CHAPTER-IV

CHAPTER - IV

Compliance Audit Observations

Important audit findings, noticed as a result of test check of transactions of the State Government companies, are included in this Chapter.

State Transport Undertakings

4.1 Delay in settlement of accident compensation

Introduction

4.1.1 The road network in Tamil Nadu increased from 2,16,352 kms in 2010-11 to 2,46,789 kms in 2013-14. In this period, Passenger transport buses in the State also increased from 27,690 to 31,190 buses. The share of eight State Transport Undertakings (STUs[90]) in public transport, which was 19,761 buses (71 *per cent*) in 2010-11, increased to 22,501 buses (75 *per cent)* during 2013-14. The STUs operated 12.55 lakh route kms during 2013-14. Rapid expansion in the road network and motorisation in the State has been accompanied by a rise in road accidents, resulting in fatalities, injuries, *etc*., to the accident victims.

Statutory Provisions for payment of compensation

4.1.2 As per the provisions of Section 140 of the Motor Vehicles Act, 1988 (Act), the owner/owners of motor vehicles are liable for payment of compensation for death or permanent disablement as a result of accident by involvement of motor vehicles. Section 146 of the Act, further provides that no motor vehicle shall be used in a public place unless there exists a policy of insurance to cover third party risks. However, Section 146(3) of the Act provides that the public transport vehicles belonging to the STUs are exempt from insurance, provided an insurance fund is created by the STUs for meeting third party liabilities.

Creation of insurance fund

4.1.3 In accordance with the provisions of Section 146(3) of the Act, the Government of Tamil Nadu (Government) permitted (between 1972 and 1985) the STUs to create their own insurance funds for discharge of their liabilities towards accident compensation. Though the STUs created their own insurance fund, they could not adequately contribute to the fund in view of their stringent financial position. Consequently, the pendency of claims for accident compensation accumulated to ₹ 224.49 crore involving 11,721 accident cases, as of March 2010.

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[90] State Express Transport Corporation (Tamil Nadu) Limited, Metropolitan Transport Corporation (Chennai) Limited, Tamil Nadu State Transport Corporation (TNSTC) (Villupuram) Limited, TNSTC (Salem), TNSTC (Coimbatore), TNSTC (Madurai), TNSTC (Kumbakonam) and TNSTC (Tirunelveli).

Considering the inability of the STUs to expeditiously settle the claims, the Government subsequently created (October 2010) an "Accident Claims Settlement Fund" (Fund) to grant immediate relief to the accident victims. The scheme, *inter alia*, provided that there would be an annual contribution of ₹ 20 crore by the Government, which would be allocated to the STUs on the basis of their fleet strength and a matching contribution of ₹ 20 crore by all STUs together. The contributions to the Fund were to be utilised for immediate payment of compensation upto ₹ 3.00 lakh for fatal accidents and upto ₹ 1.00 lakh for grievous injuries, which were settled through Lok Adalat. Over and above the aforesaid contributions, the STUs were required to collectively settle accident compensation claims upto ₹ 80 crore every year from their own resources.

Audit examined the system of settlement of compensation claims by STUs covering the period from 2010 to 2015. Audit analysis revealed the following:

Pendency in settlement of accident compensation

4.1.4 Despite creation of the above Fund, the number of cases decided by various Courts, but not settled by STUs, increased from 11,721 involving ₹ 224.49 crore as on 31 March 2010 to 16,797 involving ₹ 435.07 crore as on 31 March 2015. The age-wise analysis of pending cases is given in **Annexure-19**.

The STUs had not settled 11,205 accident claims, which were accepted by them, involving an amount of ₹ 207.72 crore, due to their stringent financial position. Audit noticed that the Tribunals/Courts directed payment of interest from the date of judgment to the date of settlement of the claims. Considering the minimum interest rate of 7.5 *per cent* imposed by the Tribunals/Courts, interest on account of non-settlement of the above claims of ₹ 207.72 crore worked out to ₹ 58.65 crore. In addition, there were 5,382 fatal (₹ 716.65 crore) and 22,702 injury cases (₹ 786.94 crore), totalling 28,084 accident claims amounting to ₹ 1,504 crore, which had not yet been decided upon by the Courts. These claims were shown as contingent liabilities in the accounts of the STUs.

Inadequacy of funds

4.1.5 The contributions to the Fund and the amount provided by STUs from their own resources for settlement of accident claims and disbursements there-against, during the five years ending March 2015 is given in **Annexure-20**.

During the years 2010-11 to 2014-15, the fresh claims arising every year ranged from ₹ 133.62 crore to ₹ 198.29 crore. Against the above, the Government had envisaged (October 2010) an annual contribution of ₹ 120 crore[91] by itself and by the STUs. In view of the insufficiency of the contribution, the outstanding claims rose from ₹ 224.49 crore (11,721 cases) as on 1 April 2010 to ₹ 435.07 crore (16,797 cases) as on 31 March 2015. Audit further observed that:

91 ₹ 20 crore by the Government to be allocated to the STUs on the basis of their fleet strength, matching contribution of ₹ 20 crore by all the STUs and another ₹ 80 crore to be incurred by STUs from their own resources.

