Compliance Audit Observations

Chapter III - Compliance Audit Observations

This chapter includes important audit findings emerging from test check during the compliance audit of the State Government companies/Statutory corporations.

Government Companies

DNP[1] Limited

3.1 Loss of revenue

The Company sustained a net revenue loss of ₹6.73 crore due to non-revision of transportation tariff on account of variation in the fuel cost.

Assam Gas Company Limited (AGCL) entered (June 2005) into a Gas Transportation Agreement (GTA) with Numaligarh Refinery Limited (NRL) for transportation of natural gas (NG). For the purpose, AGCL was to construct a pipeline from Duliajan to Numaligarh for transportation of 1.00 MMSCMD[2] of NG. DNP Limited (Company) was formed (March 2009) as a joint venture between AGCL, NRL and Oil India Limited (OIL). AGCL held more than 51 *per cent* equity stake in the Company and hence, the Company was a subsidiary of AGCL. AGCL assigned the GTA to the Company. The Company, accordingly, had taken over all the rights and obligations under the aforesaid agreement.

The Company commissioned (March 2011) the pipeline project required for transportation of the NG to NRL. A sub-committee comprising of members from AGCL, NRL and OIL determined the transportation tariff for transporting the NG to NRL. Based on the recommendations of the sub-committee, the Company fixed (March 2011) the transportation tariff at ₹ 2,496.32 per 1,000 SCM of NG. The transportation tariff was subject to increase at the rate of 3 *per cent* every year as per the GTA. Audit observed that while fixing the transportation tariff, the sub-

[1] DNP stood for Duliajan-Numaligarh Pipeline. The Company was, however, registered in the name of 'DNP Limited' as per the certificate of incorporation issued by the Registrar of Companies.

[2] MMSCMD = Million Standard Cubic Meter Per Day

committee considered a constant[3] amount of ₹ 592.80[4] per 1,000 SCM towards the transportation cost of NG required as fuel to run the compressor (fuel cost). The component of fuel cost was determined based on the base price of ₹ 8,000 per 1,000 SCM of NG.

Besides, the Company was also required to adjust the transportation tariff at ₹ 3.65 per 1,000 SCM for every variation (upward/downward) of ₹ 100 per 1,000 SCM in the price of NG (fuel cost) as per clause 8.03 of the GTA. The Company and NRL once again concurred (January 2012) to this factor[5] for variation in price of NG during the process of fixation of the transportation tariff.

Audit observed that the Company kept the price of NG constant ignoring the price variation (upward/downward) during the period from 2011-12 to 2016-17. This was contrary to the provisions of GTA and the subsequent resolution (January 2012) arrived at between the Company and NRL.

Month-wise analysis of price of NG during April 2011 to March 2017 revealed that the price of NG during the said period ranged between ₹ 6,068 and ₹ 13,554 per 1,000 SCM. Audit further, observed that the price of NG prevailing during 2012 to 2016 was higher than the base price of ₹ 8,000 per 1,000 SCM considered for fixation of transportation cost of NG. The price of NG was however, less than the base price during 10 months in 2011-12 (April-December 2011 and March 2012) and 6 months in 2016-17 (October 2016-March 2017).

The Company had not revised the transportation tariff of NRL despite the aforesaid variation in price of NG. The Company owing to non-revision of transportation tariff on account of variation in fuel cost as prescribed in the GTA had to sustain a net loss of ₹ 6.73 crore during April 2011 to March 2017.

The Government/Management stated (September 2017) that the Company had sought confirmation from NRL relating to price adjustment. The response of NRL on the issue was, however, pending (December 2017).

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3 The Company considered annual throughputs for the first and second year as 83 *per cent* and 80 *per cent* respectively and thereafter at 100 *per cent*.

4 It is the value of proportionate quantity of NG required for transportation of 1000 SCM of NG. The basis of calculation of the same is as follows: 2.47 *per cent* x 300 MMSCMD (pipeline throughput quantity) x ₹ 8,000 per 1,000 SCM = ₹ 592.80

5 Fuel cost adjustment = Actual NG transported to NRL in 1000 SCM x (actual price of NG per 1,000 SCM – base price of NG considered in transportation tariff) x ₹ 3.65 (for every variation of ₹ 100)

3.2 Non-recovery of capital cost

The Company could not recover the entry tax of ₹4.79 crore from NRL as a component of transportation tariff due to its omission to include the same in the project cost

Section 4(2) of the Assam Entry Tax Rule, 2008 (Rule) stipulated that any registered dealer/importer importing specified goods shall issue a road permit for importing such goods within the local area. Section 5(1) of the Rule further stipulated that every registered dealer liable to pay tax under the Assam Entry Tax Act, 2008 (Act), whose aggregate import value of specified goods imported in any assessment year exceeds ₹ 10 lakh, shall submit to the assessing authority a monthly statement of such import value before the expiry of the next succeeding month.

As mentioned under ***paragraph 3.1*** supra, AGCL entered (June 2005) into a GTA with NRL for transportation of 1.00 MMSCMD of NG. AGCL assigned (March 2009) the GTA to its subsidiary, namely, DNP Limited (Company). The Company as such took over all the rights and obligations under the aforesaid agreement.

AGCL issued (April 2008) work orders for procurement of pipes and other items amounting to ₹ 119.51 crore from the contractor (PSL Limited) for construction of the pipeline from Duliajan to Numaligarh.

As per the aforesaid Rule and the terms and conditions of the purchase order, the Company was liable to pay entry tax to Government of Assam (GoA) against the said procurement. The Company accordingly got itself registered (September 2008) as a dealer. The Company received the supplies against the above purchase order and also released the entire payment of ₹ 119.51 crore to PSL Limited within March 2010. The Company however, neither issued any road permit nor paid any entry tax against said procurements till that time (March 2010).

The Company commissioned the pipeline project in March 2011. The Company based on the actual project cost of ₹ 379.25 crore, fixed (March 2011) the transportation tariff of NG. The Company planned to recover the project cost along with the 'Return on Investment' within a span of 25 years. The Company thereafter, paid (August 2015 and March 2017) ₹ 4.79 crore as entry tax to the GoA on the procurements made against the work order issued in April 2008.

