala State Road Transport Corporation

3.8 Implementation of Build, Operate and Transfer (BOT) Projects

Introduction

3.8.1 The Kerala State Road Transport Corporation (Corporation) was established (March 1965) under the Road Transport Corporation Act, 1950 to provide road transport services and other ancillary services in the State. The Corporation with a market share of 30 *per cent* is the principal public entity providing transport services to more than 116.34 crore passengers *per annum*. The Corporation has acquired sites at prime locations in cities, district and taluk headquarters of the State and has 90 units[48] located all over the State. In order to augment non-operational revenue, the Corporation decided to implement projects for constructing commercial complexes at Depots by demolishing existing stalls/shops. Based on the request (February 2007) of the Chairman and Managing Director, Government of Kerala (GoK) accorded sanction[49] (May 2007) to entrust the construction of shopping complex at Ankamaly Bus Station on Build, Operate and Transfer (BOT) basis by Kerala Transport Development Finance Corporation Limited (BOT Operator). As per the Government Order (October 2007), funds required for implementation of the BOT projects would be raised by the BOT Operator. The Corporation was to receive operating fee at the rate of 50 *per cent* of the net monthly income[50] generated from the BOT Projects after their completion. The BOT mechanism would be operational till the total project cost together with interest is recouped by the BOT Operator from the Project. The projects would, thereafter, be taken over by the Corporation.

On the request of the Corporation, GoK accorded sanction to construct five[51] shopping complexes in November 2007 and one more at Thiruvalla Bus Station in January 2010 on the same terms and conditions applicable to Ankamaly project.

[48] 72 depots and 18 operating centres.
[49] GO (MS) No.22/07/Tran dated 10/05/2007.
[50] income after deducting all expenses related to operation and maintenance of the building, at the rate fixed on agreement between Corporation and BOT Operator.
[51] Thiruvananthapuram Central, Thiruvananthapuram Fort, Peroorkada, Kozhikode and Malappuram.

Total built-up area of seven projects was 15.40 lakh square feet (sq.ft.) to be constructed on Corporation's land measuring 21.98 acres at a project cost of ₹163.41 crore as given in the following table:

Table 3.9: Total built up area and project cost of seven projects

Sl No	Name of project	Land area (in acres)	Total built-up area (in sq .ft.)	Estimated cost (₹ crore)
1.	Thiruvananthapuram Central	7.33	268926	35.45
2.	Thiruvananthapuram Fort	0.85	143646	13.50
3.	Peroorkada	3.00	156281	18.00
4.	Kozhikode	3.00	325304	19.73
5.	Malappuram	2.04	194213	19.73
6.	Ankamaly	2.80	187647	22.00
7.	Thiruvalla	2.96	263662	35.00
Total		**21.98**	**1539679**	**163.41**

Out of the seven projects sanctioned, three projects at Thiruvananthapuram Fort, Peroorkada and Malappuram have not been taken up[52]. Out of the four projects taken up for implementation, Ankamaly project was completed in June 2012 and only 30 *per cent* of the rentable area could be allotted so far while the work in respect of remaining three projects was under progress (August 2014).

Audit Findings

3.8.2 Audit reviewed the records of the Corporation and BOT Operator during the period from March to August 2014 relating to implementation of the BOT projects and noticed several instances of non-compliance with the Government Order as discussed in the succeeding paragraphs.

Failure to safeguard the interests of the Corporation

3.8.3 The Corporation had given 16.09 acres of land valuing ₹143.11 crore to the BOT Operator for executing four projects. GoK directed[53] (October 2007) the Corporation to entrust the construction of proposed shopping complex at Ankamaly on BOT basis to the BOT Operator as a pilot project. The terms and conditions prescribing mode of execution of the projects, upon which the project to be implemented was also categorically specified in the Government order. The other BOT projects were also to be in line with Ankamaly project. Audit noticed the following deficiencies:

Non compliance of Government directives

3.8.4 The Corporation and BOT Operator had failed to comply with the directives of the Government based on which the whole projects were conceived. The non-compliance of important provisions and impact thereof are indicated

[52] Malappuram Project was not taken up due to non-viability after revision of project plan. Thiruvananthapuram Fort and Peroorkada projects were not taken up since the Corporation did not receive any income from the completed Ankamaly project.