- As per the guidelines, the Fund could be utilised for payment of compensation upto ₹ 3.00 lakh for fatal cases and upto ₹ 1.00 lakh for grievous injuries and settled through Lok Adalat. The settlement of the remaining cases, not meeting the above criteria, was kept outside the purview of the Fund and the delays persisted in settlement of these cases, even after formation of the Fund.
- An analysis of the 1,340 cases settled by State Express Transport Corporation (Tamil Nadu) Limited and Metropolitan Transport Corporation (Chennai) Limited during the period April 2010 to March 2015 revealed that 314 fatal and 1,026 injury cases were settled with delays upto 25 years, after reckoning the time limit of 30 days for payment of compensation as per the provisions of Section 168 of the Act. Further analysis of delays revealed that more than 75 *per cent* of fatal (243) and injury (798) cases were settled after delays upto five years, 18 *per cent* of fatal (56) and 20 *per cent* of injury (202) cases were settled after delays ranging from 5 to 10 years and 15 fatal and 26 injury cases were settled after delays of over ten years. The delays resulted in payment of additional interest of ₹ 9.19 crore.

The Government admitted (January 2016) that financial constraints of the STUs was the reason for non-settlement of accepted cases.

- Due to non-settlement of awarded cases by the STUs, 4,771 buses were impounded by various Courts during the five year period ending March 2015. Out of these 4,771 buses impounded by various Courts, 692 buses were not released by the Courts as of March 2015. This led to loss of operation of 4.24 lakh days resulting in loss of contribution of ₹ 213.37 crore, besides affecting the image of the STUs adversely among the public. 138 buses impounded were for non-payment of amounts below ₹ 50,000. Between July 2010 and November 2014, the STUs obtained ways and means advance of ₹ 135 crore carrying an interest rate of 12/13.*5 per cent per annum* from the Government for immediate settlement of the accident compensation, the non-payment of which had resulted in impounding of the buses by various Courts. These borrowings increased the interest burden of the STUs by ₹ 54.51 crore (interest of ₹ 44.22 crore and penal interest of ₹ 10.29 crore) during the five years ending 2014-15.

The Government replied (January 2016) that spare buses were operated in place of impounded buses and thus, the loss pointed out by audit was compensated. However, no documentary evidence in support of usage of spare buses in place of impounded buses was available in the STUs.

Diversion of funds

4.1.6 The Government nominated another State PSU *viz.*, Tamil Nadu Transport Development Finance Corporation Limited (TDFC) as the manager of the Fund. The STUs had to submit the list of claims to TDFC, which would admit the claims after verifying that the cases satisfied the conditions prescribed in the Government Order for release of amount from the Fund. Audit, however, noticed that six STUs unauthorisedly diverted ₹ 18.98 crore received for settling 963 cases from the Fund for their working capital without disbursing the same to claimants. This had resulted in deprival of the entitled compensation to the claimants, besides avoidable interest burden of ₹ 1.08 crore.

The Government, in its reply (January 2016) admitted the fact and stated that the same was due to the financial constraints of the STUs.

Limitations in the Government Order for fund utilisation

4.1.7 As per the conditions prescribed by the Government for utilisation of the Fund, the maximum amount of settlement for fatal cases was ₹ 3.00 lakh and ₹ 1.00 lakh for grievous injuries. Due to this ceiling, the Fund could not be used for cases involving compensation of more than ₹ 3.00 lakh and ₹ 1.00 lakh, respectively. Audit noticed that 5,888 cases were within the monetary ceiling and 2,130 cases were beyond the monetary ceiling as of March 2013. Only in June 2013, the Government removed the monetary ceiling and ordered that the Fund could be utilised for all pending cases. Between January 2011 and November 2011, adequate balance was available in the funds. However, in view of the above ceiling, the STUs could not utilise the same and had to resort to ways and means advance of ₹ 56.36 crore from the Government, carrying an interest rate of 12 *per cent per annum* for settling the claims with money value of more than ₹ 3.00 lakh. Audit observed that the drawal of ways and means advance by STUs was avoidable because the Fund had unspent balances to the extent of ₹ 38.72 crore and ₹ 48.28 crore as of March 2011 and March 2012, respectively, which could not be utilised for settlement of all pending cases due to want of clarity. Consequently, the STUs had to pay avoidable interest of ₹ 16.96 crore on the above ways and means advance.

The Government replied (January 2016) that consequent upon clarification issued in February 2014 regarding monetary ceiling for utilisation of fund, the corpus fund was fully utilised. The fact, however, remains that till the receipt of such clarification, there was only limited utilisation of the corpus fund resulting in additional interest burden for drawal of ways and means advance for settlement of accident compensation.

Follow-up of cases in Courts

Failure to honour the Court Judgments

4.1.8 After pronouncement of awards of accident compensation by Motor Accident Compensation Tribunal (MACT), the STUs had to settle the claims of the victims/their families. Whenever, the STUs did not make payments of the awarded amount, the claimants filed Execution Petition (EP) to enforce payments. Audit analysis revealed that there were 699 EPs involving ₹ 25.64 crore awarded by the Courts, but not settled by two STUs till date (July 2015). Further analysis revealed that 18 *per cent* of EPs were pending for more than 10 years, 21 *per cent* of them were pending for between 5 and 10 years and the balance 61 *per cent* were pending for less than five years. Thus, failure of the STUs to honour these EPs had delayed payment of compensation to the victims/families, besides accrual of interest liability of ₹ 19.72 crore till 31 March 2015.

The Government attributed (January 2016) the financial constraints of the STUs as the reason for such failure.

Appeals against the legal opinion

4.1.9 Though the legal counsel of the MTC and SETC had opined not to prefer appeal in 10 cases, the STUs went on appeal overlooking the opinion of the legal counsel. This resulted in avoidable payment of enhanced compensation to the extent of ₹ 25.67 lakh.