Audit observed that the above project cost did not include the entry tax component, which was paid (August 2015 and March 2017) after more than four years of fixing (March 2011) the transportation tariff. The Company also capitalised the amount of entry tax in its accounts (2016-17). The Company, however, could not recover the corresponding increase in the project cost of ₹ 4.79 crore through the transportation tariff.

The Company, thus, could not recover the entry tax (capital cost) of ₹ 4.79 crore from NRL as a component of transportation tariff due to its omission to include the same in the project cost.

Audit reported (August 2017) the matter to the Government/Company; their replies had not been received (December 2017).

3.3 Undue favour to contractors

The Company extended undue favour to the extent of ₹1.20 crore to contractors due to irregular release and non-deduction of welfare cess in violation of the extant Rules.

The Government of Assam (GoA) notified (August 2007) the Building and Other Construction Workers (RE&CS) Assam Rule, 2007 (Rules). GoA also constituted (February 2008) the Assam Building and Other Construction Workers Welfare Board (Board). The Building and Other Construction Workers Welfare Cess Act, 1996 (Act) accordingly became operative in the State with effect from 26 September 2007.

The Rules notified (August 2007) by GoA made it mandatory for all Government departments, public sector undertakings and other Government bodies to get themselves registered with the District Officer concerned of the Labour Department. The Rules further provided that the said departments/bodies must mandatorily deduct one *per cent* of the cost of construction towards welfare cess (Cess) from the construction bills of the contractors at the time of releasing the payment. The Company was to remit the amount so deducted to the Board by way of 'Account Payee' cheque within 30 days of releasing the payment to the contractor.

DNP Limited (Company) withheld an amount aggregating ₹ 1.01 crore after the Audit had pointed out (February 2013) the lapse on part of the Company in deducting and remitting the Cess amount to the Board. The Cess amount so withheld pertained to the bills of eight contractors received (January–June 2013) against work orders issued from November 2008 onwards.

During the conduct of subsequent audit (September 2016), Audit observed that the Company had not remitted the Cess amount deducted from the said eight contractors to the Board. The Company instead irregularly released (January 2014 to March 2016) the said Cess amount to the respective contractors while releasing payment against their final bills.

During examination of the records, Audit further noticed that the Company did not deduct the Cess amount (₹ 0.19 crore) in respect of two different work orders issued (December 2008–December 2009) in favour of one of the said eight contractors (Mid East Pipeline Products Limited). The Company had settled the final bills against above two work orders in July 2014.

The Company, thus, extended undue favour to the extent of ₹ 1.20 crore to contractors due to irregular release (₹ 1.01 crore) and non-deduction (₹ 0.19 crore) of welfare cess in violation of the extant Rules.

The Government/Management stated (August 2017) that the Company did not remit the Cess to the Board due to ignorance on their part. The Government/Management further stated that the Company had started deducting the Cess after it came to know about the legal provisions.

The reply was not acceptable as the Company should have deducted and remitted the Cess to the authorities concerned in accordance with the applicable Act/Rules.

Assam Power Distribution Company Limited

3.4 Violation of AERC Regulations

The Company incurred a loss of revenue of ₹2.17 crore against theft cases due to preparation of bills based on 'average consumption' instead of applying the formula prescribed under the AERC Regulations.

Assam Electricity Regulatory Commission (AERC) notified the Electricity Supply Code and Related Matters Regulations, 2004 (First Amendment-2007), (Regulation). The Regulations in relation to interference with metering system and unmetered/theft of electricity inter alia stated that:

(i) The Company shall serve a compensation bill to the consumer as per *clause 5.A.4.4* if it detects any interference with the meter and metering system. A consumer aggrieved by such assessment may appeal to the appropriate Appellate Authority[6] as prescribed by the Government of Assam (GoA) against such assessment. (*clause-5.A.4.3*)

(ii) When a consumer indulges in the theft of electricity, the officer authorised in this behalf by the GoA, without prejudice to its other rights, will assess the quantum of electricity loss. It would be on assessed consumption of detected category as per

[6] GoA constituted the above Appellate Authority as per section 127 of the Electricity Act, 2003. It was to function within the purview of the Electricity Act, 2003 and the AERC regulations.

Table under *clause 6.2.1.1* and connected load for a period of 12 months prior to the date of detection. The Company shall bill the consumer at the rate of two times of the existing tariff. (*clause-5.A.4.4*)

Examination of records (June 2016) of Assam Power Distribution Company Limited (Company) revealed two instances of unlawful interference with the meter by the consumers. It tantamount to theft of electricity under Section 135 of the Electricity Act, 2003. The Company, however, billed the consumers contrary to the provisions of the above clauses of AERC as discussed in subsequent paragraphs.

A. The officials of the Company conducted (July 2014) an inspection of the premises of Shree Sanyeeji Ispat Limited (consumer-1). During inspection, the officials found the consumer drawing power by tampering the meter. The Company officials further noticed absence of display in the meter, broken seals and meter cover as well as cracks on the communication port of the meter.

The Company served (October 2014) an assessment bill amounting to ₹ 1.59 crore covering the period from 1 March 2013 to 30 June 2014. The meter reading information of 10 April 2014, inspection report and subsequent test report of the meter from its manufacturer served as a basis for the above assessment bill. Aggrieved by the assessment bill, the consumer preferred (October 2014) an appeal before the Appellate Authority (AA) of the Company. The consumer pleaded for re-assessment of the correctness of the findings of the inspection and the assessment bill.

The AA after hearing both the parties, confirmed (January 2016) the meter-tampering event. The AA, however, directed the Company to prepare an assessment bill for a period of 84 days from 10 April 2014 to 4 July 2014 based on the 'average consumption' for the succeeding five months (July to November 2014). Audit observed that the methodology suggested by AA to prepare the assessment bill was contrary to the rates/formula prescribed under *clause 5.A.4.4* of AERC. The Company, however, revised (March 2016) the assessment bill to ₹ 0.22 crore as per the directions of AA and recovered (April 2016) the said amount through monthly bills of the consumer.

