

## Chapter IV – Results of audit

### Section ‘A’ - Thematic Audit

#### Urban Development Department

#### 4.1 Collection and Remittance of cesses in Urban Local Bodies

##### 4.1.1 Introduction

Cess is an additional tax levied by the Government to raise funds for a specific purpose. The State Government enacted various Cess Acts mandating the levy of cess, elaborating on the rates of cess to be levied and the method of levy. The cesses under consideration in this report are to be collected by the Urban Local Bodies (ULBs) and remitted to the respective heads of account/institutions.

The Additional Chief Secretary to Government, Urban Development Department (UDD), Government of Karnataka (ACS) is responsible for overall supervision of the activities of ULBs at the State Government level and is assisted by the Secretary to Government (UDD) and Director of Municipal Administration, Government of Karnataka (DMA). ULBs are headed by a Commissioner/Municipal Commissioner/Chief Officer and assisted by the Revenue Officers, Revenue Inspectors and Bill Collectors.

Audit test-checked (April to July 2017) the records of Directorate of Municipal Administration, 2 City Corporations (CCs), 11 City Municipal Councils (CMCs), 12 Town Municipal Councils (TMCs) and 7 Town Panchayats (TPs), selected through Simple Random selection method and covering the period from 2012-13 to 2016-17, with the objective of ascertaining the compliance with provisions of the different cess acts and rules and other instructions issued by the State Government. Information was also obtained from the Departments of Health, Labour and Library, the Central Relief Committee (CRC) and Regional Transport Offices (RTOs) of Ballari and Belagavi. The list of selected ULBs is given in **Appendix 4.1**. An entry conference was held (May 2017) with ACS to discuss the audit objectives, scope and methodology and exit conference was held (October 2017) to discuss the audit findings.

##### 4.1.2 Authority to levy cess and types of cess

The Authority mandating the levy of cess, the rates of cess and the head of account/institution to which the cess is to be remitted are indicated in **Table 4.1**:

**Table 4.1: Statement showing the details of cesses to be levied on property tax by ULBs**

Sl. No.	Type of cess	Authority mandating levy of cess	Effective from	Rate	Purpose	Remitted to
1	Health cess <sup>22</sup>	The Karnataka Health Cess Act, 1962	September 1962	15%	Improve primary /basic healthcare infrastructure	0045-00-109-0-01 (State Fund)
2	Library cess	The Karnataka Public Libraries Act, 1965	April 1966	6%	Improvement and development of library services	District Central / City Library

<sup>22</sup> Apart from property tax, health cess is also levied on advertisement tax.

Sl. No.	Type of cess	Authority mandating levy of cess	Effective from	Rate	Purpose	Remitted to
3	Beggary cess	The Karnataka Prohibition of Beggary Act, 1975	April 1976	3%	Providing relief and rehabilitation to the beggars	Central Relief Fund
4	Urban transport cess (UTC)	The Karnataka Municipalities (Urban Transport Fund) Rules, 2013	April 2013	2%	Infrastructure development	0217-60-800-0-08 (State Fund)

Apart from the above four cesses, which are levied on property tax, ULBs are also mandated to collect slum development cess<sup>23</sup>, infrastructure cess<sup>24</sup>, and labour cess<sup>25</sup>.

ULBs are permitted to retain 10 *per cent* of the cess collection in respect of health cess, beggary cess and library cess and one *per cent* in respect of labour cess as collection charges as prescribed under the respective Cess Acts.

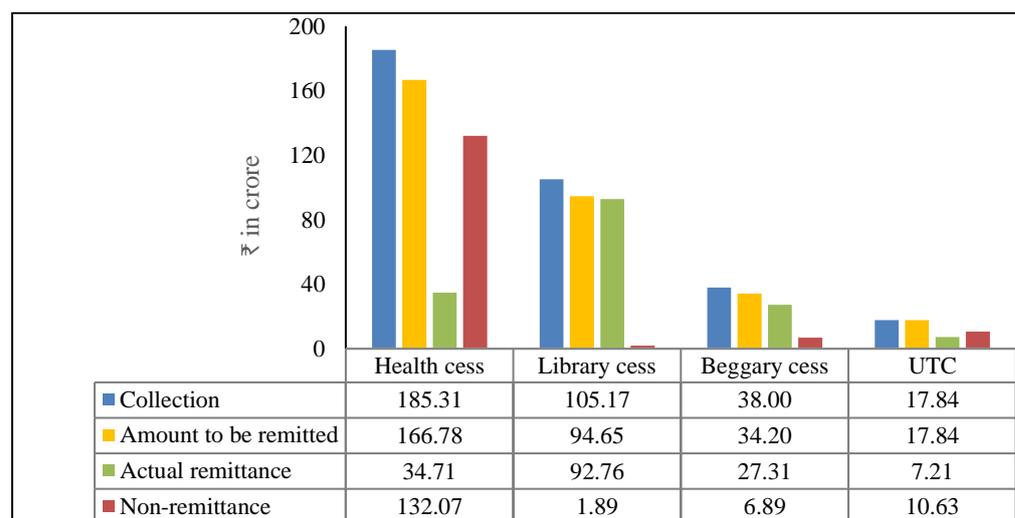
### Audit findings

The findings noticed during audit in the test-checked ULBs are discussed in the succeeding paragraphs.

#### 4.1.3 Status of cess collection and remittance

The status of collection and remittance of various cesses leviable on property tax, in the State as a whole, for the period 2012-13 to 2016-17, is depicted in **Chart 4.1**. Out of 270 ULBs (excluding Bruhat Bengaluru Mahanagara Palike and four Notified Area Committees), DMA furnished the information of health and beggary cess for 225 ULBs and library cess and UTC for 250 ULBs.

**Chart 4.1: Collection and remittance of cesses levied on property tax by ULBs during the period 2012-13 to 2016-17**



Source: Information furnished (August 2017) by DMA

<sup>23</sup> Order No. HUD 180 MIB 94 dated 29.03.1994 and effective from March 1994. Levied only by CCs/CMCs while according approvals to layout plans/building licences.

