CHAPTER 5

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Compliance Audit Observation relating to Public Sector Undertakings (other than Power Sector)

This Chapter includes important audit findings emerging from test check of transactions of the Public Sector Undertakings (other than Power Sector).

The Provident Investment Company Limited

5.1 Avoidable payment of interest

Non-filing of annual Income Tax return within due dates and shortfall in remittance of advance tax resulted in avoidable payment of interest of ₹ 1.14 crore

As per Section 208 of the Income Tax Act, 1961 (Act), advance tax is payable during a financial year, in every case, where the amount of such tax payable by the assesse during the year is rupees ten thousand[1] or more. Section 234B of the Act stipulates that where in any financial year, an assessee who is liable to pay advance tax under Section 208 failed to pay such tax or where the advance tax paid by such assesse is less than 90 *per cent* of the assessed tax, the assesse shall be liable to pay simple interest at the rate of one *per cent* for every month from the first day of April on the amount by which the advance tax paid fell short of the assessed tax.

Further, Section 234C of the Act provides that if an assessee fails to pay advance tax or the advance tax paid is less than 15 *per cent*, 45 *per cent*, 75 *per cent* and 100 *per cent* of the tax due till 15 June, 15 September, 15 December and 31 March respectively, the assesse shall be liable to pay simple interest at the rate of one *per cent* per month on the amount of the shortfall. In terms of the provision of Section 234A, in case the return of income for any assessment year is furnished after the due date, simple interest at the rate of one *per cent* for every month or part of a month is chargeable on

[1] Substituted for "five thousand" by the Finance Act, 2009 w.e.f 1.4.2009.

the amount of tax on the assessed income less advance tax paid and tax deducted/ collected at source.

Audit observed (July 2018) that The Provident Investment Company Limited (Company) had not paid the advance tax within the prescribed time and had also not filed their annual Income Tax Returns (ITRs) within due dates. Scrutiny of records indicated that the Company was irregular in filling ITRs and payment of advance tax at the stipulated percentages on the due dates. Due to delay in finalisation of Annual Accounts for the years 2007-08 to 2017-18, the company filed the ITRs for the Assessment Years (AYs) 2008-09 to 2018-19 by delay of 328 days to 548 days (***Annexure-5.1***). The Company paid ₹ 1.14 crore towards interest under Section 234A, 234B and 234C for AYs 2008-09 to 2018-19, which could have been avoided had the Company correctly assessed and paid the quarterly instalments of advance tax on the prescribed due dates.

In reply, the Finance Department stated (October 2018) that the present situation has arisen due to non-conduction of audit by the then Management in time. The present Management removed the services of the concerned employees from the Company (19 December 2017) and lodged FIR against them for criminal proceedings and also got vacated the residential accommodation provided to them.

The reply is not acceptable because as per Section 210/ 129 of the Companies Act, 1956/ 2013, it is duty of the Company to place the accounts in the Annual General Meeting of the shareholders within six months of the close of the financial year. Further, the Company could have estimated the tax liability for the respective years on the basis of the earnings of the Company.

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The : 22 July 2020