Audit observed that the assessment bill amount of the consumer for the said period of 84 days as per the formula prescribed under AERC Regulations worked out to ₹ 1.75 crore.

The Company thus suffered a revenue loss of ₹ 1.53 crore (₹ 1.75 crore - ₹ 0.22 crore) by billing the consumer based on average consumption as per the directions of AA instead of billing as per the formula prescribed under AERC Regulations.

B. In a similar instance, the officials of the Company conducted (27 August 2014) an inspection of the premises of Shiv Alloy Steel (consumer-2). The Company officials found the consumer drawing power by tampering the meter. The Company officials observed that the front meter cover was not original and also noticed cracks on the body of the meter. The Company accordingly served (September 2014) an assessment bill amounting to ₹ 0.67 crore to the consumer for a period of 18 months[7] (5 March 2013 to 27 August 2014). Aggrieved by the assessment bill, the consumer preferred (October 2014) an appeal before the AA of the Company.

The AA confirmed (March 2015) the meter tampering by the consumer. The AA, however, directed the Company to revise the bill for the period of 288 days from 12 November 2013[8] to 27 August 2014. Audit observed that the AA did not give any clear directions on the rates and methodology for preparing the assessment bill. The Company, however, revised (March 2015) the assessment bill to ₹ 0.19 crore for the said period of 288 days based on the average consumption of four months (August to November 2012). Audit observed that the methodology adopted to prepare the assessment bill was contrary to the rates/formula prescribed under *clause 5.A.4.4* of AERC Regulations. The Company recovered (March 2015) the amount through the monthly bill of the consumer.

Audit, however, observed that the assessment bill of the consumer worked out to ₹ 0.83 crore for the period of 288 days (12 November 2013 to 27 August 2014) in accordance with the formula prescribed under AERC Regulations.

The Company thus, suffered a revenue loss of ₹ 0.64 crore (₹ 0.83 crore - ₹ 0.19 crore) due to billing the consumer at ‘average consumption’ instead of applying the formula as per AERC Regulations.

Audit observed that in both the above cases, the Company prepared the assessment bills based on the ‘average consumption’, which was not in line with the Regulations/Rules prescribed by AERC. Audit further observed that the basis of average consumption adopted was applicable for preparation of assessment bills in case of incorrect or stopped meter (*clause 4.2.2.4*), where there is no malafide intent of the consumers. The instant cases, however, involved tampering of meters, which tantamount to theft and were the wilful acts on the part of the consumers. The Company hence, should have applied the provision of *clause 5.A.4.4* of AERC Regulations in these cases. The Company also did not approach the higher courts or the AERC for redressal of the financial loss caused due to the order of the AA.

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7 The Company preferred the bill for a period of 18 months considering the date of detection of the meter-tampering event.

8 This was the date on which the inspection team of the Company visited the consumer premises and found the meter all right.

The Company thus, had to suffer a loss of revenue of ₹ 2.17 crore (₹ 1.53 crore + ₹ 0.64 crore) by improperly billing consumers against theft cases in contravention to the AERC Regulations.

The Government/Management stated (July 2017) that they had prepared the assessment bills on the basis of the verdict of the AA.

The fact however, remained that the Management accepted the verdict of AA which was in contravention to the provisions of AERC without challenging the same before the appropriate authority.

3.5 Violation of AERC Regulations

The Company incurred a loss of ₹1.29 crore due to failure to supply electricity at the specified voltage level in accordance with the AERC Regulations

Assam Electricity Regulatory Commission (AERC) notified the Electricity Supply Code and Related Matters Regulations, 2004 (First Amendment-2007), (Regulations). The Regulations inter alia stated that:

(i) The Company was to determine the voltage of supply to consumers on the basis of the contract demand of the consumer. The Company was to supply electricity at a voltage level of 132/220 KV for any consumer having a contract demand of above 5,000 KVA. (*clause 2.2*)

(ii) The supply was to be at 11 KV or above in case the connected/contracted load of any new connection is to be at 25 KVA or more. The consumer was to install a separate transformer of adequate capacity at his own cost. (*clause 3.5.4*)

Assam Power Distribution Company Limited (Company) entered into an agreement (November 2011) with Purbanchal Cements Limited[9] with contract demand of 5,294 KVA. The Company, however, supplied (April 2013 to March 2017) electricity at 33/132 KV voltage level from its 132/33 KV sub-station in contravention to *clause 2.2* of the Regulations. The supply at voltage level of 33/132 KV was applicable to consumers having a connected load in the range of 1,200 KVA and 5,000 KVA with a specified voltage level of 132/220 KV. The Company, further, did not insist upon the consumer to construct a dedicated 132/33 KV substation, which was also in contravention of the Regulations (*clause 3.5.4*).

[9] billed under Industrial Revenue Collection Area (IRCA-I) of the Company

The 132/33 KV sub-station received power at 132 KV voltage. The Company had to step-down the voltage level to 33 KV to supply the electricity at the voltage level of 33/132 KV. During this process of transformation of electricity from a higher to lower voltage level, there was an inherent transformation loss. The Company assessed the said transformation loss in the range of 4 to 5 *per cent*.

The Electricity Tariff approved by AERC extended a rebate of 3 *per cent* to the consumers that further substantiates the incidence of transformation loss in supply of electricity at lower voltage. This was in consideration of the potential savings in the energy loss for supply of electricity at higher voltage level than prescribed.

The Company thus incurred an energy loss of 23,73,433 kWh[10] valued at ₹ 1.29 crore on account of transformation of electricity from higher to lower voltage level. The said energy loss was due to supply (April 2013 to March 2017) of electricity to the consumer at a lower voltage level than specified under AERC Regulations.

The Company thus had to incur a loss of ₹ 1.29 crore due to failure to supply electricity at the specified voltage level in accordance with the AERC Regulations.

The Management stated (September 2017) that there was no provision in the Electricity Tariff to bill additional energy consumption against the energy loss involved in supplying power at lower voltage to the consumer.

The fact however, remained that the Company should have followed AERC norms in supplying power at the specified voltage level. The supply of power at a lower voltage level itself was irregular and in contravention to AERC Regulations.