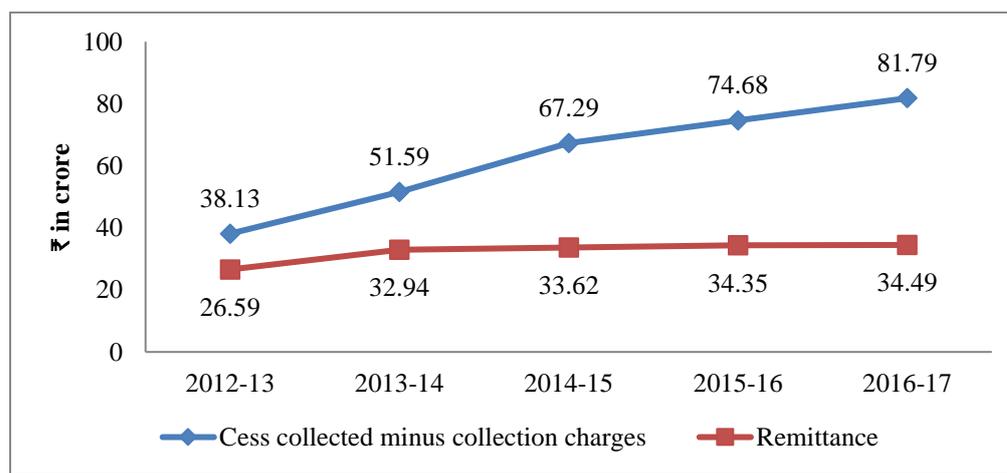
<sup>24</sup> Government notification no. UDD 65 MNU 2002 dated 27.02.2004 and effective from March 2004. The cess is levied on different classes of motor vehicles and is to be utilised by the CCs for development of infrastructure in cities.

<sup>25</sup> @ One *per cent* of the actual expenditure of the work bill / estimated cost of building at the time of building plan approval as per the Building and Other Construction Workers Welfare Cess Act, 1996. The levy of this cess was effective from January 2007.

We could not correlate the collection of the cesses depicted above with the collection of property tax as DMA furnished the data on property tax for 217 ULBs for the period 2012-13 to 2015-16 and for 254 ULBs for the year 2016-17. Further, the data was also inconsistent as the figures of property tax included cess component in respect of a few ULBs and excluded the cess component in a few ULBs.

We observed that the growth rate of remittance of the above cesses did not correspond with growth rate of collection during the period 2012-13 to 2016-17 as depicted in **Chart 4.2**:

**Chart 4.2: Trend of collection and remittance of cesses levied on property tax during 2012-13 to 2016-17**



Source: Information furnished by DMA

Further, comparison between the figures furnished by the test-checked ULBs with the figures furnished by DMA for these ULBs showed that DMA figures reflected:

- excess receipts of ₹1.50 crore and excess remittances of ₹1.06 crore under beggary cess;
- short receipts of ₹4.32 crore and short remittance of ₹96 lakh under health cess;
- short receipts of ₹1.56 crore and short remittance of ₹7 lakh under library cess; and
- short receipts of ₹28 lakh and short remittance of ₹32 lakh under UTC.

The details of variation are shown in **Appendix 4.2**.

Evidently, the figures of DMA were not reliable indicating that the figures furnished by ULBs were not subject to any verification for their correctness.

DMA cited (October 2017) inadequate manpower as one of the reasons for not establishing a monitoring mechanism and stated that implementation of Consultancy services for Accounting System Review and Validation in ULBs by deploying Accounting Consultants would improve the quality of accounting in ULBs through mentoring and validating the accounting process along with continuous internal audit.

The State Government further replied (December 2017) that efforts would be made to ensure correctness of the figures furnished by ULBs. It also stated that circulars were issued during January 2014 and June 2017 to all ULBs to remit all the cess collected (excluding collection charges) to the respective heads of account.

#### **4.1.4 Non/short levy of cess**

##### **4.1.4.1 Health cess on advertisement tax**

The provisions<sup>26</sup> of Karnataka Municipalities Act, 1964 (KM Act, 1964) and Karnataka Municipal Corporations Act, 1976 (KMC Act, 1976) stipulate imposing of a tax on advertisement. In order to bring all the advertisement hoardings under the tax net, a reliable and complete database of all advertisement hoardings needs to be prepared, maintained and regularly updated by ULBs through periodical surveys. Further, as per provision<sup>27</sup> of the Karnataka Health Cess Act, 1962, health cess may be levied and collected at the rate of 15 paise in the rupee on taxes on advertisements.

We observed that seven<sup>28</sup> out of 32 ULBs test-checked had not conducted any survey of hoardings/advertisements displayed in their respective jurisdiction and the other 25 ULBs did not furnish the information regarding the survey.

We also noticed that 17 out of 32 test-checked ULBs had failed to levy and collect ₹53.85 lakh as health cess on ₹3.59 crore collected as advertisement tax for the period 2012-13 to 2016-17. The data was not available in respect of other 15 ULBs. Non-adherence to provisions of the above Act resulted in loss of revenue to the Government.

The State Government replied (December 2017) that instructions would be issued to all ULBs to maintain up to date database of advertisement hoardings by conducting periodical survey and to realise advertisement tax and health cess.

##### **4.1.4.2 Urban transport cess (2013-14)**

The State Government notified<sup>29</sup> (August 2013) the Karnataka Municipalities (Urban Transport Fund) Rules, 2013 which provided for levy of UTC on property tax. These rules stipulated that all demands raised from the date of these rules coming into effect should include two *per cent* cess on the property tax, so levied. It also stipulated that in case, the property tax on any property had already been collected for the year 2013-14, a supplementary demand of two *per cent* towards UTC was to be raised and collected.

We noticed that 21 out of 32 ULBs had not levied UTC of ₹69.28 lakh on property tax of ₹34.64 crore collected for the year 2013-14. The details of levy

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<sup>26</sup> Section 94 of KM Act, 1964 and Section 103 of KMC Act, 1976.

<sup>27</sup> Item 3 of Schedule-B referred to in Section 3 (iii).

<sup>28</sup> CC, Ballari; CMC, Kolar; TMCs – Bailahongal, Bangarpet and Kadur; TPs – Kottur and Mallapura.

<sup>29</sup> No. UDD 99 PRJ2013 (II) dated 20 August 2013.

of UTC could not be assessed in the remaining 11 ULBs, as the details of property tax were not furnished.

The State Government stated (December 2017) that the order was received during August 2013 and there was delay in implementing it. It also stated that ULBs were directed to raise the supplementary demand, realise the amount and remit it to the concerned head of account.