Non-claiming of refund of deposits from Courts

4.1.10 As per the conditions prescribed under Section 173 of the Act, for preferring appeals, STUs had to deposit a fixed amount, as directed by the Courts, in respect of such appeals. Whenever the quantum awarded by Courts was lower than the amount already deposited by the STUs, the excess deposit would be refunded by the Courts. It was seen in Audit, that as of March 2015, all the eight STUs had deposited funds amounting to ₹ 2.55 crore in respect of 638 cases between September 1992 to August 2010. Although the above cases have been settled by the Courts, the STUs had not taken any steps to obtain the refund of ₹ 2.55 crore, which could have been beneficially utilised for settlement of other accepted cases.

The Government replied (January 2016) that steps were being taken to obtain refund of amount from the Courts.

Conclusion

The Government created the Fund with the main objective of expeditious settlement of claims to the accident victims. But, even after formation of such a Fund, the settlement of accident compensation was not prompt due to:

- Inadequate contribution to the Fund.
- Non-provision of own funds by the STUs for accident claims, as per the directions of the Government.
- Not honouring the Court judgments and EPs for settling the accident claims.

Thus, the accepted accident claims, amounting to ₹ 207.72 crore remained unsettled for years together. The above situation led to additional interest burden on the already funds starved STUs. Impounding of buses due to not honouring the Courts' judgement had adversely affected the image of the STUs. This not only led to loss of revenue to the STUs, but also put the victims and their families to hardship. Thus, there is an urgent need to ensure that settlement of compensation claims is done in a time bound manner.

Pallavan Transport Consultancy Services Limited

4.2 Improper contract management

The Company selected an ineligible contractor for operating the on-line e-ticketing system and extended undue benefit of ₹ 4.06 crore by providing interest free mobilisation advance

The Government of Tamil Nadu (Government) decided (October 2008) to introduce on-line electronic ticketing machine (ETM) in all its State Transport Undertakings (STUs) and nominated (April 2011) Pallavan Transport Consultancy Services Limited (Company) as the nodal agency for implementing the project.

In the pre-bid meeting (September 2012) of the tender floated in August 2012, the project model was finalised as Design, Build, Own, Operate and Transfer (DBOOT) of GPS based e-ticketing system[92] for all STUs. After evaluation (February 2013), the Request for Proposal of technically qualified bidders by the tender award committee, the consortium of three firms with M/s Ingenerie Technology Solutions Private Limited (contractor), Hyderabad as the Prime Bidder was selected, which quoted the DBOOT charges of ₹ 0.1195 per ticket as a charge for the entire service. The work order issued to the contractor (March 2013) provided six months for pilot study, followed by commercial operation of the project for five years from 1 October 2013 to 30 September 2018. Audit analysis of the contract management of the project revealed the following:

(i) Selection of ineligible bidder

As per the tender conditions, the Prime Bidder of a consortium must (i) be an

[92] Global positioning system enabled e-ticketing system facilitates tracking of vehicle locations and stores ticket transactions in a server in a real time environment.

Information Technology (IT) Company in operation for minimum of three years as of June 2012 and (ii) have networth of ₹ 15 crore as of March 2012. However, the prime bidder, who was selected, had no business operation in the IT field in the three years ending 2011-2012. Moreover, the contractor was known as M/s Mango Healthcare Solutions Limited upto January 2013 but changed its name to M/s Ingenerie Technology Solutions Private Limited only on 24 January 2013, *i.e*. the date of opening of the tender. The contractor also changed the object clause enabling it to carry on the business of software development, IT enabling services, *etc*. Further, an independent verification by Audit from the Registrar of Companies revealed that the networth of the contractor was (-)₹ 50.74 lakh as of March 2012. Thus, the contractor did not technically and financially qualify for award of the work and hence, their selection was irregular.

(ii) Extension of undue benefits

(a) As per the Transparency in Tender Act, 1998 (Act) of Government of Tamil Nadu, implementing agencies shall not pay interest-free mobilisation advance to any contractor. In violation of the Act, the tender conditions, provided for payment of interest free mobilisation advance of ₹ 15 crore to the contractor, which was recoverable after commencement of commercial operation of the project. Though the contractor was paid (May 2013) mobilisation advance of ₹ 15 crore, no recovery was made as of June 2015, due to non-achievement of commercial operation of the project in seven out of eight STUs. The consequent interest forgone, worked out by Audit, was ₹ 4.06 crore,[93] which resulted in undue benefit to the contractor.

(b) In seven out of eight STUs, the contractor, who was required to supply 99 *per cent* of the daily requirements of ETMs of each STU, had completed supply of ETMs only to the extent of 6 to 63 *per cent*. However, the Company did not levy penalty as per the contractual terms, which worked out to ₹ 6.02 crore **(Annexure-21)** for the delay of 22 months in supply of ETMs.

In Metropolitan Transport Corporation (Chennai) Limited (MTC), where the commercial operation was in progress, there were recorded complaints (October 2014) about (a) defective working of 29 *per cent* of the ETMs supplied (8,935), (b) not establishing the data center and backup of ETM data, (c) ineffective on-line reporting system *etc*. This indicated that commercial operation was not satisfactory in MTC.

The Government replied (September 2015) that Ingenerie was selected considering their total experience of more than seven years in software development and networth of ₹ 15.03 crore as of December 2012. It added that the slow progress of the contract in other STUs was due to not providing suitable locations for installation of hardware by these STUs. The reply is not convincing because (i) the contractor was earlier a medical transcription company and became an IT company only on the date of opening of the tender, (ii) as per the criteria fixed for tender evaluation, the networth of Ingenerie as of March 2012 and not December 2012 was required to be

[93] At 12.50 *per cent per annum* from May 2013 to June 2015, being the rate of interest prescribed as per GO No.148 dated 4th May 2013 for lending to PSUs.

considered and (iii) the Company had issued many letters including a show cause notice (March 2014) to Ingenerie attributing the delays on them, which indicated that the delay was not on the part of STUs.