Audit reported (June 2017) the matter to the Government; their replies had not been received (December 2017).

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[10] Audit has considered the rate of 3 *per cent* allowed as rebate under the Electricity Tariff to work out the energy loss (transformation loss) involved in the process of transformation of electricity from higher voltage to lower voltage.

Assam Small Industries Development Corporation Limited

3.6 Undue benefit

The Company extended an undue benefit of ₹ 1.54 crore to the suppliers at the cost of State exchequer due to fixation of rates on the higher side.

The Assam Small Industries Development Corporation Limited (Company) dealt in procurement and supply of different items based on the requests of various Departments of Government of Assam. The Company procured the said items under the 'Marketing Assistance Scheme' of the Assam Preferential Stores Purchase Act, 1989 (Act).

The Act inter alia provided that the items for supply to Government Departments must be procured from the Small scale and cottage industries (SSI). The Act, further stipulated that in order to ensure reasonable and fair prices of the items, the Company should invite tenders by advertisement in three or four local newspapers in three consecutive issues giving one-month time to the SSI units.

The Inspector General of Police, Logistic (IGP) of Assam requested (August 2011) the Company to provide rates for supply of steel cots as per specification. The Company accordingly obtained (September 2011) rate quotations from few SSI units on an *ad hoc* basis for the items required in manufacturing of steel cot. The Company, however, did not obtain the quotations through open tendering in violation of the Act. The Technical Committee (TC) of the Company approved (November 2011) a composite rate of ₹ 3,958 *per* steel cot based on the item-wise rate quotations obtained by the Company.

Audit examined the cost analysis of the steel cot to ascertain the reasonableness of the composite rate fixed by the TC. Audit observed that the composite rate of steel cot as fixed by TC included ₹ 1,917.50 (₹ 118 per sq. ft. x 16.25 sq. ft. dimension) for 19 mm Block Board (a component of the steel cot). Audit further observed that the rate of Block Board considered (₹ 118 per sq. ft.) by TC for fixing the composite rate of steel cot was higher by ₹ 45 per sq. ft. in comparison to the market rate (₹ 73 per sq. ft.) that prevailed during the same period (September 2011). Audit worked out the cost of Block Board required for each steel cot at ₹ 1,186.25[11] based on the market rate. This was lower than the rate fixed by the TC by ₹ 731.25 (₹ 1,917.50 - ₹ 1,186.25).

The Company issued 50 supply orders on 23 suppliers for procurement of 21,005 steel cots at the rate of ₹ 3,958 *per* steel cot during the period from August 2012 to

[11] ₹ 73 *per* sq. ft. x 16.25 sq. ft. dimension

October 2015. The suppliers supplied (December 2012 to August 2016) the entire quantity of cots to the different offices under the IGP at a cost of ₹ 8.31 crore.

The Company thus extended an undue benefit of ₹ 1.54 crore[12] to the suppliers at the cost of the State exchequer. It was due to non-compliance with the provisions of the Act in procurement of steel cots and fixation of rates on the higher side.

Audit reported (June 2017) the matter to the Government/Company; their replies had not been received (December 2017).

Assam Power Generation Corporation Limited

3.7 Incentive foregone

The Company had to forego the 'efficiency incentive' amounting to ₹1.17 crore due to incorrect classification of a hydroelectric project, which was eligible for higher incentive.

Assam Electricity Regulatory Commission (AERC) notified the Terms and Conditions for Determination of Tariff Regulations, 2006 (Regulation). The Regulations *inter alia* stated that:

The Company was entitled to receive an 'efficiency incentive', when the capacity index exceeds 90 *per cent* for 'purely run-of-river power generating stations' and 85 *per cent* for 'run-of-river power station with pondage'. This was applicable in case of all the generating stations including new generating stations from the first year of operation. The incentive would accrue up to a maximum capacity index of 100 *per cent*. The Company was entitled to receive the 'efficiency incentive' in accordance with the prescribed formula[13]. (*clause 70.1*)

Assam Power Generation Corporation Limited (Company) commissioned the 2x50 MW Karbi Langpi hydroelectric project (Project) during March 2007. As per the Detailed Project Report (DPR), the Company was to classify the Project as a 'run-of-river project with pondage'.

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[12] 21,005 x ₹ 731.25 = ₹ 1.54 crore

[13] Incentive = 0.65 x annual fixed charge x (capacity index achieved – standard capacity index)

The Company however, incorrectly classified the Project as a 'purely run-of-river project' while submitting (June 2014) the true-up[14] petition for the year 2012-13 to AERC. AERC, based on Company's submission, allowed (November 2014) an 'efficiency incentive' of ₹ 0.58 crore vide its tariff order after considering the standard capacity index of 90 *per cent*.

The Company had submitted (December 2014) the true-up petition for the year 2013-14 to AERC. Audit observed that in the true-up petition for 2013-14, the Company admitted its mistake of wrongly classifying the project in the true-up petition for 2012-13 as a 'purely run-of-river project' instead of a 'run-of-river project with pondage'. The Company in support of its claim, submitted the DPR of the project to AERC. The AERC accepted the plea of the Company and considered (July 2015) the Project to be a 'run-of-river project with pondage'. The AERC accordingly allowed an efficiency incentive at the standard capacity index of 85 *per ce*nt for the year 2013-14.

The Company, however, could not recover any efficiency incentive for the years prior to 2013-14 due to incorrect classification of the Project. Audit analysed the true-up petition of the Company for the year 2012-13, wherein the AERC had allowed ₹ 0.58 crore[15] based on the incorrect classification of the project. Audit observed that the Company would have received an additional efficiency incentive of ₹ 1.75 crore[16] for the year 2012-13, if it would have correctly classified the Project as 'run-of-river project with pondage'.

The Government/Management in its reply (November 2017) accepted that it did not claim the incentive for the year 2012-13. The Government/Management further stated that the Company started filing the claim from 2013-14 after coming to know that the project is a 'run-of-river project with pondage'.

The fact, however, remained that the Company classified the project incorrectly for which it had to forego revenue.

The Company thus had to forego the 'efficiency incentive' amounting to ₹ 1.17 crore (₹ 1.75 crore - ₹ 0.58 crore) for the period 2012-13, due to incorrect classification of the project.