#### **4.1.4.3 Infrastructure cess**

Section 103B of KMC Act, 1976 and Government of Karnataka notification (February 2004) stipulated levy and collection of infrastructure cess by CCs, at such rate not exceeding five hundred rupees<sup>30</sup> per annum as may be prescribed on every motor vehicle suitable for the use on roads within the city. This was in addition to the cess levied under the Karnataka Motor Vehicles Taxation Act 1957 (Karnataka Act 35 of 1957). The infrastructure cess imposed on motor vehicles is leviable primarily on the registered owner or person in possession or control of a motor vehicle, which was the subject of a hire purchase agreement, or an agreement of lease or agreement of hypothecation. The cess was to be utilised by CCs for the development of infrastructure in cities.

We observed that 2,31,609 two-wheelers, 12,636 three-wheelers, 41,434 four-wheelers, 183 passenger vehicles and 2,508 goods carriage vehicles were registered under the jurisdiction of RTOs, Ballari and Belagavi during the period 2012-13 to 2016-17. However, the respective CCs had not collected the infrastructure cess resulting in loss of revenue to an extent of ₹2.66 crore as detailed in **Appendix 4.3**.

We also observed that neither DMA nor UDD had prescribed any modalities for levy and collection of the infrastructure cess despite the Government having issued the notification in February 2004. CCs also had not devised any modalities for the levy and collection of this cess. Thus, failure to prescribe the modalities for levy and collection of infrastructure cess resulted in revenue loss to the Corporations besides defeating the purpose for which the cess was to be utilised.

The State Government stated (December 2017) that as per the notification (February 2004), RTO would levy and collect the infrastructure cess which would be remitted to concerned CC later on. It further stated that instructions were issued to CCs to coordinate with district transport office to collect the cess. In view of the reply, audit is of the opinion that the State Government should revisit the notification as it stipulated that CC was to levy and collect infrastructure cess.

<sup>30</sup> @ ₹50 for two-wheelers, ₹100 for three-wheelers, ₹300 for four-wheelers, ₹400 for passenger vehicles and ₹500 for goods carriage vehicle.

#### 4.1.5 Remittance of cess

##### 4.1.5.1 Non/short remittance of cess

The provisions of various Cess Acts stipulate collection of cesses by ULBs and their remittance after retaining a prescribed percentage of collection. The Acts, however, do not specify the period within which the remittances have to be made. We observed from the scrutiny of the records that there were instances of non-remittance and short remittance of various cesses levied and collected by the test-checked ULBs as indicated in **Table 4.2**.

**Table 4.2: Statement showing the details of non/short remittance of cesses in test-checked ULBs for the period 2012-13 to 2016-17**

(₹ in crore)

Sl. No.	Types of cess	Amount collected prior to 2012-13 which was not remitted	Cess collected during 2012-17	Cess collected minus collection charges	Remittance (Percentage)	Non-remittance		Short remittance		Excess remittance		NF
						No. of ULBs	Amount	No. of ULBs	Amount	No. of ULBs	Amount	
1	Health cess	22.98	40.87	36.79	7.86 (21)	15	15.12	12	14.17	5	0.36	
2	Library cess	3.68	16.34	14.71	12.36 (84)	4	0.10	18	2.71	10	0.46	
3	Beggary cess	1.78	8.16	7.34	5.84 (80)	6	0.43	14	1.48	12	0.41	
4	UTC <sup>31</sup>	-	3.34	3.34	1.32 (40)	6	0.17	14	1.86	3	0.01	4
5	Labour cess	0.91	26.62	26.35	8.97 (34)	6	16.03	12	1.53	11	0.18	3
<b>Total</b>		<b>29.35</b>	<b>95.33</b>	<b>88.53</b>	<b>36.35 (41)</b>		<b>31.85</b>		<b>21.75</b>		<b>1.42</b>	

Source: Information furnished by test-checked ULBs

NF – Not furnished

The non/short remittance of cesses collected by ULBs resulted in irregular retention of the amounts collected besides defeating the objective of levy of these cesses.

We further observed that ₹25.25 crore retained by six<sup>32</sup> test-checked ULBs was utilised towards payment of wages, administrative expenses, payment of work bills for water supply works and for miscellaneous works, resulting in diversion of cess amount.

The State Government replied (December 2017) that all ULBs were directed to remit the cess collected to the respective State Government account. The reply was silent about the diversion of cess amount by the test-checked ULBs.

##### 4.1.5.2 Non-remittance of slum development cess

The State Government issued (March 1994) orders for levy of slum development cess which was to be utilised for comprehensive development of slum areas by providing good roads, sanitation, underground drainage system, water supply, garbage removal, electricity and education, health, women and

<sup>31</sup> Five ULBs remitted the entire collection of UTC in full.

<sup>32</sup> CCs – Ballari and Belagavi; CMCs – Chikkamagaluru and Kolar; TMCs – Bailahongal and Bangarapet.

child development programme, social welfare activities, housing and prevention of accidents in slum areas. The cess is to be collected while according approval to layout plans/building licenses by the concerned Municipal Bodies (CCs and CMCs)/Development Authorities at the notified rates. A Joint account was to be opened in the name of Chief Officer/Commissioner of ULB concerned and the Assistant Executive Engineer of the Karnataka Slum Development Board in the respective jurisdiction to which remittance had to be made after retaining 10 per cent of total cess collected as collection charges/administrative charges.

We observed that out of 13 CCs/CMCs test-checked, there was a short remittance of ₹11.12 lakh in five<sup>33</sup> ULBs, excess remittance of ₹9.28 lakh in two<sup>34</sup> ULBs and full remittance in one ULB (CMC, Nippani) during the period 2012-13 to 2016-17. Five<sup>35</sup> ULBs did not furnish the requisite information.

We also observed from the information furnished (August 2017) by DMA for 61 ULBs that, as against ₹2.69 crore to be remitted, only ₹96 lakh had been remitted during the period 2012-13 to 2016-17. The percentage of remittance decreased from 69 per cent in 2012-13 to 17 per cent in 2016-17 as shown in **Table 4.3**.

**Table 4.3: Statement showing the status of remittance of slum development cess by ULBs during the period 2012-13 to 2016-17**

(₹ in crore)

Year	Collection	Amount to be remitted	Actual remittance	Short remittance	Percentage of remittance
2012-13	0.71	0.64	0.44	0.20	69
2013-14	0.40	0.36	0.09	0.27	25
2014-15	0.40	0.36	0.13	0.23	36
2015-16	0.76	0.68	0.19	0.49	28
2016-17	0.72	0.65	0.11	0.54	17
<b>Total</b>	<b>2.99</b>	<b>2.69</b>	<b>0.96</b>	<b>1.73</b>	

Source: Information furnished by DMA for 61 ULBs

Further analysis of the information revealed that ₹59.04 lakh (the opening balance as on 1<sup>st</sup> April 2012 excluding collection charges) was yet to be remitted by these 61 ULBs and 40 out of 61 ULBs had not remitted the entire collection of ₹1.73 crore during the audit period.

