

## **CHAPTER IV**

### **4. TRANSACTION AUDIT OBSERVATIONS**

## Chapter-IV

### 4. Transaction Audit Observations

Important audit findings emerging from test check of transactions of the State Government companies/Statutory corporations are included in this Chapter.

#### Government companies

#### South Bihar Power Distribution Company Limited

#### **4.1 Long Paragraph on Billing and Collection of dues in respect of High Tension Specified Services Consumers**

**4.1.1** The erstwhile Bihar State Electricity Board (Board), in 2001, by virtue of the power conferred under section 49 of the Electricity (Supply) Act, 1948, with the approval of State Government, framed exclusive tariff for the consumers of electric induction furnace (a type of furnace that uses electric currents for melting and alloying a wide variety of metals with a minimum melting loss), designated as High Tension Specified Services (HTSS) tariff which was applicable to all the consumers having a contract demand of 300 KVA or more for induction furnace. Further, various tariff orders issued by the Bihar Electricity Regulatory Commission (BERC) with effect from November, 2006, *inter alia*, also included provisions for HTSS consumers.

The activity of distribution of electricity was carried out by the erstwhile Bihar State Electricity Board (Board). The Board was unbundled on a functional basis with effect from 01 November 2012 into five successor companies viz. Bihar State Power (Holding) Company Limited, South Bihar Power Distribution Company Limited, North Bihar Power Distribution Company Limited, Bihar State Power Transmission Company Limited and Bihar State Power Generation Company Limited.

A total of 394.88 Million Kilo Watt Hour (MKWH) to 476.39 MKWH units of electricity was sold to HTSS consumers during the period 2010-13 which ranged between 5.9 *per cent* and 11.95 *per cent* of the total units of electricity sold in the State.

Audit of Billing and Collection of dues in respect of High Tension Specified Services (HTSS) Consumers of South Bihar Power Distribution Company Limited (Company) was conducted since the percentage of electricity units sold to HTSS consumers with respect to the total units of electricity sold to the consumers across the State increased significantly from 5.9 *per cent* in 2011-12 to 11.95 *per cent* in the year 2012-13.

#### Audit Objectives

**4.1.2** Audit of Billing and Collection of dues in respect of electricity units sold to HTSS consumers of the South Bihar Power Distribution Company

Limited (Company) during the period 2010-14 was conducted to ensure:

- due compliance with the provisions of Tariff Orders issued by BERC from time to time and with Rules pertaining to determination of Contract Demand and its subsequent revisions;
- adherence to the Bihar Electricity Regulatory Commission's (Standards of Performance of Distribution Licensee) Regulations, 2006; and
- billing in accordance with the applicable tariff and assessing the efficiency of billing and collection process.

#### **Scope of Audit and Methodology**

**4.1.3** The methodology adopted for attaining the audit objectives consisted of scrutiny of records relating to 12 HTSS consumers out of a total of 16 consumers at Headquarters office of the Company, raising of audit queries, discussion of audit findings with management in exit conference (September 2014) and issue of Long Paragraph to the Management/ Government for comments. This audit covered the period 2010-11 to 2013-14.

#### **Audit findings**

**4.1.4** Audit findings on the billing and collection of dues from HTSS consumers in respect of sale of electricity in units are discussed in the succeeding paragraphs:-

#### **Short Determination of Contract Demand**

**4.1.5** Paragraph 7.4 of Tariff Order, 2012-13 and 2013-14 approved by Bihar Electricity Regulatory Commission (BERC) provided, *inter alia*, that for a new connection under HTSS category, the contract demand shall be based on the total capacity of the induction furnace and the equipments as per manufacturers' technical specifications. The billing demand shall be the maximum demand recorded during the month or the contract demand, whichever is higher.