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[14] True-Up is a comparison of the audited performance of the Generation Company for the previous financial year with the approved forecast of Aggregate Revenue Requirement and expected revenue from tariff and charges. Upon completion of the True-up, the AERC passes an order recording the amount of such gains or losses shared with the Generation Company in accordance with regulations.

[15] Incentive received = 0.65 x 35.92 x (92.50 - 90) / 100 = ₹ 0.58 crore

[16] Incentive receivable = 0.65 x 35.92 x (92.50 - 85) / 100 = ₹ 1.75 crore

Assam Electronics Development Corporation Limited

3.8 Avoidable expenditure

The Company incurred interest cost of ₹18.77 lakh due to non-remittance of service tax to tax authorities within the prescribed time.

As per the provisions of the Finance Act, 1994, read with Service Tax Rules, 1994, notified by the Government of India (GoI):

A. Every person liable to pay service tax (assessee) was required to assess the tax due on the services provided by him. The assessee was also required to furnish a return to the Superintendent of Central Excise in such form and in such manner and at such frequency as prescribed. (Section 70)

B. The assessee was required to pay the service tax to the credit of the GoI by the 6th day of the month immediately following the calendar month in which the service takes place. (Rule 6)

C. Every person, who fails to credit the tax or any part thereof to the account of the GoI within the period prescribed shall pay simple interest. The said interest would be at such rate not below 10 *per cent* and not exceeding 36 *per cent* per annum. It would be for the period for which the person delays such crediting of the tax or part thereof. (Section 75)

Audit observed that Assam Electronics Development Corporation Limited (Company) paid (April 2011 to March 2016) ₹ 18.77 lakh to tax authorities as interest for delay in remittance of service tax. The Company was liable to pay the service tax by the 6th day of the month immediately following the calendar month. The Company however, computed and filed its service tax return during November 2012 (for the period April 2011 to March 2012) with delays ranging between 216 to 552 days. The Company from July 2012 onwards computed and filed returns on a half-yearly basis and deposited the service tax with delays ranging between 13 to 296 days. As a result, the Company had to pay interest[17] aggregating ₹ 18.77 lakh for delay in remittance of service tax.

[17] 18 *per cent* from 1 April 2011 to 30 September 2014 and from 1 October 2014 onwards at 18 *per cent* (first 6 months), 24 *per cent* (7 to 12 months) and 30 *per cent* (for the period beyond 12 months).

The Company should have been proactive in preparing the monthly returns and remitting the service tax to tax authorities as this was a statutory requirement. Any lapses as such in timely payment of service tax attracted interest liability.

The Company thus had to bear the interest cost of ₹ 18.77 lakh due to delayed remittance of service tax.

Audit reported (April 2017) the matter to the Government/Company; their replies had not been received (December 2017).

Assam State Textbook Production and Publication Corporation Limited

3.9 Lapses in internal control

Introduction

The Government of Assam (GoA) incorporated (March 1972) the Assam State Textbook Production and Publication Corporation Limited (Company) as a wholly owned State Public Sector Undertaking (SPSU). The objectives of the Company was to publish, print, and supply textbooks for primary and secondary education in the State of Assam.

The GoA entrusted (March 2009) the Company with the responsibility of procuring the text paper as well as printing and distribution of textbooks under Axom Sarba Siksha Abhijan (ASSA) and Director of Secondary Education (DSE). The Company was to cater to the needs of the students of Class I to VIII for ASSA and Class IX to X for DSE. The Company's annual accounts were in arrears since 1993-94 onwards. The Company was a profit making entity as per the provisional accounts for the years from 2013-14 to 2015-16. The Company earned profits amounting to ₹ 12.17 crore (2013-14), ₹ 8.83 crore (2014-15) and ₹ 6.23 crore (2015-16). The contribution of the service charges received against supply of textbooks to ASSA and DSE to the net profits of the Company for the three years under reference was 36.73 *per cent* (2013-14), 56.17 *per cent* (2014-15) and 75.60 *per cent* (2015-16)[18]. The Company, however, did not compile its accounts for 2016-17 so far (October 2017).

Audit test-checked (June 2017) the activities of the Company covering the period from April 2015 to March 2017. The Audit objective was to assess whether the internal control system prevailing in the Company was adequate to ensure economy

[18] Service charge received from ASSA amounted to ₹ 4.47 crore (2013-14), ₹ 4.96 crore (2014-15) and ₹ 4.71 crore (2015-16)

and efficiency in providing its services towards printing and distribution of textbooks to indenting departments/agencies within the given timeframe.

Audit analysis brought out inadequacies in the internal control mechanism of the Company. This resulted in deficiencies in procurement of text paper, printing and distribution of textbooks as discussed in succeeding paragraphs.

Audit findings

3.9.1 Overall position of textbooks required, printed and distributed

ASSA and DSE provided the enrolment figures for each academic year (January to December) to the Company by 30 June each year. The Company assessed the requirement of textbooks to be printed and distributed by these agencies during the next academic year starting from January. Based on the above, the Company annually assessed the requirement of text paper for each academic year (January to December). The Company was responsible to ensure availability of textbooks to students before commencement of the academic year[19]. It was thus, pertinent for the Company to arrange the printed textbooks for distribution to the students before 31 December every year.

The Company engaged the suppliers of text paper through Notice inviting Tenders (NIT) for each of the academic years after due approval of the Tender Committee (TC). The TC of the Company consisted of one representative each from GoA and ASSA. The TC fixed the rates for procurement of text paper based on the quotations obtained from the suppliers. The Company similarly, engaged printers and distributors for printing and distribution of textbooks through NIT. The Company, thereafter, entered into separate agreements with the suppliers/printers/distributors for execution of their respective jobs. ***Table-3.1*** highlights the details of textbooks required, printed and distributed for the academic years from 2015 to 2017.