Thus, failure to adhere to the above provisions resulted in irregular retention of cess by ULBs defeating the objective of the creation of slum development fund.

The State Government replied (December 2017) that instructions were issued to the concerned ULBs to remit the amount to the slum development fund.

<sup>33</sup> CC, Ballari; CMCs – Bagalkot, Gokak, Ramanagara and Robertsonpet (KGF).

<sup>34</sup> CC, Belagavi and CMC, Mandya.

<sup>35</sup> CMCs – Chikkamagaluru, Doddaballapura, Gangavathi, Hosakote and Kolar.

#### **4.1.6 Monitoring and utilisation of cess by the receiving departments**

##### **4.1.6.1 Department of Libraries**

The Chief Librarian of the District/City Library monitors the receipt of library cess from ULBs. Hence, the percentage of remittance of library cess by the test-checked ULBs was high (84 *per cent*) in comparison to the other cesses.

We observed that the cess received by the District/City libraries of Ballari, Belagavi, Chikkamagaluru and Kolar was largely utilised (94 to 100 *per cent*) towards purchase of reference books, magazines, furniture and equipment in accordance with the provisions of the Act.

##### **4.1.6.2 Central Relief Committee, Social Welfare Department**

The Central Relief Committee (CRC) collects the data regarding the collection of beggary cess from the Municipal Reforms Cell of DMA and forwards it to its district authorities for watching the progress of remittance of the cess by various ULBs. This mechanism resulted in remittance of 80 *per cent* of the collection by the test-checked ULBs.

CRC utilised the cess towards providing food, uniforms, winter clothing, medical facilities to beggars, training of beggars, *etc.*, as mandated besides the administrative and operative expenses. The utilisation ranged from 16 *per cent* during 2012-13 to 27 *per cent* during 2015-16 and stood at 84 *per cent* during 2016-17. The increase in utilisation during 2016-17 was due to the work of construction of dormitories and other works for the beggars in all the existing 14 rehabilitation centres.

##### **4.1.6.3 Urban Land Transport**

The State Government addressed (November 2013) all ULBs to submit a quarterly statement of urban transport cess (UTC) collected to the Commissioner, Urban Land Transport. We observed that none of the test-checked ULBs had submitted the quarterly statement of UTC during each financial year. Hence, the Commissioner, ULT was not aware of the amount of UTC collected and due to be remitted.

The Department of Urban Land Transport (DULT) did not have a monitoring mechanism to track the collection and remittance of cess. However, it had established a system for utilisation of the amount in the Urban Transport Fund through an operating account and the utilisation ranged from 94 to 100 *per cent*. UTC was utilised for improvements of the transport system and providing better facilities to the passengers.

The State Government replied (December 2017) that instructions would be issued to ULBs to submit quarterly progress returns to DULT and to remit UTC to the concerned head of account.

#### **4.1.6.4 Department of Health and Family Welfare**

The State Government or the Department had not prescribed any mechanism for monitoring the receipt and utilisation of the health cess. As a result, the remittance of the health cess by the test-checked ULBs was very poor (21 *per cent*). We also observed from the data furnished (August 2017) by DMA that 98 out of 225 ULBs had not remitted any amount during the review period and the non-remittance was to the extent of ₹108.76 crore.

The Department also stated that they had not received any amount towards health cess during the audit period. Evidently, the objective of collection of health cess remained defeated.

The State Government stated (December 2017) that directions were issued to all ULBs to remit the health cess to the concerned head of account.

#### **4.1.6.5 Department of Labour**

The Karnataka Building and Other Construction Workers Board had received an amount of ₹2,994.25 crore towards labour cess during the period 2012-13 to 2016-17 from various departments/local bodies/autonomous institutions involved with construction activities. The utilisation, however, ranged from three to fourteen *per cent* during the above period. The Department utilised ₹223.39 crore during the audit period for providing medical/financial/educational assistance and pension to the labourers as stipulated in the Act besides administrative and capital expenditure. An amount of ₹65.02 crore was utilised towards purchase of land from Karnataka Industrial Areas Development Board for construction of temporary residential accommodation, *Koushalya* Academy, school and *Kalyana Bhavan*.

#### **4.1.6.6 Karnataka Slum Development Board**

The authority mandating the levy of slum development cess provided for reconciliation of accounts and submission of quarterly report to the Government by the Karnataka Slum Development Board. We observed that the necessary reconciliation was not being conducted and in the absence of reconciliation, the Board could not ensure the complete receipt of the cess collected by ULBs. During the period 2012-13 to 2016-17, the Board received ₹20.73 crore, of which, ₹15.85 crore was utilised for providing infrastructure works in slums.

### **4.1.7 Conclusion**

The thematic audit showed that the growth rate of remittance of the cesses levied on property tax did not correspond with growth rate of their collection during the period 2012-13 to 2016-17. Non-adherence to the provisions of various Cess Acts led to non-levy of cesses. There were instances of non-remittance and short remittance of cesses by ULBs. The percentage of remittance to departments with a monitoring mechanism was significantly higher than those without a monitoring mechanism. Library cess, beggary cess, UTC and slum development cess were largely utilised for the intended purposes. The utilisation of labour cess was poor and needs examination by the Government. There was no evidence for utilisation of health cess by the department concerned.

## Section 'B' - Compliance Audit

### Urban Development Department and Revenue Department

#### 4.2 Avoidable payment of interest

**Urban Development Department, Bruhat Bengaluru Mahanagara Palike and Special Land Acquisition Officer, Bengaluru, failed to ensure timely settlement of land compensation resulting in avoidable payment of interest of ₹12.26 crore.**

Acquisition of land for public purpose by the State Government is regulated under the Land Acquisition Act, 1894 (applicable till 31.12.2013) and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LA Act, 2013) with effect from 1.1.2014. Section 80 of LA Act, 2013 stipulates that in case the amount of compensation is not paid or deposited on or before taking possession of the land, interest is payable at the rate of nine *per cent* per annum for the first year and at the rate of fifteen *per cent* per annum thereafter. Further, as per Section 96 of LA Act, 2013, income tax was not be levied on any award made under the Act.