Electronics Corporation of Tamil Nadu Limited

4.3 Loss of interest

The Company's failure to adopt the procedures for collection of upfront lease rent and land development charges, as per the directives of the State Government, led to non-collection of development charges of ₹ 10.82 crore and loss of interest of ₹ 7.50 crore

The Electronics Corporation of Tamil Nadu Limited (Company) had initiated and established (between March 2010 and May 2011) Information Technology Special Economic Zones (IT SEZs) in an area of 1,588 acres of land in Chennai and six[94] more cities in Tamil Nadu. The land within the IT SEZ areas was allotted to the IT companies on 99 year lease basis. In October 2009, the State Government directed the Company to work out the procedure for fixation and collection of the lease charges, based on the procedures being adopted by the State Industries Promotion Corporation of Tamil Nadu Limited (SIPCOT)[95]. The Company, in its Board of Directors meeting held in October 2009, adopted the directives of the State Government for implementation.

Audit scrutiny of lease agreements of the Company revealed (February 2012) that SIPCOT collected lease rent after allowing 90 days for payment of lease charges and for payments beyond 90 days, an interest of 15.5 *per cent per annum* was levied. Against the above, the Company allowed only 60 days time for payment of lease rent, but failed to levy interest for the delayed payments beyond 60 days.

The Company allotted 133.74 acres of land to eight allottees between May 2010 and September 2014 and received the lease rent of ₹ 27.95 crore. Five of the eight allottees paid the lease rent of ₹ 11.01 crore, with delays ranging from 31 to 502 days over and above the time limit of 60 days, but the Company did not recover interest for the delayed payment, which was worked out by Audit to ₹ 1.59 crore (**Annexure-22**). The non-recovery of the interest for the above delays, without any recorded reasons, was in violation of the directives of the State Government, which had authorised the Company to adopt the entire procedure of SIPCOT for fixation and collection of lease rent.

Audit further noticed that SIPCOT should have also recovered the land development charges[96] over and above the lease rent. However, the Company failed to evolve a system for recovery of development charges alongwith the lease rent as per the procedure of SIPCOT and did not recover the

[94] Madurai, Trichy, Coimbatore, Tirunelveli, Salem and Hosur.

[95] SIPCOT is another State Public Sector Undertaking engaged in promotion and allotment of industrial areas in the industrial parks established by it throughout the State.

[96] Cost incurred for creation of basic infrastructure facilities within the SEZ areas like water arrangements, sewerage, roads, *etc*.

development charges of ₹ 10.82 crore from all the eight allottees mentioned above. Such non-recovery resulted in blocking up of its funds and loss of interest of ₹ 5.91 crore **(Annexure-23)**.

The Government replied (August 2015) that levy of interest for belated payments of lease charges was not feasible due to lack of demand. It further stated that development charges would be collected in due course. The reply is not acceptable as the same was in contradiction with its own directions to adopt the procedures of SIPCOT for collection of lease charges along with interest.

Tamil Nadu Transport Development Finance Corporation Limited

4.4 Avoidable loss

Non-availing/partial availing of cash discount led to loss of revenue of ₹4.42 crore

The State Transport Undertakings (STUs) purchase chassis, based on the annual rate contract finalised by the Institute of Road Transport, which is the nodal agency authorised by the State Government. The payments for purchase of chassis are made by Tamil Nadu Transport Development Finance Corporation Limited (Company), an agency nominated by the State Government. These payments are met out of the share capital and loans sanctioned by the State Government to the STUs. The balance, met by the Company, is treated as its loan to the respective STUs.

As per the practice in vogue, the Company makes payments to the suppliers of chassis based on the invoices verified and forwarded by the STUs to it. The payment terms of the purchase orders provide for availing of 90 days credit by STUs from the date of acceptance of chassis. In case payment is made within 90 days of credit period, the suppliers extend a cash discount (ranging from 7.5 to 9.5 *per cent per annum*) on *pro-rata* basis for the number of days of credit not availed. As Government's assistance is received upfront by the Company before receipt of chassis by the STUs, it is financially advantageous for the Company to make the payment to the supplier by availing of the maximum cash discount. For this purpose, the Company had requested (September 2010) the STUs to submit the original bills within two to three working days to enable it to avail maximum cash discount. The Government had also directed (April 2013) that all STUs should send the Letter of Acceptance (LoA) for the purchase of chassis within 15 days.

Detailed examination by Audit of 8,128 payments made by the Company in respect of all the eight STUs, to the suppliers between April 2010 and June 2015, revealed that (i) 2,543 payments (31 *per cent*) were processed based on receipt of LoA from the STUs within the due dates and cash discount was fully availed, (ii) in 4,062 payments (50 *per cent*), the cash discount was not availed for periods ranging from 2 to 75 days[97] and (iii) in another 1,523

[97] After allowing 15 days for processing of invoices by the STUs.

payments (19 *per cent*), no cash discount was availed at all. The loss, due to non-availing of discount mentioned above, was worked out by Audit to ₹ 4.42 crore.

The Government replied (September 2015) that non-availing of discount was due to delays in submission of LoA by the STUs. The fact, however, remains that, if only the Company had ensured timely submission of invoices by STUs, the above loss could have been avoided.