Table-3.1

(in crore)

Academic Year	Total requirement of textbooks	Total textbooks printed	Total textbooks distributed
2015	2.45	2.45	2.45
2016	2.25	2.25	2.25
2017	3.26	3.26	3.26

Source: Documents furnished by the Company

[19] January to December

The deficiencies noticed by Audit in procurement of text paper, printing and distribution of textbooks have been discussed in the subsequent paragraphs. These deficiencies were mainly attributable to inadequacies in the internal control mechanism of the Company.

3.9.2 Planning for procurement of text paper

The indenting departments (ASSA and DSE) were to place preliminary orders for printing and supply of textbooks to the Company on or before 30 June every year. The State Level Empowered Committee[20] of GoA was then to approve the same. There were considerable delays between the actual receipt of preliminary orders from indenting departments for printing and supply of textbooks *vis-a-vis* the prescribed dates. ***Table-3.2*** highlights the delays in submission of preliminary orders by ASSA/DSE for the academic years from 2015 to 2017.

Table-3.2

Academic Year[21]	Submission of preliminary order by ASSA/DSE		Delay in submission of preliminary order by ASSA/DSE (in days)
	Due date	Actual date	
2015	30 June 2014	12 September 2014	74
2016	30 June 2015	17 November 2015	140
2017	30 June 2016	09 July 2016	9

Source: Documents furnished by the Company

As seen from ***Table-3.2***, there was a delay of 74 days and 140 days in submission of preliminary orders by ASSA during the academic year 2015 and 2016 respectively. There was a minor delay of 9 days during 2017.

The Company, however, in anticipation of receipt of preliminary orders and based on previous experience, initiated advance action for procurement of text paper (issue of NIT, testing of sample paper *etc*.). The Company initiated the advance action to ensure timely supply of printed textbooks. The Company as such issued NIT in advance prior to receipt of preliminary orders from the indenting departments for three academic years under reference.

Table-3.3 highlights the details of procurement of text paper by the Company on behalf of ASSA and DSE and the actual date of completion of delivery of textbooks for the academic years from 2015 to 2017.

[20] The Education Minister, GoA headed the committee with representatives from Education Department, GoA; Mission Director, ASSA and Managing Director of the Company.

[21] During first two academic years (2015 and 2016), there were no supplies from DSE.

Table-3.3

Academic Year	Date of NIT	Date of supply order	Time taken in issuing supply order after NIT (in days)	Schedule date of completion of supply	Date of completion of supply	Time taken in supply after scheduled date (in days)
2015	05 June 2014	05 September 2014	90	20 October 2014	04 November 2014	14
2016	26 May 2015	30 November 2015	187	20 December 2015	04 December 2015	-
2017	29 July 2016	26 September 2016	58	10 November 2016	06 February 2017	87

Source: Documents furnished by the Company

As seen from ***Table-3.3***, the Company took a considerable time in issuing supply orders after floating the NIT ranging between 58 days (2017) and 187 days (2016). The suppliers also delayed supply by 14 and 87 days from the scheduled date of supply for the academic year 2015 and 2017 respectively. This led to corresponding delay in printing and final distribution of textbooks as discussed in ***paragraph 3.9.3***. The Company did not take any action against suppliers for this delay as discussed in ***paragraph 3.9.8***, though there was enabling provision in the agreement to impose penalty for delay in supply of text paper.

The Management stated (October 2017) that the delay in procurement of paper was due to circumstances beyond the control of the Company. The Management further stated that it had advanced the procurement process for the academic year 2018.

The reply was not tenable as the Company in anticipation of receipt of preliminary orders issued NIT for procurement of text paper in advance in all the years covered under audit. The Company however took inordinate time in issuing supply orders after the NIT. There was also lack of effort on part of the Company to penalize the suppliers for delay in supply as discussed under ***paragraph 3.9.8***.

3.9.3 Lapses in printing of textbooks

The Company carried out the work of printing of textbooks through printers selected on nomination basis as per the approved schedule of rate. ***Table-3.4*** highlights the summarised position regarding the date of issue of printing orders and the actual date of delivery of printed textbooks for the academic years from 2015 to 2017.

Table-3.4

Academic Year	Date of NIT	Date of issue of printing orders	No. of printing orders	Time gap between first and last order (in days)
2015	08 June 2014	04 September 2014 to 22 January 2015	374	139
2016	10 June 2015	30 October 2015 to 30 December 2015	296	60
2017	19 August 2016	25 October 2016 to 08 February 2017	434	105

Source: Documents furnished by the Company

As could be seen from ***Table-3.4***, the Company did not observe consistency in award of printing orders of textbooks to the printers after issuing of NIT. The Company issued the first and the last printing orders for three academic years after significant time gaps of 139 days (2015); 60 days (2016) and 105 days (2017). These delays had corresponding impact on the final distribution of printed textbooks to students.

Table-3.5 highlights the delays occurresd in final delivery of the textbooks during the three academic years from 2015-2017 with reference to the scheduled date of delivery.

Table-3.5

Academic Year	Date of issue of printing orders	Scheduled date of delivery of textbooks as per MoU signed with indenting department	Date of completion of delivery of textbooks	Period of delay (in days)
2015	04 September 2014 to 22 January 2015	20 December 2014	20 March 2015	89
2016	30 October 2015 to 30 December 2015	30 December 2015	26 February 2016	57
2017	25 October 2016 to 08 February 2017	31 December 2016	10 March 2017	68

Source: Documents furnished by the Company

As could be seen from ***Table-3.5***, the inordinate delays in issue of printing orders to the printers as discussed under previous paragraph had correspondingly delayed final delivery of textbooks. The period of this delay ranged between 57 to 89 days for three academic years with reference to the scheduled date of completion of delivery. This resulted in non-achievement of the basic objective of the Company to deliver the textbooks to the students before the start of each academic year (2015-17).

The Management did not submit any specific reply on the issue.

3.9.4 Non-execution of contracts as per norms

As per clause 16 of the printing agreements entered with the printers, the Company was to provide the text paper to the printers against bank guarantee of 5 *per cent* of the full value of text paper. The Company supplied 28,183 MT of text paper and 1,810 MT of cover paper valuing ₹ 169.89 crore to 169 printers for the academic years from 2015 to 2017. Audit noticed that there was no evidence on record relating to obtaining of the bank guarantee amounting to ₹ 8.49 crore from the printers as per the agreement. This left the Company exposed to the risk of non-execution of the printing works within the stipulated time.