Audit scrutiny of records (January 2016) in the office of the Deputy Commissioner, Land Acquisition, Bruhat Bengaluru Mahanagara Palike (BBMP) showed that the State Government had accorded (February 2011) administrative approval for 'Construction of eight lane signal free corridor from Okalipuram Junction to Fountain Circle in Bengaluru City' with BBMP as the implementing agency. This work required 12,818 square metre (sqm) of land belonging to South Western Railways (SWR). SWR agreed (November 2012) to hand over the above land subject to transfer of equal area of Binny Mill land belonging to M/s S V Global Mills Limited (SVG) which was essential for its operational convenience.

The State Government accorded (January 2013) approval for acquisition of 3 acre 16 guntas<sup>36</sup> of land belonging to SVG under the emergency clause (Section 17(1)(4)) of the Land Acquisition Act, 1894 and instructed (September 2013) BBMP to utilise the funds available under *Mukhya Mantri Nagarothana* Scheme. Accordingly, BBMP deposited (October 2013) ₹70.13 crore with the Special Land Acquisition Officer, Bengaluru (SLAO) towards the cost of land acquisition. SLAO took over possession of the land on 16.1.2014 by which time LA Act, 2013 had come into effect. The land was handed over to SWR on 21.3.2014.

Consequent upon the enactment of LA Act, 2013, the compensation amount payable to SVG increased to ₹142.56 crore and ₹15.68 crore was also payable to SLAO towards establishment/administrative charges (at the rate of 11 *per cent*). As on the date of taking possession of land, no amount was paid to SVG and hence interest as prescribed under Section 80 of LA Act, 2013 was payable. Reiterating the escalation of interest liability for each day of delay, the Revenue Department instructed (16.4.2014) SLAO to pay the available

<sup>36</sup> One acre is 4,046.86 sqm and 40 guntas is one acre.

amount of ₹70.13 crore to SVG and also requested the Urban Development Department (UDD) to deposit the balance of ₹88.11 crore with SLAO. Accordingly, SLAO paid (30.4.2014) ₹70.13 crore to SVG. The balance amount of ₹72.43 crore payable to SVG (₹142.56 crore – ₹70.13 crore) and the interest of ₹12.26 crore (calculated up to 15.12.2015) was paid to SVG in three instalments (detailed in **Appendix 4.4**).

We observed that timeliness in payment of compensation was not ensured which reflected laxity on the parts of UDD, BBMP and SLAO as detailed below:

- Delay by UDD in releasing funds to BBMP: For releasing balance of ₹88.11 crore, UDD had accorded sanction only on 1.10.2014 *i.e.* after a delay of 258 days from the date of taking possession of the land (16.1.2014). UDD released the amount to BBMP on 12.2.2015, resulting in further delay of 134 days. The delays by UDD in according sanction and in releasing the funds to BBMP created interest liability of ₹7.63 crore for the period from 16.1.2014 to 12.2.2015.
- Erroneous deduction of income tax and delay by BBMP in depositing the amount with SLAO: Out of ₹158.24 crore (₹70.13 crore + ₹88.11 crore) received from UDD, BBMP had erroneously deducted the income tax of ₹15.87 crore (at the rate of 10.03 *per cent*). The deduction of income tax was in contravention of the Section 96 of LA Act, 2013. It was also seen that BBMP deposited the part amount of ₹72.24 crore (₹88.11 crore – ₹15.87 crore) with SLAO on 9.3.2015, after a delay of 25 days. The withheld amount of ₹15.87 crore was released to SLAO on 1.10.2015, after a further delay of 205 days. This resulted in total interest liability of ₹1.64 crore.
- Delay by SLAO in disbursing the amount to SVG: BBMP had deposited ₹70.13 crore with SLAO on 24.10.2013. Despite availability of this amount on the date of taking possession, SLAO paid ₹70.13 crore (first instalment) to SVG on 30.4.2014, after a delay of 105 days from the date of possession. Similarly, SLAO paid the second instalment of ₹72.24 crore to SVG on 6.4.2015 *i.e.* after a delay of 27 days from the date of its receipt (9.3.2015). It was also seen that though BBMP had deposited the withheld amount of ₹15.87 crore with SLAO on 1.10.2015, SLAO delayed the payment of third instalment (₹19 lakh) and fourth instalment (₹12.26 crore) by 46 days (1.10.2015 to 15.11.2015) and 76 days (1.10.2015 to 15.12.2015) respectively. The delays by SLAO in disbursing the amounts to SVG resulted in payment of interest of ₹2.99 crore.

Thus, delays on the part of UDD, BBMP and SLAO in releasing the land compensation amount and erroneous deduction of income tax by BBMP resulted in payment of interest of ₹12.26 crore, which was avoidable.

The State Government (UDD) stated (November 2017) that delay on the part of BBMP was due to release of funds by UDD in two instalments. The reply does not address the audit observation regarding delay by UDD in releasing funds to BBMP and erroneous deduction of income tax by BBMP. The reply from the Revenue Department was awaited (November 2017).

## Urban Development Department

### 4.3 Loss of revenue due to non-collection of urban transport cess

#### **Bruhat Bengaluru Mahanagara Palike lost revenue of ₹95.63 crore due to non-collection of urban transport cess during 2013-14 to 2016-17.**

The State Government constituted (August 2012) an Urban Transport Fund to finance initiatives and build capacity for urban transport, with budgetary support and revenue realised through cess on property tax. For this purpose, the State Government amended the Karnataka Municipal Corporations Act, 1976 (KMC Act, 1976) and notified (20 August 2013) the Karnataka Municipal Corporations (Urban Transport Fund) Rules, 2013 (UTF Rules, 2013), which provided for levy of urban transport cess on property tax. These rules stipulated that all demands raised on property tax from the date of these rules coming into effect, should include two *per cent* cess on the property tax so levied. It also stipulated that in case the property tax on any property had already been collected for the year 2013-14, a supplementary demand of two *per cent* towards urban transport cess was to be raised and collected.

Scrutiny of records (December 2016) in the office of the Chief Accounts Officer (CAO), Bruhat Bengaluru Mahanagara Palike (BBMP) and further information collected during August 2017 showed that BBMP had collected property tax of ₹4,781.62 crore during the years 2013-14 to 2016-17 (as of July 2017). However, BBMP had not collected the urban transport cess. We observed that the Council of BBMP had taken a decision (May 2014) to request the Government to withdraw the order that mandated levy of urban transport cess. Such a decision was taken citing that the rates of property tax in BBMP had not been revised since 2008-09 and levy of urban transport cess would lead to additional burden on the property taxpayers. The Government informed (August 2014) BBMP that their request could not be considered in view of the amendments to KMC Act, 1976 and instructed them to collect the urban transport cess. Despite this, BBMP had not initiated any action to collect the urban transport cess (July 2017).