[53] GO Ms) No.42/2007/Tran dated 25/10/2007.

below:

Table 3.10: Statement showing non-compliance with Government directives

Requirement as per Government Order dated 25/10/2007	Audit observations
a) Formation of Joint Venture As per clause 1 of the Sanction Order, the BOT projects were to be implemented on BOT basis as a joint venture of the Corporation and BOT Operator.	No joint venture was formed between the Corporation and BOT Operator for implementation of the projects by executing an agreement as discussed in *Paragraph 3.8.6.*
b) Completion of project As per clause 3 of the Sanction Order, the first-phase of the projects was to be completed within 12 to 18 months from the date of commencement and the second phase of work within 24-30 months.	BOT Operator did not comply with the directive and there was abnormal delay in execution of projects as discussed in *Paragraph 3.8.5*.
c) Approval of Design by the Corporation As per clause 4, implementation of the project by the BOT Operator was to be based on approved design and drawings by the Corporation and no changes were to be made in the designs without approval.	As per the tripartite agreement executed among the Corporation, Architect and the BOT Operator, the designs were to be approved by the BOT Operator only. As a result, Thiruvananthapuram BOT project was carried out without the approval of the Corporation. Bus parking requirements of the Corporation were also not given due consideration. Due to this, short distance buses which were earlier operated from inside the bus terminal are now being operated from outside the terminal due to lack of parking space. Further design of Ankamaly project was subsequently changed to earmark space for Cinema theatres/ multiplexes without the approval of the Corporation.

Project-wise physical and financial progress

3.8.5 BOT Operator had taken up following four projects for execution by awarding the works to the contractors. Details of award of work and the status of their implementation are given in the following table:

Table 3.11: Details of award of work and status of implementation

Sl No	Name of project	Month of Sanction	Date of award of work	Delay in award of work (in months)	Scheduled completion	Date of actual completion	Delay (in months)	Revised project cost (₹ *crore)*	Expenditure till July 2014 (₹*crore)*
1	Ankamaly	October 2007	June 2008	8	June 2010	June 2012	24	22.00	36.51
2	Kozhikode	November 2007	January 2009	16	January 2011	In progress		43.21	53.28
3	Thiruvanantha-puram Central	November 2007	January 2010	26	February 2012	In progress		55.94	57.98
4	Thiruvalla	January 2010	June 2010	5	January 2012	In progress		35.00	31.56
	Total							**156.15**	**179.33**

It may be seen from the above table that, out of the four projects taken up for implementation, the BOT Operator could complete only Ankamaly project after a delay of two years. The other three projects have not yet been completed (August 2014).

It was also noticed that the BOT Operator had issued work orders to the contractors with delay ranging from five months to twenty six months. Delay in award of works was mainly due to delay in getting administrative sanction from GoK (Thiruvananthapuram Central-14 months and Kozhikode – 15 months) for revised project cost based on Schedule of Rates (SOR) 2008. Delay in award of work necessitated enhancement of project cost by ₹53.71 crore based on the revised schedule of rates as shown below:

Table 3.12: Details of cost enhancement of projects

Sl No	Name of project	Projected Cost	Revised project cost	Enhancement
		(₹ crore)		
1	Ankamaly	12.26	22.00	9.74
2	Kozhikode	19.73	43.21	23.48
3	Thiruvananthapuram Central	35.45	55.94	20.49
4	Thiruvalla	35.00	35.00	--
	Total	**102.44**	**156.15**	**53.71**

As per the GO, the Corporation was entitled to receive only 50 *per cent* of the net rental income until recovery of the project cost and interest thereon by the BOT Operator. Further, the BOT period would continue until the project cost together with interest is fully recouped by the BOT Operator. The annual interest burden on the cost incurred by the BOT Operator worked out to ₹26 crore[54], which would increase further till the repossession of the BOT projects by the Corporation, after BOT Operator recovers its total cost.

Absence of agreement with the BOT Operator

3.8.6 GoK accorded sanction, to implement the project on BOT basis as a joint venture between the Corporation and the BOT Operator. The Government order provides that the Corporation was eligible for 50 *per cent* of the net monthly income generated from the BOT project after the construction period. Despite this, no agreement was executed between the Corporation and the BOT Operator, outlining the terms and conditions of the contract, rate of interest to be charged on the invested funds, treatment of security deposits collected from tenants, etc. Absence of agreement resulted in the following implications:

- The Corporation could not claim its share out of aggregate rental income of ₹2.18 crore collected at Ankamaly BOT project during September 2012- June 2014.
- Net monthly income was to be calculated after deducting all expenses related to operation and maintenance of the building at mutually agreed rates. Methodology for calculation of net monthly income was not, however, framed so far (August 2014). Besides, there was no mechanism

[54] **Worked out at the prevailing lending rate of 14.50 *per cent* to Corporation by the BOT Operator on Ankamaly, Kozhikode, Thiruvalla and Thiruvananthapuram Central projects up to July 2014.**

to validate the expenses related to operation and maintenance of the building.