Audit further, observed that the Company engaged 169 printers to execute the work relating to printing of textbooks for the academic years 2015-17. The Company however, did not execute formal agreement with 33 printers to formalise the rights and responsibilities of two parties. The Company in absence of formal agreements did not have any legal option to take action against the printers who defaulted in fulfilling their obligations.

The above instances indicated failure of the internal control mechanism of the Company in safeguarding its interests against the risk of delay in printing and supplying the textbooks within the prescribed timeframe.

The Management stated (October 2017) that it could not execute the formal agreements with the printers as there was a huge outstanding liability towards the printers at the end of each year.

The reply confirmed absence of an effective monitoring mechanism in the Company to ensure its efficient functioning on execution of printing orders as per agreement terms.

Other issues:

3.9.5 Excess procurement of text paper

As per the agreement between the ASSA and the Company, the Company was to assess the text paper requirements for printing based on the requirement for the textbooks as well as the surplus stock of text paper available with it. ***Table-3.6*** highlights the year-wise position of closing stock of text paper lying in the stores of the Company for the three academic years from 2015 to 2017.

Table-3.6

Academic Year	Opening stock (in MT)	Purchases (in MT)	Utilised (in MT)	Closing stock (in MT)
2015	355	9,182	8,986	551
2016	551	7,688	8,183	56
2017	56	13,285	11,014	2,327[22]
Total		**30,155**	**28,183**	

Source: Documents furnished by the Company

As could be seen from ***Table-3.6***, the Company had significantly higher stock of 2,327 MT of text paper at the end of academic year 2017. Audit analysis revealed that for the academic year 2017, the Company issued (September 2016) supply order in favour of Hindustan Paper Corporation Limited (HPCL). HPCL was to supply 9,400 MT of text paper by November 2016. Against this, HPCL supplied (till December 2016) only 7,124 MT of text paper. The Company subsequently received an indent (December 2016) from DSE for printing of textbooks for Class IX and X. While delivery of balance quantity (2,276 MT) of text paper was pending from HPCL, the Company assessed (January 2017) an additional requirement of 2,313 MT of text paper.

The Company accordingly issued (10 January 2017) orders for procurement of 4,500 MT of text paper. The Company had issued the supply orders in equal proportion (2,250 MT each) on two suppliers, namely, N.R. Agarwal Industries Limited (NRAIL) and Shah Paper Mills Limited (SPML). The suppliers were to complete the supply by February 2017. The Company further placed (12 January 2017) another order for supply of 1,100 MT valuing ₹ 6.67 crore in favour of Khanna Paper Mills Limited (KPML). The Company cited the possibility of delay in supply of text paper by one supplier (SPML) while issuing the supply order on KPML. The Company did not even obtain confirmation from SPML on probable delay in supply before placing the additional order (1,100 MT).

The three suppliers supplied (February 2017) 4,500 MT (NRAIL and SPML) and 1,095 MT (KPML) of text paper. HPCL also supplied (March 2017) another 566 MT of text paper out of the remaining quantity of paper (2,276 MT) against the

[22] Physical verification of stock as on 31 March 2017 showed the actual stock was 2,608 MT of text paper.

supply order issued in September 2016. The Company thus procured 13,285 MT[23] of text paper for the academic year 2017 against the assessed requirement of 11,713 MT. The Company, however, could utilise only 11,014 MT of text paper for printing of textbooks and the balance quantity of 2,271 MT valuing ₹ 12.25 crore[24] remained unutilised (September 2017).

The above instance was indicative of inadequate inventory management of the Company in ensuring accurate assessment of text paper requirements after factoring in the availability of stock lying with it. The Company's holding of excess stock was fraught with the risk of deterioration due to prolonged storage besides blocking of significant funds in the cost of unutilised stock.

The Management stated (October 2017) that it placed the order for additional text paper as buffer stock. This was essential to address any additional requirements of books.

The reply of the Company was not tenable, as the agreement with the indenting department did not provide for procurement of any surplus stock. Further, the Company while placing additional supply order had neither took cognizance of the pending delivery against supply order issued to HPCL nor pursued with HPCL to expedite the delivery.

3.9.6 Unjustified expenditure on procurement of text paper

The Company procured (January 2017) 2,276 MT of text paper from two suppliers (NRAIL and SPML) owing to the inability of HPCL to supply the text paper in time as discussed under ***paragraph 3.9.5*** *supra*. Audit observed that against the supply order issued (September 2016) in favour of HPCL, the procurement rate of ₹ 53,946 per MT was applicable. Audit observed that the Company procured (January 2017) the text paper from other two suppliers (NRAIL and SPML) at higher rate of ₹ 60,647 per MT. The Company thus incurred an additional expenditure of ₹ 1.53 crore[25].

As per the standard practice, the supplier should bear the extra cost, if any, due to default of supplier in fulfilling the contractual obligations. This arrangement was a prudent practice, which the Company should have formalised in the supply agreement through insertion of a 'Risk and Cost' clause. Audit observed that this clause was not a part of the agreement with the HPCL. The Company as such could not recover the additional expenditure incurred because of default in timely supply of text paper by HPCL from the bills of HPCL. Further, HPCL had defaulted in

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[23] 7,124 MT + 4,500 MT + 1,095 MT + 566 MT = 13,285 MT

[24] 2,271 MT x ₹ 53,946 = ₹ 12.25 crore

[25] 2,276 MT x (₹ 60,647 – ₹ 53,946)

supply of 2,276 MT against the supply order of September 2016. HPCL had subsequently supplied (March 2017) 566 MT of text paper out of this pending supplies as the Company did not cancel the supply order despite the default of HPCL in supplying the text paper. The said supply (566 MT) ultimately added to the idle/surplus stock of the Company and resulted in an avoidable expenditure of ₹ 3.05 crore[26].

The Management in reply stated (October 2017) that HPCL stopped production of text paper mid-way due to extraordinary circumstances.