Thus, failure of BBMP to comply with the Government's instructions resulted in loss of revenue of ₹95.63 crore<sup>37</sup> (@ two *per cent*) in respect of property tax of ₹4,781.62 crore collected during the years 2013-14 to 2016-17 (as of July 2017).

The State Government, in its reply, reiterated (November 2017) that BBMP had not collected urban transport cess in view of the Council's resolution (May 2014). The reply is not justified as such a resolution was contrary to the provisions of KMC Act, 1976 and reasons for non-compliance with the Government's instructions were not furnished.

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<sup>37</sup> Urban transport cess was leviable from the year 2013-14 onwards. As BBMP did not furnish the details of arrears of property tax, loss of revenue had been worked out on the property tax collected during the years 2013-14 to 2016-17, which may include arrears, if any, pertaining to period prior to 2013-14.

#### 4.4 Short levy of ground rent

**Bruhat Bengaluru Mahanagara Palike failed to adopt the applicable rates of service tax resulting in short levy/realisation of ground rent aggregating ₹57.58 lakh.**

The provisions of Karnataka Municipal Corporations Act, 1976, empower Bruhat Bengaluru Mahanagara Palike (BBMP) to levy license fee (ground rent) in consideration of the license to construct bus shelters within its jurisdictional area and utilisation of advertisement space for appropriating advertising revenue. Further, as per Section 66B read with Section 65B (44) of Chapter V of the Finance Act, 1994, such renting of immovable property for commercial purposes is liable to service tax.

Scrutiny of records (January 2017) in the office of the Assistant Commissioner (Advertisement), BBMP, revealed that BBMP had invited (March and October 2009) tenders on Design, Build, Own, Operate and Transfer basis for removing existing bus shelters and development and maintenance of 288 new kiosk type bus shelters and allowing commercial advertisements for a period of five years. BBMP grouped the works into 11 packages<sup>38</sup> and awarded (August and December 2009) them to five<sup>39</sup> agencies. As per the agreements, these agencies were liable to pay ground rent along with service tax thereon for a period of five years (1.8.2010 to 31.7.2015). As stated above, service tax at applicable rates<sup>40</sup> was leviable on the ground rent.

Scrutiny of demand notices in respect of seven<sup>41</sup> (Packages 1, 2, 3, 5, 6, 7 and 11) of these packages revealed that there was no uniformity in applicability of service tax. As a result, against the ground rent of ₹11.20 crore due from the agencies, BBMP raised (January 2016) the demands for only ₹10.62 crore. This was attributable to the fact that BBMP had failed to either levy service tax or consider revisions in rates of service tax while raising demands as detailed in **Appendix 4.5**.

In all these cases, the ground rent was leviable along with the service tax at applicable rates and BBMP, being the service provider, was liable to collect the service tax and remit it to the Government account. It was the responsibility of BBMP to make the payment of service tax even if the amount was not collected from the agencies. Thus, failure of BBMP to adopt the applicable rates of service tax resulted in short levy/realisation of ground rent aggregating to ₹57.58 lakh.

The State Government accepted the audit observation and stated (November 2017) that service tax and penalty would be recovered from the agencies and remitted to the Service Tax Department.

<sup>38</sup> 25 bus shelters each in Packages 1, 3, 4, 5, 6, 7, 8, 9 and 10; 26 bus shelters in Package 2; and 37 bus shelters in Package 11.

<sup>39</sup> M/s Vantage Advertising Private Ltd. (Packages 1,7 and 8); M/s Movva Associates (Packages 2 and 9); M/s Ripple Media (Packages 3 and 6); M/s Skyline Advertising Private Ltd. (Packages 4 and 5); and M/s OOH Advertising Private Ltd. (Packages 10 and 11).

<sup>40</sup> @ 10.30 per cent from 1.8.2010 to 31.3.2012; @ 12.36 per cent from 1.4.2012 to 31.5.2015; and @ 14 per cent from 1.6.2015 to 31.7.2015.

<sup>41</sup> Clarification in respect of four other packages (4, 8, 9 and 10) were awaited from BBMP.

#### 4.5 Loss of revenue due to non-collection of enrolment fee

**Commissioner, Bruhat Bengaluru Mahanagara Palike failed to ensure enrolment of film theatre owners as commercial advertisers and consequently did not collect enrolment/renewal fee resulting in loss of revenue of ₹29.89 lakh.**

The provisions of Karnataka Municipal Corporations Act, 1976 (KMC Act, 1976) and the Bangalore Mahanagara Palike Advertisement Bye-laws, 2006 (Bye-laws<sup>42</sup>) mandated that any agency, individual or company which undertake the display of commercial outdoor advertisements by erecting commercial hoardings for a commercial purpose should enrol themselves with Bruhat Bengaluru Mahanagara Palike (BBMP) on payment of enrolment fee of ₹5,000/-. These advertisers were to renew their advertisement agency once every three years after paying renewal fee of ₹2,000/- on or before 31 May of the year in which the permission expires. The Bye-laws also stipulated that outdoor film advertisement and film slides<sup>43</sup> should be treated as commercial advertisement and film theatre owners should also enrol with BBMP as commercial advertisers. Accordingly, film theatre owners were required to pay enrolment/renewal fee as per the prescribed norms. The rates of enrolment fee and renewal fee were enhanced<sup>44</sup> (January 2016) to ₹50,000/- and ₹15,000/- respectively.

Test-check of records (January 2017) in the office of the Assistant Commissioner (Advertisement), BBMP showed that none of the film theatre owners in Bengaluru had enrolled themselves with BBMP. We also observed that BBMP made no efforts to conduct a survey of movie theatres operating in the City and ensure payment of requisite enrolment fee.

As per the information available on the website of Commercial Taxes Department, Government of Karnataka, there were 246 film theatres in Bengaluru as on 31 March 2017 which were owned by 161 proprietors. The loss of revenue due to non-collection of enrolment/renewal fee from these 161 film theatre owners worked out to ₹29.89 lakh, as detailed in **Table 4.4**:

**Table 4.4: Loss of revenue due to non-collection of enrolment/renewal fee by BBMP as on 31 March 2017**

(Amount in ₹)

Commenced operations during the year <sup>¥</sup>	Number of film theatre owners <sup>¥</sup>	Amount payable per theatre owner			Total loss of revenue
		Enrolment fee	Renewal fee (once every three years)	Total	
Up to 2007-08	94	5,000	19,000	24,000	22,56,000
2008-09	26	5,000	4,000	9,000	2,34,000
2009-10	17	5,000	4,000	9,000	1,53,000
2010-11	11	5,000	17,000	22,000	2,42,000

<sup>42</sup> Bye-laws came into effect from 12 January 2007.