The BOT Operator replied that execution of the agreement was not stipulated in the Government Order dated October 2007. Reply of the BOT Pperator is not acceptable since rate of interest to be charged on the invested funds, methodology for calculation and sharing of net monthly income, etc. were to be on mutually agreeable terms for which an agreement was necessary.

Deficiencies in the pre-construction phase

Absence of commercial feasibility reports and DPRs

3.8.7 Preparation of a feasibility report followed by an accurate and realistic Detailed Project Report (DPR) is the foremost activity for any project. The commercial feasibility of the project including demand assessment and projections is vital to any investment decision as it critically assesses the payback period, return on investment, long term yield of investments, etc.

The BOT Operator, with the approval of GoK, appointed (November 2007) a retired Chief Engineer of Corporation as the Chief Engineer of BOT projects for supervision and execution of BOT projects. The work assigned to him included preparation of commercial feasibility reports, activity flow chart with time lines and milestones and list of potential customers for the commercial space to be built up. It was, however, observed during audit that there were no feasibility reports/DPRs for any of the projects.

Construction of building without required Permit and unwarranted surrender of land (Kozhikode)

3.8.8 As per Rule 4 (2) of Kerala Municipality Building Rules (KMBR), 1999, no person shall construct or reconstruct or make addition or extension or alteration to any building or cause the same to be done without first obtaining a separate Building Construction Permit for each such work from the Secretary of Municipality/Corporation. The BOT Operator submitted application for Building Construction Permit for Kozhikode BOT project to the Secretary, Kozhikode Corporation on 23 October 2008 in accordance with prevailing Building Rules.

In anticipation of permit, the BOT Operator proceeded with the construction of Bus terminal cum Shopping complex in March 2009 disregarding non-receipt of building permit. It was found in audit that Kozhikode Corporation suggested modifications on 31 March 2009 and again on 17 July 2009 which were acceded to by the BOT Operator. After clearing this, the application was forwarded to Regional Town Planner (RTP), Kozhikode for approval by BOT Operator. The Chief Town Planner (CTP), located at Thiruvananthapuram intimated (June 2012) the Chief Engineer (BOT Project) that structural constructions already completed were in violation of Rules 31(2), 34(2), 45(2), 49(6), 55(2), 117(1) of KMBR and as such approval of layout could not be granted. The CTP also intimated (November 2012) that application submitted in 2008 could not be considered in view of Government directives[55] of September 2010 on applicability of building rules to pending matters, wherein Government had clarified that building rules existing on the date of sanction would govern the matter and not those existing on the date of application.

The Corporation had surrendered (1993-94) 21 cents of land to the Kozhikkode Corporation for widening of Mavoor road (public purpose). As per Rule 79 of KMBR, relaxation in building permit was available for construction in plots part of which have been surrendered for road development. This was also confirmed in a joint meeting held (December 2012) under Chairmanship of Minister for Transport. Even though the CTP agreed to grant the Building Construction Permit on production of certificate/document of 21 cents surrendered by Corporation, the same could not be traced and submitted.

In the second meeting held in the chamber of Minister for Transport in January 2013, the RTP pointed out that, in order to avail relaxation in Building Construction permit, the Corporation had to give undertaking to surrender additional 25.30 cents of land. Accordingly, the Board of Directors of the Corporation decided (March 2013) to surrender 25.30 cents of land along the frontage of the Kozhikode Bus station for road development to Land Surrendering Committee as and when required. It was also decided by the Board that the value of land had to be fixed and recovered from BOT Operator without adjusting it to cost of project. The CMD of the Corporation while submitting the undertaking (April 2013) to surrender 25.30 cents of land, requested the Mayor, Kozhikode Corporation to grant Building Construction Permit with necessary relaxation. However, construction permit has not been received so far (August 2014). Audit scrutiny revealed the following:

- Due to carrying out the construction work without obtaining Building construction permit, it became difficult to obtain permit in view of GoK's clarification referred above.
- The Corporation was forced to submit an undertaking to surrender additional land measuring 25.30 cents valuing ₹4.61 crore[56] for road development due to the fault of the BOT Operator.
- The BOT Operator cannot submit Completion Report for obtaining Occupancy Certificate till regularisation of construction which will further delay in getting electricity/ water connections to buildings and renting out of premises, besides payment of huge penalty for regularisation and building tax.