Tamil Nadu Tourism Development Corporation Limited

4.5 Infructuous expenditure

Allowing a new technology for towing of submarine without adequate precaution led to infructuous expenditure of ₹ 4.41 crore, apart from non-achievement of objective of establishing a Maritime Heritage Museum

The State Government decided (July 2011), to establish a Maritime Heritage Museum at Mamallapuram by show-casing the de-commissioned submarine "INS Vagli", offered by Indian Navy free of cost. It designated (June 2012) the Tamil Nadu Tourism Development Corporation Limited (Company) as a nodal agency for implementing the project. The feasibility study conducted (March 2012) through the Academy for Marine Education and Training University (AMET) indicated that the best option would be to move the submarine upto Chennai Port as a single unit and cut the submarine into eight designated parts, which could be re-assembled at Mamallapuram using welding technology. The technical committee, formed (September 2012) by the Government to assist in implementation of the project, directed (October 2012) that towing operations of submarine from Chennai to Mamallapuram need to be executed through a reputed contractor with a proven track record.

In the tender floated (December 2012) for selection of contractor, the lone bidder, M/s Tradex Shipping Company Private Limited, Chennai (Tradex), indicated that towing operation would be carried out using air bags technology[98]. When the Company sought the opinion (April 2013) of Indian Maritime University (IMU) on air bags technology, it opined (May 2013) that the same was generally used in sheltered water[99] and feasible only when meticulous planning was carried out at every stage.

The proposal, submitted (April 2013) by the Chairman and Managing Director to the Board of Directors of the Company for approval of placement of order on Tradex, did not bring out the precautions to be followed in the towing operations recommended by IMU and AMET. The work order was issued to Tradex in May 2013 at a total cost of ₹ 8.01 crore. After laying foundations at

[98] Insertion of marine air bags in the space between submarine bottom and land, rolling the submarine over the inflated air bags of adequate capacity and pulling the submarine towards land.

[99] Sheltered water means water, which is not exposed to the main body of water like an ocean or a large lake and not affected by waves or windy conditions.

site, Tradex towed the submarine from Chennai on 6 April 2014. After towing the submarine upto mid-sea, Tradex aborted towing the submarine upto the shore of Mamallapuram, citing *force majeure* conditions, such as strong water current and high wave conditions. Subsequently, Tradex towed back the submarine to Chennai Port on 30 April 2014. Tradex also demanded (April/May 2014) additional cost of ₹ 10.68 crore for completing the work in addition to part payment of ₹ 4.41 crore received upto April 2014. Though the Company rejected (February 2015) the proposal of Tradex and proposed (February 2015) levy of liquidated damages of ₹ 1.19 crore, besides invoking the bank guarantee of ₹ 40.05 lakh, these recoveries were not made pending receipt of legal opinion on these issues till date (July 2015).

Audit observed that:

- Against the technical advice to select a contractor with proven track record, the Company had selected Tradex without ascertaining its previous experience. Further, Tradex's partner from China had experience in towing submarine only in breakwaters[100] and not under open sea conditions.

- The opinions of AMET and IMU indicated the associated risks of moving the submarine as a single piece upto Mamallapuram. However, these opinions were not apprised by the Company to Government or to its Board of Directors at the time of submission of proposal and the Company allowed the contractor to move the submarine as a single piece using air bag technology. These failures led to abandoning of the work midway.

The Government replied (August 2015) that it was the considered decision of the Government to haul the submarine as a single piece through the sea route, for which the Company selected the contractor after exercising due diligence. The fact, however, remains that the opinions of the experts *viz*., IMU and AMET, which brought out the risks involved in moving the submarine as a single piece as well as for usage of air bag technology were not given due consideration by the Company. This ultimately resulted in infructuous expenditure of ₹ 4.41 crore, besides non-achievement of the objective of establishing Maritime Heritage Museum at Mamallapuram.

[100] A breakwater is a structure constructed for the purpose of forming an artificial harbour with a basin so protected from the effect of waves as to provide safe berthing for vessels.

Poompuhar Shipping Corporation Limited

4.6 Avoidable penal interest

The Company's failure to remit the statutory payments of service tax within the due dates, as prescribed in the Act, led to avoidable penal interest of ₹ 2.21 crore

Poompuhar Shipping Corporation Limited (Company) provides services to Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) for ocean movement of coal, required for the thermal stations under its control. As defined in Section 65 (105) of the Finance Act, 1994 (Act), the services offered by the Company are classified as taxable services. After registering itself (June 2009) as a service provider with the Central Excise department, the Company belatedly remitted (September 2012) the service tax of ₹ 1.42 crore for the period from September 2009 to June 2011, after receiving (between April 2011 and April 2012) show cause notices from the Commissioner of Service Tax, Chennai.

Audit noticed that the Company paid the service tax for the period from July 2011 to June 2012 by way of adjustments from input credit of the tax entitled to it. However, it did not remit the service tax within the due date from July 2012 to March 2015. The payments were delayed for periods ranging from 1 to 296 days[101], which attracted penal interest of ₹ 2.21 crore, as per Section 75 of the Act.[102] Out of this penal interest, the Company had already paid (March 2015) ₹ 1.93 crore. Since the Company had short-term deposits at the end of March 2012 amounting to ₹ 7.53 crore, which increased to ₹ 13.02 crore by March 2014, the payment of penalty could have been avoided.

The Company replied (August 2015) that the surplus funds were not made out of the operations relating to TANGEDCO and hence, it could not be applied for payment of service tax, which was arising out of the services relating to TANGEDCO. The reply is not convincing because the payment of statutory liability should not be linked with the availability of surplus funds out of the specific services rendered and hence, the payment of penal interest was avoidable.