<sup>43</sup> Advertisement slides shown in movie theatres.

<sup>44</sup> Rates were enhanced *vide* Advertisement Bye-laws Amendment, 2012 notified in Gazette on 16 January 2016.

Commenced operations during the year <sup>¥</sup>	Number of film theatre owners <sup>¥</sup>	Amount payable per theatre owner			Total loss of revenue
		Enrolment fee	Renewal fee (once every three years)	Total	
2011-12	8	5,000	2,000	7,000	56,000
2012-13	4	5,000	2,000	7,000	28,000
2013-14	1	5,000	15,000	20,000	20,000
<b>Total</b>	<b>161</b>				<b>29,89,000</b>

<sup>¥</sup> In the absence of details of film theatres with BBMP, the data available on the website of Commercial Taxes Department has been adopted.

Renewal fee for 2016-17 has been considered at the enhanced rate of ₹15,000/-.

Source: Information available on the website of Commercial Taxes Department and Bye-laws

Thus, despite the availability of enabling provisions for enrolling film theatre owners as commercial advertisers and collecting enrolment/renewal fee from them, BBMP failed in revenue generation to augment their resources. This resulted in non-realisation of revenue aggregating ₹29.89 lakh as on 31 March 2017.

The State Government stated (November 2017) that details of cinema theatres would be obtained from the Commissioner, Entertainment Tax Department and action would be taken to levy advertisement tax and penalty.

#### **4.6 Avoidable payment due to non-reduction of contract demand and non-maintenance of power factor**

**City Corporation, Shivamogga, failed to initiate action to get the contract demand reduced in accordance with consumption and did not maintain power factor at the prescribed level resulting in avoidable payment of ₹46.32 lakh during 2013-14 to 2016-17.**

The Karnataka Electricity Reforms Act, 1999 and tariff for power supply effective during the period 2013-14 to 2016-17 stipulated that the billing demand for High Tension<sup>45</sup> (HT) lines would be the maximum demand recorded during the month or 75 per cent of the contract demand, whichever was higher. HT consumer was entitled to get his contract demand reduced, according to his requirements, as per clause 34.02 of 'Conditions of supply of electricity of the Distribution Licensees in the State of Karnataka'. Further, as per the tariff policy, HT consumer was to maintain an average power factor<sup>46</sup> (PF) of not less than 0.90. For this purpose, HT consumer was required to install and maintain power capacitor (PF correction apparatus) of adequate capacity in their installations. If PF recorded was below 0.90 lag, a surcharge (penalty) of three paise per unit of power consumed was leviable for every reduction of PF by 0.01 below 0.90 lag.

Scrutiny (October 2016) of electricity bills of two<sup>47</sup> HT installations of City Corporation, Shivamogga (CC) and further information collected during August 2017 showed that the contract demand was 1,100 kilo volt-amperes

<sup>45</sup> High Tension lines mean supply of electricity at voltage higher than 650 volts and up to 33,000 volts.

<sup>46</sup> Power factor is the ratio of useful (real) power (KW) to total (apparent) power (KVA). It is a measure of how efficiently electric power is converted into useful work output.

<sup>47</sup> GJHT-2 (Gajanoor water supply works) and HT-26 (Sharavathi booster pump house).

(KVA) in case of GJHT-2 and 240 KVA for HT-26. During the period April 2013 to March 2017, the monthly energy consumption in respect of GJHT-2 and HT-26 ranged from 433 to 547 KVA and 131 to 176 KVA respectively. This evidenced that the maximum actual demand recorded during this period was only 50 per cent of contract demand (1,100 KVA) in respect of GJHT-2 and 73 per cent of contract demand (240 KVA) for HT-26. Accordingly, the bills for both the installations were raised at 75 per cent of the contract demand as per the tariff schedule. We observed that despite the availability of enabling provision of reducing the contract demand, CC had not initiated any action to get the contract demand reduced in accordance with the consumption. This resulted in avoidable payment of ₹28.83 lakh towards cost of power not actually utilised as detailed in **Table 4.5**:

**Table 4.5: Details showing avoidable excess payment of ₹28.83 lakh during the period April 2013 to March 2017**

Sl. No.	HT installation (RR No.)	Contract demand (in KVA)	Actual recorded demand (in KVA)		Billing demand (in KVA)		Demand charges paid (₹ in lakh)	Demand charges payable on actual recorded demand (₹ in lakh)	Excess payment (₹ in lakh)
			Range	Total	75% of contract demand	Total			
1	GJHT-2	1,100	433 to 547	22,367	825	37,125	67.82	40.86	26.96
2	HT-26	240	131 to 176	5,464	180	6,480	11.88	10.01	1.87
<b>Total</b>				<b>27,831</b>		<b>43,605</b>	<b>79.70</b>	<b>50.87</b>	<b>28.83</b>

Source: Electricity bills made available by CC

Note: Despite repeated requests, CC had not furnished 3 electricity bills pertaining to GJHT-2 and 12 electricity bills pertaining to HT-26.

We also observed that Mangalore Electricity Supply Company (MESCOM) had levied (2013-14 to 2016-17) PF surcharge aggregating ₹17.49 lakh<sup>48</sup> in respect of these two HT installations as CC had failed to maintain PF at 0.90. This was because the power capacitors installed initially had become dysfunctional and CC had not taken any action to repair them.

The Assistant Executive Engineer (Electrical), CC stated (August 2017) that necessary action would be taken to install power capacitors and avoid the levy of PF penalty.

Thus, failure of CC in initiating action to get the contract demand reduced in accordance with consumption and non-maintenance of power factor at the prescribed level of 0.90, resulted in payment of ₹46.32 lakh which was avoidable.

The State Government stated (October 2017) that there was wrong fixation of contract demand in respect of GJHT-2 due to lapses in internal communication with MESCOM and that CC could not identify it due to lack of technical capacity. It further stated that consumption in respect of HT-26 was expected to increase as higher capacity pumps and motors were being installed. It also stated that power capacitors had been installed in all HT connections; however, the corrective steps for maintaining them could not be taken due to shortage of staff in electrical department of CC. The reply is not admissible as

<sup>48</sup> ₹12.61 lakh for GJHT-2 and ₹4.88 lakh for HT-26.

the wrong fixation of contract demand in respect of GJHT-2 was identifiable from the electricity bills being received in CC and likely increase in future consumption of HT-26 does not justify the excess payment already made to MESCOM as CC had the option to get the contract demand reduced in accordance with the consumption and get additional load sanctioned, whenever required.