Thus, the bus terminal-cum-shopping complex for which an amount of ₹53.28 crore was incurred till date (July 2014) failed to generate any revenue. Further, as the construction of shopping complex was proceeded without having Building Permit, Corporation was forced to execute an undertaking with Kozhikode Corporation authorities for surrender of 25.30 cents of land valuing ₹4.61 crore.

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[55] **Letter No.9877/RD1/2010/LSGD.**

[56] **Based on Fair value for 25.30 cents commercially important land published by Registration. Fair value of land is the valuation of land fixed by Government for each area. Registration charges and stamp duty are calculated based on fair value of particular land.**

Deficiencies in preparation of design

Insufficient parking space

3.8.9 BOT projects in Ankamaly and Thiruvalla had to be structurally altered during execution to accommodate facilities for cinema theatres, leading to violation of KMBR, constraints in parking space and marketing of space as discussed below:

- The BOT Operator modified the original design of the shopping complexes in Ankamaly and Thiruvalla to provide space for cinema theaters with 250-500 seating capacity as proposed (July 2011) by the GoK[57] which was not envisaged in the original design. It was further observed that in response to Government's proposal to accommodate theatres in the projects, BOT Operator stated (August 2011) that it was practically impossible to provide parking facility required for theatres in the projects under construction as this was not considered and provided during the planning and designing stage. However, ignoring this statutory requirement, the BOT Operator provided space for cinema theaters without any further directions from the Government.

- Audit noticed that, in Ankamaly project parking space (130 cars) available was insufficient even to meet the mandatory parking requirements of three cinema theaters constructed on the 5th and 6th floors (having a total seating capacity of 800). Thus, marketing of built up space for other shops was handicapped by insufficient parking slots.

- Similarly, Thiruvananthapuram Central BOT project consisting of 12 floors (Basement, Ground floor and 10 floors) have total rentable area of 1.34 lakh sq. ft. Basement, Ground floor and the first two floors were intended for shops and business centres. Fourth to Tenth Floors, with built-up area of 0.87 lakh sq. ft., were meant to be let out for offices, banks, educational institutions, software companies, media offices, etc. Audit scrutiny revealed that as per the approved plan, 330 cars and 500 motorcycles only could be parked inside and around the Bus Terminal cum Shopping Complex for functioning of all establishments which would be insufficient causing discouragement to the prospective tenants.

Avoidable factors that led to cost escalation

3.8.10 Preparation of a strategic plan to help in prioritising, scheduling and monitoring the implementation of the projects is an essential prerequisite for ensuring that objectives of huge investment are achieved in a timely and cost effective manner. Therefore, the Corporation should have closely monitored the implementation of the projects to ensure their timely completion with minimum cost for faster recovery of the project cost. The Corporation did not monitor the execution of BOT projects. As a result, there were delays in completion of the projects and instances of incurring of avoidable expenditure as discussed below.

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[57] Letter No.7185/A2/2011/Tran dated 21/07/2011 from the Secretary to Government, Transport (A) Department.

Inadmissible payment of price escalation to contractors

3.8.11 As per General conditions of the contract executed, contractors were eligible for price escalation on steel and cement if their prices increased by 10 *per cent* or more from the date of tender. It was assumed that 10 *per cent* and 30 *per cent* of total cost consisted of cost of cement and steel respectively. For steel, price of Steel Authority of India and for cement, price of Malabar Cements Limited would be the basis for calculation. Scrutiny of records revealed that the BOT Operator had paid price escalation for the total percentage increase when the prices of steel and cement increased by 10 *per cent or more*. Audit observed excess payment of ₹3.07 crore to the contractors in three BOT projects during the period June 2010 to March 2014 as detailed below:

Table 3.13: Statement showing excess payment to contractors

Name of project	No of CC bills for which price escalation allowed	Escalation paid	Eligible payment	Excess paid
		(₹ crore)		
Kozhikode	7	2.24	1.19	1.05
Thiruvananthapuram Central	12	3.02	1.73	1.29
Thiruvalla	7	1.53	0.80	0.73
Total		**6.79**	**3.72**	**3.07**

It was stipulated in the tender notice itself that price escalation would be given only when cost of cement and steel increased by 10 *per cent* or more from the cost prevailing on the date of tender. Thus, the price increase upto 10 *per cent* was to be borne by the contractor.