The matter was reported to the Government in August 2015; their reply was awaited (January 2016).

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101 17 payments were made with delays upto 90 days, five payments with delay of 91 to 180 days, seven payments with delay of 181 to 270 days and one payment with delay of 296 days.

102 The penal interest is calculated at rates ranging from 10 to 36 *per cent* being fixed by the Central Government. In the instant case, the same was fixed at 18 *per cent per annum*.

Tamil Nadu Minerals Limited

4.7 Wasteful expenditure

Injudicious decision to avail high cost Foreign Currency Loan despite availability of own funds, led to avoidable payment of interest amounting to ₹ 1.65 crore

Tamil Nadu Minerals Limited (Company) decided (August 2009) to establish a granite cutting and polishing unit at Melur, Madurai district at a total project cost of ₹ 34.25 crore. The techno-economic feasibility study prepared (October 2009) indicated that the cost of the project would be financed equally by Company's own funds and term loans to be availed from banks. After placing (March 2010) the order on a supplier from Italy for import of machinery for a value of ₹ 18.29 crore, the Company decided (June 2010) to avail a Foreign Currency Loan (FCL) of ₹ 13.34 crore at the rate of LIBOR[103]+4.50 *per cent* and obtained (September 2010) the same from Indian Bank, Triplicane. The loan was drawn in four instalments between April 2011 and October 2011 and was repayable in seven years from 2012-13 to 2018-19. The project was commissioned in July 2013 at a total cost of ₹ 42.31 crore.

The Company continued repayment of both principal and interest of the FCL and paid ₹ 7.13 crore (principal: ₹ 4.07 crore and interest: ₹ 3.06 crore) upto the quarter ending September 2014. Subsequently, the Company repaid the balance amount of FCL of ₹ 12.25 crore and the outstanding interest of ₹ 18 lakh on 15 September 2014 on the grounds that the FCL was costing more on account of increase in the exchange rates and the Company was having sufficient funds available in the fixed deposit. Thus, during the operation of the loan period, the Company had repaid the principal amount of ₹ 16.32 crore[104] and interest of ₹ 3.24 crore.

In this connection, Audit observed that even when the Company decided (June 2010) to finance the project cost to the extent of 40 *per cent* in the form of FCL, it had internally generated surplus funds of more than ₹ 60 crore, kept in current accounts and term deposits. Further, after meeting ₹ 28.97 crore towards the cost of the project from internal sources, the Company had surplus funds of more than ₹ 50 crore during the subsequent years upto 2013-14. However, the Company decided only in September 2014 to foreclose the FCL, considering its favourable funds position. In the meantime, the Company had incurred an expenditure of ₹ 6.22 crore towards interest (₹ 3.24 crore) and differential exchange rate (₹ 2.98 crore) for availing FCL against the possible loss of interest of ₹ 4.56 crore[105] for usage of the own funds, which were kept in short term deposits. Thus, the injudicious decision to avail FCL, instead of using its own funds, led to avoidable expenditure of ₹ 1.65 crore.

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103 London Inter Bank Offered Rate.

104 This includes the basic loan amount of ₹ 13.34 crore and ₹ 2.98 crore being exchange rate variations paid during the repayment of the principal amount.

105 At the rate of 10 *per cent per annum* for 41 months on the principal amount of ₹ 13.34 crore.

The Government replied (December 2015) that the additional liability towards interest was incurred by the Company on account of unforeseen foreign currency fluctuations. The fact, however, remains that in view of the internal surplus funds, the Company need not have resorted to FCL.

Tidel Park Limited

4.8 Unintended benefit

The Company failed to collect lease rent for a portion of the food court, which resulted in extension of unintended benefit to a private lessee to the extent of ₹ 85.64 lakh

Tidel Park Limited (Company) is engaged in providing infrastructure facilities to Information Technology (IT) and IT enabled service companies. It had created office space with all amenities in an area of 10.60 lakh square feet (sq ft) in its own premises in Chennai. The above area also included area (16,735 sq ft) earmarked for food court in the first and ground floors of the premises.

In January 2007, the Company leased out[106] 12,600 sq ft of space in the ground floor on tender basis but collected monthly rent for only 10,150 sq ft at ₹ 35 per sq ft The lease period, which commenced in April 2007, was effective for three years upto March 2010 with a provision in the lease agreement for extension of the lease period for another three years.

Audit noticed (September 2008) that against the monthly lease rent to be collected for allotment of 12,600 sq ft [107] as mentioned in the lease agreement, the Company had actually charged and collected lease rent only for the dining area of 10,150 sq ft. Consequently, the storage and kitchen area measuring 2,450 sq ft in the ground floor was let out free of any lease rent from April 2007. It is pertinent that the Company had been collecting lease rent since September 2009 for the entire area of 4,135 sq ft of food court premises in the first floor, which included kitchen and storage areas. Though this lapse was pointed out during the Audit of the Company in September 2008, the Company neither made an amendment in the existing lease agreement, which was in force upto March 2010 nor corrected its omission in the new agreement entered into in April 2010 for the period of lease upto March 2013 (which was continued for another three months upto June 2013) with the same lessee. Consequently, the Company lost revenue of ₹85.64 lakh (as detailed in **Annexure-24**) during the lease period, which resulted in an unintended benefit to private lessee.