#### **4.7 Undue benefit to the contractor**

**Chief Officer, Town Panchayat, Turuvekere, released mobilisation advance to the contractor in excess of the amount specified in the agreement leading to undue benefit to the contractor and resultant cost escalation of ₹43.13 lakh.**

The Urban Development Department, Government of Karnataka, accorded (September 2009) administrative approval for construction of commercial complex in old municipal bus stand premises at Town Panchayat, Turuvekere, Tumakuru District (TP) at an estimated cost of ₹3.10 crore under State Finance Commission (SFC) grants. The work was technically sanctioned in January 2009. Tenders were invited (October 2009) for an amount of ₹2.54 crore by the Chief Officer, Town Panchayat, Turuvekere (CO). Two tenderers submitted their bids, of which one bid was technically disqualified. The offer of the single tenderer was accepted and the work was awarded to Sri C.S. Kodanda Rama Raju (contractor) at his negotiated cost of ₹2.69 crore. CO entered into an agreement with the contractor and issued work order on 8.12.2010 with stipulated date of completion as 8.12.2012 (24 months).

As per the terms and conditions of the agreement, the contractor was entitled to a mobilisation advance of five *per cent* of the contract price to be drawn before end of 20 *per cent* of contract period subject to submission of unconditional Bank Guarantee (BG). Further, as per the Finance Department's directives (August 1981), the Heads of the Department were required to ensure that BGs are received directly from the Bankers and also obtain confirmation of the fact of issue of such guarantee from the issuing banks so that the risk of forgeries are eliminated.

Scrutiny of the records (October 2016) in TP showed that CO, in violation of the conditions of contract, released (December 2010) ₹1.25 crore (46 *per cent* of the contract price) towards mobilisation advance. BGs furnished by the contractor for ₹1.25 crore valid for a period of two years from December 2010 to December 2012 was accepted by CO without verifying its genuineness.

CO on observing the slow progress of work, issued notices (September 2011 to May 2012) to the contractor for completion of the work within the stipulated time. As the contractor did not respond to the notices, CO, submitted BGs furnished by the contractor for renewal (December 2012). A legal notice was also issued (December 2012) to the contractor by CO. The bank<sup>49</sup> authorities rejected the renewal stating that BGs were not issued by the bank. CO requested the contractor (5 February 2013) to furnish fresh BGs,

<sup>49</sup> ICICI Bank, Commercial Branch, Bengaluru.

including BG furnished for the security deposit amounting to ₹13.57 lakh, as BGs were not renewed by the bank. The contractor furnished (July 2013) a fresh BG only for ₹13.57 lakh from a different bank<sup>50</sup> towards further security deposit and sought for (September 2013) extension of time and payment for the work done.

CO lodged (July 2013) a complaint with the Sub-Inspector of Police, Turuvekere Police Station against the contractor for furnishing fake BGs. Thereafter, the contractor abandoned the work (March 2014). CO adjusted an amount of ₹1.21 crore claimed by the contractor vide Running Account Bills Part 1 to 6 (January 2011 to April 2014) towards mobilisation advance of ₹1.25 crore paid to the contractor. This included an amount of ₹9.44 lakh recovered towards the statutory deductions such as income tax, labour cess, royalty *etc.* The genuineness of the payments could also not be vouched in audit as the corresponding entries relating to these payments could not be traced in the Cash Book and subsidiary records. CO encashed (May 2015) BG of ₹13.57 lakh and deposited the amount in further security deposit account.

The Deputy Commissioner, Tumakuru District terminated the contract (November 2016) without penalty, risk and cost to the contractor. This was, however, in violation of clause 49.1<sup>51</sup> of the terms and agreement of the contract.

CO replied (September 2017) that 46 *per cent* of physical and financial progress had been achieved in construction of the building and the balance work had been estimated to cost ₹1.90 crore (as per Schedule of Rates of 2016-17). He further stated that the estimate was under approval and tenders would be invited soon after the estimate was approved. The joint physical verification conducted (August 2017) revealed that the work was executed up to the roof level of ground floor as shown below:

**Exhibit 2: Incomplete commercial complex at Town Panchayat, Turuvekere (2.8.2017)**



<sup>50</sup> Karnataka Bank, Malleswaram Branch, Bengaluru.

<sup>51</sup> If the contract is terminated because of a fundamental breach of contract by the contractor, the employer shall prepare bill for the value of the work done less advance payments received up to the date of the bill, less other recoveries due in terms of the contract, less taxes due to be deducted at source as per applicable law and less the percentage (30 *per cent*) to apply to the work not completed as indicated in the contract data.

Thus, the failure of CO, to get confirmation from the issuing bank regarding BGs furnished by the contractor resulted in TP having no security to effect recoveries from the contractor for having abandoned the work from March 2014. This also resulted in additional burden of ₹43.13 lakh<sup>52</sup> to TP due to cost escalation besides inordinate delay in completion of work by almost five years defeating the objective of having a commercial complex at Turuvekere Bus Stand. The release of mobilisation advance by CO, to the contractor in excess of the amount specified in the agreement also led to undue benefit to the contractor and consequent loss of interest of ₹8.14 lakh<sup>53</sup> to TP.

The State Government accepted the audit observation and stated (October 2017) that action had been initiated against the officials concerned and also to blacklist the contractor. It further stated that the Council of TP, Turuvekere has passed a resolution in April 2017 to initiate suitable legal action against the contractor for recovering all the losses/additional cost.

**Bengaluru**  
**The 31 January 2018**



**(E P Nivedita)**  
**Accountant General**  
**(General and Social Sector Audit)**  
**Karnataka**

**Countersigned**



**New Delhi**  
**The 1 February 2018**

**(Rajiv Mehrishi)**  
**Comptroller and Auditor General of India**

<sup>52</sup> ₹121.37 lakh (cost of work done) + ₹190.34 lakh (revised cost of balance work) – ₹268.58 lakh (original cost of the work) = ₹43.13 lakh.

<sup>53</sup> Interest calculated for the period 8.12.2010 to 16.5.2015 @ four *per cent* on the excess payments made after adjusting the payments against the Running Account bills.