The BOT Operator stated that agreement with the contractor did not stipulate that price escalation would be allowed only if price increases above 10 *per cent* or more. The reply of the BOT Operator is not acceptable since according to the contract, price increase upto 10 *per cent* was not to be considered for price escalation.

Cost escalation due to delay in commencement of work (Kozhikode)

3.8.12 GoK sanctioned (November 2007) the construction of commercial complex at Kozhikode at a project cost of ₹19.73 crore based on the SOR 2007. The project cost was thereafter revised (January 2009) to ₹43.21 crore based on SOR 2008 with enhancement of area and provision of additional facilities. There were delays in handing over of site upto 15 months. As a result, the work could not be started within the scheduled time and the contractor was granted enhanced rate based on SOR 2011 necessitating additional payment of ₹2.31 crore upto July 2014.

Avoidable expenditure on electrical equipments

3.8.13 Ankamaly Depot of the Corporation was having a three phase Low Tension (LT) electric connection to its garage building before execution of BOT project. As per the recommendation of the electrical consultant of Ankamaly BOT project, High Tension (HT) electricity connection with a contract demand of 50 KVA was taken (May 2012) for the garage under the BOT project. One 160 KVA transformer and 200 KVA diesel generator were also installed (May 2012) in the garage at a cost of ₹21.33 lakh to meet the requirements of garage building. Scrutiny of records revealed that as per provisions of Kerala Electricity Supply Code, LT connection was sufficient for connected load up to 100 KVA. Installation of transformer was also not warranted for connected load up to 100 KVA. Thus, decision to have HT connection at garage building necessitated installation of transformer at an additional expenditure of ₹5.63 lakh.

It was also noticed that the procurement of 200 KVA diesel generator at a cost of ₹15.70 lakh was not necessary in view of the three phase HT connection. The diesel generator commissioned in June 2012 had not been utilised so far (August 2014).

Wasteful expenditure on inauguration of Building which was not ready for letting out (Thiruvananthapuram Central)

3.8.14 Due to delay in completion of construction, the BOT Operator was not in a position to commence letting out of space in Thiruvananthapuram Central BOT project. Despite this, an inauguration ceremony was conducted (February 2014) at a cost of ₹34.47 lakh by the Corporation/BOT Operator to give a semblance of completion of the project. The BOT Operator, could not, however, complete construction of the project so far (August 2014) and as a result letting out of space is yet to take place.

Undue favour to contractor

Delay in submission of security deposit

3.8.15 As per general conditions of contract, the contractor was to furnish, within 15 days of award of work, security deposit to the tune of five *per cent* of the value of work for the satisfactory completion of work. The security deposit, thus, furnished was to be held back until the completion of the contract and defect liability period of one year thereafter.

Scrutiny of records revealed that there was delay of 222 days and 184 days in submission of initial security deposits by the contractor (KV Joseph & Sons) for Ankamaly project (₹1.45 crore) and Kozhikode project (₹2.20 crore) respectively. Bank Guarantees (BGs) were furnished against security deposits and there was delay of 313 days in subsequent renewal of BG in Ankamaly project. The delay in subsequent renewal of BG in Kozhikode project ranged from 29 days to 226 days. Thus, the BOT Operator extended undue favour to the contractors by not insisting for timely submission of security deposit which were essential for the satisfactory completion of the work and to guard against any eventuality.

Irregular release of retention money

3.8.16 As per terms of contract, retention money at the rate of 10 *per cent* was deductible from the bills of contractors. The retention money was to be released only after successful completion of the contract and completion of defect liability period. However, the BOT Operator released retention money to the contractor

(KV Joseph & Sons) before completion of work in Ankamaly and Kozhikode BOT projects violating the contractual provision as discussed below:

- In Ankamaly project, retention money of ₹1.45 crore was released (March 2011) to contractor against BG and payment of interest at the rate of 11.50 *per cent per annum* offered by the contractor. Similarly, the retention money of ₹2.20 crore was released (August 2013) to the contractor in Kozhikode project on the same terms and conditions.