The Company replied (August 2015) that the conditions including rentable area mentioned in the lease deed, which was valid for six years upto March 2013, could not be changed before the expiry of the lease period. The reply is not tenable because the Company could have corrected the omission at the time of renewal of the agreement in April 2010.

[106] Prior to this period, the food court area was leased out by the Company on revenue sharing basis between the Company and the lessee.

[107] Comprising of dining area: 10,150 sq.ft., kitchen area: 1,691 sq.ft. and storage area:769 sq.ft.

The matter was reported to the Government in June 2015; their reply was awaited (January 2016).

Tamil Nadu Generation and Distribution Corporation Limited

4.9 Wasteful expenditure

Acceptance of a Gas Booster Compressor without verifying the operational risk and failure to document the authorisation for operation by the supplier as per the terms of the contract, led to an avoidable expenditure of ₹ 36.27 crore

TANGEDCO commissioned (August 2009) 92.2 MW capacity Valuthur Gas Turbine Power Station Phase-II by awarding (May 2006) an Engineering, Procurement and Construction contract to BGR Energy Systems Limited (BGR) for a contract price of ₹ 355.53 crore. The Gas Booster Compressor (GBC), installed in this plant at the instance of BGR, was a reciprocating type[108] as against the centrifugal GBC[108] used in other gas based plants of TANGEDCO. The operation and maintenance of the unit was under the warranty of BGR for one year upto June 2010. As per the provisions of agreement, BGR was responsible for rectification of all the defects developed during warranty period, provided the operation of the plant was authorised by the Resident Engineer of BGR.

TANGEDCO noticed (between 1 and 4 January 2010) high vibration in the Gas Turbine (GT) with exhaust temperature beyond 750° Celsius due to escapement of oil in the GT. To ascertain the reasons for high vibration in the plant, both TANGEDCO and BGR jointly operated the unit from 5 January 2010 onwards, which led to major break-down of the GT on 9 January 2010.

TANGEDCO approached (9 January 2010) BGR to bring back the GT into service at their cost. However, BGR refused (June 2010) to bear the cost of repair stating that inappropriate operation of GT, resulting in its damage, was actually carried out by TANGEDCO. Subsequently, TANGEDCO carried out (November 2010) refurbishment of GT at a cost of ₹ 72.54 crore and put back the plant into service in May 2011.

To resolve the dispute of bearing the cost of the damage by BGR, TANGEDCO formed (November 2013) an expert committee, which concluded (March 2014) that the continued operations of GT, after the incidence of high exhaust temperature, was a serious operational lapse. The damage occurred due to lack of operational experience of both TANGEDCO and BGR and hence, both were jointly responsible for the damage. Consequently, TANGEDCO apportioned (July 2014) 50 *per cent* (₹ 36.27 crore) of the cost of damage to BGR and recovered the same in November 2014.

In this connection, Audit observed that:

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108 In centrifugal GBC, lubrication was required only for the bearings, whereas in reciprocating GBC, continuous lubrication for movement of piston was essential, which may escape and contract with the natural gas during operation of GT.

(i) Though, TANGEDCO proposed in the tender to install the centrifugal GBC in this plant, installation of the reciprocating GBC on the pretext of cost savings of ₹ 1.45 crore *per annum* was done at the instance of BGR. The continued operation of GT from 5 to 9 January 2010 despite high vibration indicated that BGR did not possess the required skills for operating the GBC. The expert committee had also concluded that TANGEDCO and BGR lacked operational expertise in this type of GBC. Thus, TANGEDCO procured a new type of GBC, based on the recommendations of BGR, without analysing the associated risk.

(ii) BGR was obligated to rectify the defects to the GT during the warranty period. Even though TANGEDCO claimed that the entire operation of the plant during the periods of damage from 5 to 9 January 2010 was as per the guidance of the Resident Engineer of BGR, it failed to produce the documentary evidence of such authorisation, which resulted in BGR disowning its responsibility for bearing the cost of damage.

Thus, acceptance of a new type of GBC, recommended by the supplier, without verifying the operational risk and subsequent lapse of not documenting the joint operation of the plant during defective periods, led to an avoidable expenditure of ₹ 36.27 crore.

The Government replied (August 2015) that the equal sharing of cost of repair with BGR was due to the Committee's opinion that the continued operation of the plant despite noticing high vibration was an operational failure, for which the officials of TANGEDCO and BGR were jointly responsible. The reply is not convincing because operation of the plant during the period of damage was carried out as directed by the BGR's officials. Hence, the entire cost of damage should have been borne by BGR as per the contracted terms.

4.10 Avoidable delay

Due to delay of over five years in installation of by-pass system in a thermal unit, TANGEDCO could not reduce the operational expenditure to the extent of ₹ 7.35 crore

The Tuticorin Thermal Power Station (TTPS) Unit-I (which has a generation capacity of 210 MW) was provided with High Pressure/Low Pressure (HP/LP) by-pass system to facilitate quick start-ups, faster loading of the thermal turbine and reduce start-up and shut down losses in the plant. Due to frequent failure of the by-pass system, the unit proposed (July 2008) to upgrade the by-pass system at a total cost of ₹ 2.50 crore. It was envisaged that the upgraded by-pass system would result in savings in operational cost to the extent of ₹ 1.47 crore *per annum*.

Audit noticed that, after obtaining (October 2010) administrative approval for the purchase of the by-pass system, purchase order (PO) was issued to a foreign supplier[109] in July 2012 at a cost of ₹ 2.28 crore. The complete system received in May 2014 was not installed in TTPS as of June 2015, as TANGEDCO could not synchronise installation of the by-pass system during

[109] M/s CCIAG, Switzerland.

execution of overhauling of the unit for 20 days in July 2014.