The reply was not tenable as there was no 'Risk and Cost' clause in the supply agreement entered with HPCL. The Company in absence of this could not ensure the certainty in the supply of the text paper within the scheduled date.

3.9.7 Selection of suppliers

The Company issued (May 2015) NIT for procurement of 9,110 MT of text paper from reputed paper manufacturing mills/accredited stockist of SPSUs. The Company in response to the NIT received bids from six text paper suppliers[27] and one stockist *viz.* Pragati Paper Converters Limited (PPCL) of HPCL. The other bidders during evaluation (3 July 2015) of the bids by the Tender Committee (TC) objected to the opening of the bid of PPCL. They requested the TC to consider HPCL and its stockist (PPCL) as single bidder and disallow them to participate in the NIT. The TC, however, ignoring the plea, awarded (7 August 2015) the supply order to PPCL, being the lowest bidder.

HPCL thereafter requested (September 2015) the Company not to involve PPCL in supply of text paper. It was because of an embargo[28] imposed by the vigilance wing of the Department of Heavy Industries, Government of India. The Company, accordingly, cancelled the supply order of PPCL. It issued (30 November 2015) fresh work orders for supply of 7,688 MT of text paper to four suppliers[29] at the quoted rate of PPCL.

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[26] 566 MT x ₹ 53,946 = ₹ 3.05 crore

[27] HPCL, Satia Industries Limited, Shreyans Industries Limited, Qunatum Paper Limited, Delta Paper Mills Limited and Trident Limited.

[28] Vigilance department of Department of Heavy Industries, Ministry of Heavy Industries & Public Enterprises directed (September 1995) Central Public Sector Enterprises not to engage private agents to procure orders from other Central/State PSUs.

[29] Satia Industries Limited, Shreyans Industries Limited, Delta Paper Mills Limited and Trident Limited.

The Company thus took inordinate time (150 days[30]) in issue of supply orders of text paper due to wilful subversion of the tender condition regarding procurement of text paper from manufacturing mills.

The Management stated (October 2017) that PPCL had submitted a written undertaking from HPCL to produce and supply text paper in case PPCL received the supply order from the Company.

The reply was not acceptable, as the Company violated the terms and conditions of the bid document by considering the bids of HPCL and its stockist (PPCL) under same tender.

3.9.8 Absence of uniformity in penal clause

The Company issued work orders for procurement of text paper to nine suppliers[31] valuing ₹ 168.68 crore during April 2014 to March 2017. As per agreement between the Company and the suppliers, the suppliers were to supply the text paper as per the scheduled dates mentioned in the work order. This ranged between 45 to 60 days from the date of issue of the work order. Audit however, observed that the penal provision for delay in supply of text paper as stipulated in the work orders were not uniform as evident from the following:

For the academic year 2015, the Company was to impose penalty at the rate of 0.66 *per cent* of the value of the ordered quantity of text paper per day for delay exceeding 15 days. The Company however, during the academic year 2016 changed the quantum of the penalty imposable for default in supply of paper within the scheduled time significantly. As per the supply orders, the Company was to impose 10 *per cent* of the value of the total ordered quantity of text paper per day in case of delay exceeding 15 days. The Company changed the penal provisions again for the academic year 2017. Out of the four supply orders issued, in one instance the Company did not quantify the penal amount. In the other three supply orders, the Company was to impose penalty at the rate of 0.66 *per cent* of the value of the total ordered quantity of text paper per day for delay exceeding 15 days. There was no recorded justification for upward and downward change in the quantum of penalty during three years under reference.

The Company did not have an effective mechanism in place to ensure uniformity in the standard provisions of the supply orders. The unjustified variation in the quantum of penalty imposable for default in supply was indicative of this fact. The Company also failed to impose the penalty as per the agreement terms against the defaulting suppliers. This could have acted as a deterrent against slippages in supply.

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[30] From 3 July 2015 to 30 November 2015.

[31] 1 supplier (2015), 4 suppliers (2016) and 4 suppliers (2017)

The Management in reply (October 2017) accepted the observation and stated that it would take necessary corrective action in the future.

3.9.9 Procurement of text paper of incorrect specification

The Company placed supply orders for procurement of text paper of different specifications and size. The Company as such, required a strong control mechanism in place for cross checking of the specifications as mentioned in the supply orders. As per the work orders issued to the suppliers of text paper, The Company would randomly check the text paper delivered during the period of delivery. It was to ensure their conformity to the contract specifications.

Audit observed that the Company placed (January 2017) two supply orders for 125 MT of 58x68 cm sheet of text paper at ₹ 60,647 per MT against a requirement of text paper with specification of 58x86 cm sheets. The suppliers accordingly supplied (February 2017) 100 MT text paper valuing ₹ 60.65 lakh[32]. The Company subsequently released the payment. The Company due to procurement of text paper of incorrect specification could not utilise it till date (September 2017). This led to blockage of funds on idle stock for seven months. The Company thus incurred an idle expenditure of ₹ 60.65 lakh due to deficient internal control system in ensuring the correct specifications of text paper.

The Management in their reply stated (October 2017) that the mistake in paper specification was inadvertent and attributable to human error.

The fact, however, remained that the Company failed to ensure procurement of text paper as per required specifications. This indicated absence of effective internal control system of the Company.

Conclusion

The Company did not have a robust internal control mechanism for procurement of text paper and printing of textbooks. As a result, there were delays in supply of textbooks beyond scheduled targets every year. There was lack of monitoring mechanism in assessment of requirement of text paper for printing of the textbooks, which led to accumulation of closing stock.

[32] 100 MT x ₹ 60,647 per MT

Recommendation

- The Company should place the supply orders for procurement of text paper in a timely manner to avoid delays in printing and distribution of textbooks.
- The Company should enforce the provisions of the agreements/contracts in its true spirit for safeguarding its interest and economic utilisation of public funds.

Audit reported (August 2017) the matters to the Government; their replies had not been received (December 2017).

GUWAHATI	**(RASHMI AGGARWAL)**
THE 27 February 2018	**Accountant General (Audit), Assam**

Countersigned

NEW DELHI	**(RAJIV MEHRISHI)**
THE 01 March 2018	**Comptroller and Auditor General of India**