- It was also noticed in audit that the BOT Operator had availed of Cash Credit (CC) from Banks for BOT projects. In the Board meeting held in December, 2013, the BOT Operator decided to release retention money (₹2.20 crore) in respect of Kozhikode project with levy of 11.50 *per cent* interest and in the same meeting, ratification was accorded to avail of CC at 13.25 *per cent*. Thus, the release of retention money amounting to ₹2.20 crore to the contractor for Kozhikode BOT project had resulted in avoidable interest burden of ₹1.24 lakh[58].

Thus, the BOT operator failed to safeguard its financial interest amidst financial stringency, by giving undue benefit to the contractors at the cost of the interest of the Corporation, which calls for fixing of responsibility.

Failure to levy liquidated damage due to non- maintenance of records

3.8.17 As per terms of the contract, the contractors were to complete the construction work within the scheduled time of two years. For delays beyond the scheduled time, liquidated damage to the maximum of the aggregate retention money and security deposit was leviable if reasons for delay were attributable to the contractors. As per the Kerala Public Works Department Manual, in order to determine the levy of liquidated damages a hindrance register detailing nature of hindrance, date of occurrence, date of clearance, net effective days of hindrance, etc. shall be maintained at site. The register shall be signed jointly by both the parties. Out of the four projects taken up for implementation by the BOT Operator, only Ankamaly project has been completed after delay of two years. The other three projects were not completed even after a delay of 30 to 43 months. Despite the delay in implementation of the projects, the BOT Operator could not impose liquidated damage on the contractors since the proper records were not maintained in any of the projects except Thiruvalla.

Conclusion

The Corporation entrusted the BOT Operator 16.09 acres of land to construct Shopping complexes at 4 bus stations to augment its non-operational revenue. The projects were to be completed during the period June 2010 to February 2012 at an estimated cost of ₹112.18 crore.

The implementation of the proects was beset with many deficiencies and non-compliance to GoK Order and as a result, the BOT Operator could complete only one project (Ankamaly).

[58] **₹2.20 crore x (118/365) x (13.25-11.50 *per cent*).**

3.9 Loss of revenue

Loss of revenue due to failure to implement the provisions of lease agreement ₹78.28 lakh

Kerala State Road Transport Corporation (Corporation) started an Engineering College in 1995. Later, in 1997 the ownership and management of the College was handed over to KSRTC Sree Chitra Thirunal College of Engineering (Thiruvananthapuram) Society (SCTCE), which was constituted and registered under the Tranvancore Cochin Literary, Scientific and Charitable Societies Act, 1955 as a self financing college. The Corporation proposed (June 1997) to transfer 12.50 acres out of 23.65 acres of land with built up area of 4755.23 sq.mtrs held at Central Works, Thiruvananthapuram to SCTCE. Government of Kerala (GoK) approved[59] (January 1998) transferring 12.50 acres of land in the premises of its Central Works to SCTCE on lease for a period of 99 years at a lease rent of ₹100 per acre *per annum*.

Accordingly, the Corporation executed (November 1998) a lease agreement with the SCTCE (Lessee). As per the lease agreement (Clause 1), the Lessee shall take on rent the land measuring 12.50 acres with the four buildings thereon, for a period of 99 years, for running the institution, for a consideration of annual lease rent at the rate of ₹100 per acre. It was also provided in the lease agreement that the Lessee shall pay rent for the four buildings on the demised land at the rate fixed by the Corporation from time to time. The Lessee paid (November 1998) ₹1,23,750[60] to the Corporation as lease rent of land for a period of 99 years. The Board of Directors (BoD) of the Corporation decided[61] (June 1999) to fix the rent of the buildings as per the norms prevailing in the State Public Works Department (PWD). However, the Corporation failed to implement the BoD's decision. On being pointed out this lapse by Audit, Corporation stated (July 2008) that the matter would be taken up with the Lessee so as to tide over the financial stringency. The Chairman & Managing Director stated (October 2013) that the Chief Engineer was directed to assess the rent of the buildings. However, no action was taken to assess and claim the rent of the buildings. The rent of the buildings to be collected for a period of five years upto March 2014 based on PWD rates worked out to ₹78.28 lakh as detailed in ***Annexure 16***.

Corporation replied (October 2014) that out of 12.50 acres, the Lessee was using only 5.60 acres and that if the Corporation took any steps for realisation of rent as per the agreement, there was a chance of the Lessee claiming the balance land. It was also stated that the Corporation would take up the matter with Government to settle the issue.