Audit analysis of the avoidable delays in upgradation of by-pass system revealed the following:

- After receipt of the proposal in July 2008 from TTPS, TANGEDCO ascertained the satisfactory performance of the upgraded by-pass system in the thermal station in Punjab and Neyveli Lignite Corporation in December 2008/January 2009. But, TANGEDCO took 20 months (February 2009 to October 2010) to obtain administrative approval for the purchase, without any valid reason on record.

- TANGEDCO issued tender enquiry to the single tenderer in January 2011 and opened the tender in March 2011. However, the Board Level Tender Committee accorded approval for the purchase only in June 2012, taking 19 months for evaluation of the tender, which was far in excess of the time limit of three months fixed for evaluation of all types of tender.

- TANGEDCO opened the Letter of Credit (LoC) for the purchase in April 2013. As per the terms of the PO, the material was required to be supplied within six months from the date of LoC, *i.e.*, before October 2013. However, the supplier completed the supply in all respects only by May 2014, with a delay of six months. TANGEDCO, however, did not levy liquidated damages, which worked out to ₹ 0.23 crore (being 10 *per cent* of the contract value of ₹ 2.28 crore) as per the terms of PO.

- The by-pass system received in May 2014 was installed in TTPS, only in August 2015, because TANGEDCO could not synchronise its installation during execution of overhauling of the unit for 20 days in July 2014, as it failed to give advance communication to the supplier for such installation.

Thus, the by-pass system, which was considered essential for improved operation of TTPS Unit-I (July 2008), was put into operation only in August 2015. Consequently, TANGEDCO could not reap the benefits of installation, to the extent of ₹ 7.35 crore, for over five[110] years at the rate of ₹ 1.47 crore *per annum* and also kept the system, procured at a cost of ₹ 2.28 crore, idle for two years.

The Government replied (August 2015) that, even though the by-pass system was not installed, the same did not result in any loss as no outage occurred since 2008. The fact, however, remains that the envisaged benefits of the new by-pass system did not accrue because of its non-installation.

[110] After ascertaining the satisfactory performance in January 2009, the system could have been installed in January 2010 (allowing three months each for administrative approval and finalisation of tender and six months for supply and erection of the system).

4.11 Loss of revenue

Inordinate delay in providing service connection resulted in foregoing potential revenue of ₹ 2.27 crore

Section 43(1) of the Electricity Act, 2003, read with Regulation 4 of Tamil Nadu Electricity Distribution Standards of Performance Regulation, 2004 (Regulations) issued (September 2004) by the Tamil Nadu Electricity Regulatory Commission (TNERC), stipulate that the distribution licencee *viz*., TANGEDCO shall provide High Tension (HT) service connections within 30 days, whenever such service connection does not involve extension or improvement work.

Audit noticed (January 2015) that a HT service connection involving a maximum demand of 3,500 KVA was provided to a consumer[111] after a delay of 26 months from the date of receipt of the application (23 March 2011 upto 27 June 2013), against the TNERC stipulation of maximum period of 30 days. The delay forced the TNERC to impose (August 2012) a token penalty of ₹ 1,000 on TANGEDCO for violating the provisions of the Electricity Act.

Audit analysis of the controllable factors that contributed to the excess time taken for extension of HT service revealed as under:

- The consumer's application (March 2011) for HT service connection was returned (July 2011) raising objections on the ownership of the land intended for discharge of the effluent water.
- The consumer's second application (April 2012) was also not processed, insisting upon (June 2012) production of renewed pollution control certificate and to resolve the way-leave[112] problem for erecting 22 KV feeder in extending the supply to SBPL.
- On the consumer's complaint (June 2012), TNERC held that the objections raised by TANGEDCO were not valid and directed (August 2012) it to extend the service connection from the existing wind farm feeder. However, TANGEDCO actually effected the service connection only on 27 June 2013, after further delay of eight months.

Audit observed that as per the Regulation of the Tamil Nadu Electricity Distribution Code (Distribution Code), it was not the responsibility of TANGEDCO to ascertain the validity or adequacy of the way-leave license or obtaining the permission for entering into the premises by the intending consumer, which was the sole responsibility of the consumer. Even after receiving directions from TNERC for effecting the service connection from the existing wind farm feeder in August 2012, TANGEDCO further delayed the service connection and provided the same only in June 2013, which ultimately resulted in overall delay of about 24 months and foregoing of potential revenue of ₹ 2.27 crore[113].

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111 M/s Srinivasa Balaji Papers (Private) Limited (SBPL).

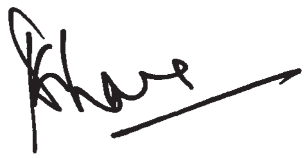
112 Way-leave is an approach path for erecting the feeder.

113 Demand charges of ₹ 300 per KVA per month X 24 months recoverable from the consumer for 90 *per cent* of the maximum demand, *i.e.*, 3,500 X 90 *per cent* = 3,150 KVA.

The Government replied (September 2015) that delay was on account of the consumer not providing documents proving legal occupation of land, pollution control certificate, *etc*. The reply is not convincing because delays had occurred due to observations by TANGEDCO on subjects, which were not under its purview, resulting in foregoing of potential revenue.

Chennai **(ALKA REHANI BHARDWAJ)**
The 21 March 2016 **Accountant General**
(Economic and Revenue Sector Audit),
Tamil Nadu

Countersigned



New Delhi **(SHASHI KANT SHARMA)**
The 22 March 2016 **Comptroller and Auditor General of India**