The reply was not acceptable as 12.50 acres of land along with the buildings thereon was already leased out and the buildings were in the possession of Lessee. Therefore, non-claiming of the rent of the buildings in violation of the lease agreement lacked justification and was indicative of lack of seriousness on the part of the Corporation.

[59] Letter No.23638/A1/97/Tran dated 12/01/1998 of the Principal Secretary, Transport (Á) Department, GoK.
[60] ₹100 x 12.50 acres x 99 years = ₹1,23,750.
[61] 269th Meeting of Board of Directors held on 18/06/1999.

Thus, failure of the Corporation to implement the provisions in the lease agreement and the BoD's decision in totality resulted in loss of revenue to the extent of ₹78.28 lakh.

The matter was reported (October 2014) to Government and reply was awaited (December 2014).

General

Follow-up action on Audit Reports
Explanatory notes[62] outstanding

3.10 The Audit Reports of the CAG represent the culmination of the process of scrutiny starting with initial inspection of accounts and records maintained in the various Government companies and Statutory corporations. It is, therefore, necessary that they elicit appropriate and timely response from the executive. Finance Department, Government of Kerala issued (April 2005) instructions to all administrative departments to submit explanatory notes indicating a corrective/ remedial action taken or proposed to be taken on paragraphs and performance audits included in the Audit Reports within two months of their presentation to the Legislature, without waiting for any notice or call from the Committee on Public Undertakings (CoPU).

The Audit Reports for the years up to 2012-13 had been presented to the State Legislature but seven departments did not furnish explanatory notes on 17 out of 199 paragraphs / performance audits relating to the Audit Reports for the year 2004-05 to 2012-13 as of September 2014 of which five paragraphs were more than three years old.

Compliance to Reports of Committee on Public Undertakings

3.11 As per the Handbook of Instructions for Speedy Settlement of Audit Objections issued by the State Government, the replies to paragraphs of CoPU are required to be furnished within two months from the presentation of the Reports by CoPU to the State Legislature. Action Taken Notes (ATNs) to 369 paragraphs pertaining to 64 Reports of the CoPU presented to the State Legislature between July 2000 and July 2014 had not been received as of September 2014 as shown below:

Table 3.14:Details of ATNs

Year of the COPU Report	Total number of Reports involved	Number of paragraphs where ATNs not received
1998-2000	2	13
2001-2004	1	3
2004-2006	4	17
2006-2008	9	51
2008-2011	13	40
2011-2014	24	187
2014-2016	11	58
Total	**64**	**369**

[62]Explanatory notes refer to the explanations furnished by Administrative Departments to the Legislature Secretariat, on performance audit / paragraphs contained in Audit Reports placed before the Legislature.

Response to Inspection Reports, Draft Paragraphs and Performance Audit Reports

3.12 Audit observations made during audit and not settled on the spot are communicated to the heads of the PSUs and the departments concerned of the State Government through Inspection Reports (IRs). The heads of PSUs were required to furnish replies to the IRs through the respective heads of departments within a period of four weeks. IRs issued up to March 2014 pertaining to 85 PSUs disclosed that 3003 paragraphs relating to 532 IRs remained outstanding at the end of September 2014. Of these, 34 IRs containing 334 paragraphs had not been replied to for one to five years. Department-wise break up of IRs and paragraphs outstanding as on 30 September 2014 is given in ***Annexure 17.***

Similarly, Draft Paragraphs and Reports on Performance Audit on the working of PSUs are forwarded to the Principal Secretary/Secretary of the Administrative Department concerned demi-officially seeking confirmation of facts and figures and their comments thereon within a period of six weeks. It was, however, observed that seven Draft Paragraphs and two Draft Performance Audit Reports forwarded to various departments during August-October 2014 as detailed in ***Annexure 18*** had not been replied to so far (December 2014).

It is recommended that the Government should ensure that (a) procedure exists for action against the officials who fail to send replies to IRs/Draft Paragraphs/ Performance Audit Reports and ATNs on recommendations of CoPU as per the prescribed time schedule, (b) action is taken to recover loss/outstanding advances/ overpayment in a time bound schedule, and (c) the system of responding to audit observations is revamped.

Thiruvananthapuram **(Dr. BIJU JACOB)**
The **Accountant General**
(Economic & Revenue Sector Audit)
Kerala

Countersigned

New Delhi **(SHASHI KANT SHARMA)**
The **Comptroller and Auditor General of India**