A mention was made in Paragraph 4.1 of the Report of the Comptroller and Auditor General of India on PSUs for the year ended 31 March 2013 regarding non-adherence to the provisions of the tariff order regarding reduction of contract demand which resulted in undue benefit to the consumer and a loss of revenue of ₹ 1.19 crore to the Company. Further cases of non-compliance of the aforementioned provisions as noticed are discussed below:-

#### ***Failure to enhance the Contract Demand as per actual load***

An HTSS consumer, M/s Neelkamal Steel Private Limited, Patna applied (March 2013) for load enhancement from 9000 Kilo Volt Ampere (KVA<sup>1</sup>) to 12000 KVA and furnished the details of existing load installed in its premise. As per the said details, the said consumer was having a load of 9831 KVA (8849.5 KW). The aforementioned load of the said consumer existed ever

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<sup>1</sup> 1KVA= 1 Kilo Watt (KW) x 1.1111.

since the contract demand of 9000 KVA was being availed by the said consumer (i.e. from January 2013). Accordingly, as per the Tariff provisions, the said consumer should have been billed at a contract demand of 9831 KVA instead of 9000 KVA from January 2013. Further, the said consumer got his load enhanced from 9000 KVA to 12000 KVA in July 2013. However, as per the load details, the total load including equipments of the consumer worked out to be 13103 KVA (11794 KW). Thus, the consumer should have been billed accordingly.

Failure on the part of the Company to enhance the Contract Demand of the said HTSS consumer in accordance with the provisions of the Tariff Order resulted in short determination of Contract Demand which led to a revenue loss of ₹ 1.06 crore to the Company during the period from January 2013 to April 2014.

#### ***Short-assessment of Contract Demand***

An HTSS consumer, M/s Dadiji Steel Private Limited, Patna, consequent upon installation of new furnace in place of old furnace, applied (July 2012) for load enhancement from 12051 KVA to 14701 KVA<sup>2</sup>. However, in load sanction, there was short assessment in respect of load of furnaces and auxiliary load. As regard the four furnaces, the manufacturer's<sup>3</sup> specifications, clearly stated that the total power consumption necessary for functioning of these furnaces was 12776 KVA (11500 KW). However, as against the manufacturers' technical specifications in respect of the aforementioned furnaces, the said consumer was sanctioned with a load of 11500 KVA only. Further, as regards the auxiliary load, the said consumer in its self-declaration, stated to have a load of 1334 KVA (1201KW). However, the said consumer was allowed a load of 1201 KVA in respect of auxiliary load. Consequently, as against the total load of 16110 KVA i.e. (12776 KVA + 1334 KVA + 2000 KVA) in respect of induction furnaces, auxiliary load and rolling mill, the said consumer was sanctioned with a load of 14701 KVA only with effect from January 2013.

As a result of short-assessment of Contract Demand by 1409 KVA, the Company suffered a revenue loss of ₹ 2.27 crore for the period January 2013 to November 2014.

The Management while accepting the audit observation stated (October 2014) that both consumers have been requested to execute fresh agreement for the enhanced contract demand.

*Recommendation: We recommend that the Company needs to scrupulously adhere to the provisions of Paragraph 7.4 of the prevalent Tariff Orders with respect to determination of Contract Demand and Billing thereof.*

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<sup>2</sup> The load of 14701 KVA included the load of 11500 KVA for four induction furnace, 1201 KVA for auxiliary load and 2000 KVA for Rolling Mill.

<sup>3</sup> Megatherm Electronic Private Limited.

**Adherence to the BERC (Standards of Performance of Distribution Licensee) Regulations, 2006**

***Delay in Load Enhancement***

**4.1.6** Paragraph 17 (a) of Bihar Electricity Regulatory Commission (BERC) (Standards of Performance of Distribution Licensee) Regulations, 2006 stipulated *inter alia*, that on receipt of application in the prescribed form for enhancement of the Contract Demand, the licensee<sup>4</sup> shall inspect the premises within seven days of receipt of application and shall allow the enhancement of load within twenty days, in case no extension and alteration of distribution network was required.

We observed that in case of two consumers<sup>5</sup> relating to enhancement of load, the time period prescribed by Standards of Performance of Distribution Licensee, 2006 was not adhered to and there were delays which are discussed below:

- An HTSS consumer, M/s Neelkamal Steel Private Limited, Patna, applied (05 March 2013) for enhancement of the load from 9000 KVA to 12000 KVA. Though the recommendation for the sanction of the enhanced load was sent on 14 March 2013 only, the Company, however, inordinately delayed the sanction of the enhanced load by almost one month. The supply at the enhanced load to the said consumer commenced from 6 July 2013. Delay in enhancement of load by 36 days resulted in a revenue loss of ₹ 25.20 lakh<sup>6</sup> to the Company on account of Demand Charges.
- An HTSS consumer, M/s Dadiji Steels Private Limited, Patna, applied (July 2012) for enhancement of load from 12051 KVA to 14701 KVA. The load proposal of the said consumer was sent to the then General Manager cum Chief Engineer on 3 August 2012. Thereafter, letter was written to the Executive Engineer, Electric Supply Division, Fatuha to inspect the premises of consumer and submit the concrete load proposal. Eventually, the enhanced load was sanctioned on 10 October 2012 only i.e. after a delay of 49 days after allowing 27 days provided under the aforementioned Regulation. We observed that had required steps for load enhancement been taken on time, the delay of 49 days was avoidable. Consequent upon load sanction, the said consumer deposited the security money on 26 November 2012 and supply to the said consumer at the enhanced load commenced from January 2013. Delay in enhancement of load of the said consumer by the Company resulted in a revenue loss of ₹ 30.30 lakh<sup>7</sup> on account of Demand Charges.

In both the aforementioned cases the Company stated (October 2014) that there was no delay in enhancement of load since the enhanced load applied

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<sup>4</sup> Licensee means any person including a Company or a Local Authority licensed under the Indian Electricity Act, 1910 to supply energy and includes the Bihar State Electricity Board.

<sup>5</sup> M/s Neelkamal Steel Private Limited and M/s Dadiji Steel Private Limited.

<sup>6</sup> Demand Charge loss =  $3000 \times 36/30 \times 700 = ₹ 25, 20,000.$

<sup>7</sup> Demand Charge loss =  $2650 \times 49/30 \times 700 = ₹ 30, 29,833.$

for was sanctioned after completion of formalities like deposit of additional security deposit and execution of agreement stipulated under applicable clause of Bihar Electricity Supply Code-2007 (BESC 2007). Further, as regards the revenue loss, the said consumer was billed on actual meter reading recorded by the meter.

The reply of Management is not acceptable since there were inordinate delays at the stage of load sanction itself which was to be done before the formalities of execution of agreement and deposit of security money by the consumer. Further, as per the Tariff Provisions, demand charge was to be billed as per the contract demand or the maximum recorded demand, whichever was higher.

*Recommendation: We recommend that the Company needs to adhere to the provisions of Paragraph 17 (a) of BERC (Standard of Performance of Distribution Licensee) Regulations, 2006 to reduce the unwarranted delays in matters involving new service connection.*

### **Short Billing and Collection of Revenue**

#### ***Short Assessment of Additional Security Deposit and Undue benefit to the Consumer***

**4.1.7** Clause 7.15(3) of Bihar Electricity Supply Code, 2007 (Code), *inter alia*, provides that the amount of the security deposit obtained from the consumer shall be reviewed by the licensee, half-yearly on the basis of consumption during the previous six months for High Tension (HT)/ Extra High Tension (EHT) consumers. The consumer shall be required to pay an additional security deposit based on his average consumption during the period concerned and the applicable tariff, etc., if the security for the average consumption of power exceeds the amount of the security deposit already held by the licensee, by 20 *per cent*. If otherwise, additional security deposit shall be refunded to the consumer.

Scrutiny of records of M/s Bhola Ram Steel Private Limited, Patna, an HTSS consumer revealed that security deposits of the said consumer was reviewed in July 2013 on the basis of ten month consumption from June 2012 to March 2013. Consequent upon revision, an additional security of ₹ 36.22 Lakh was levied on the said consumer. We observed that as per the billing details on the basis of prior six month consumption in October 2013 (on half yearly basis) additional security amounting to ₹ 52.63 Lakh was required to be charged on the said consumer. However, the Company in contravention of the provisions of Bihar Electricity Supply Code, 2007 charged security of ₹ 36.22 Lakh only on the said consumer. This resulted in short assessment of additional security deposit to the tune of ₹ 16.42 Lakh and led to extension of undue benefit to the said consumer to that extent.

The Management stated (October 2014) that security deposit of the Consumer was reviewed in July 2013 and accordingly additional security of ₹ 36.22 lakh was realised from the consumer in the month of October 2013 on the basis of ten months consumption from June 2012 to March 2013 and no further additional security deposit was required when the same was reviewed in the month of October 2013. The reply is not acceptable since as per the

provisions of the Code, the Company was required to review security deposit on half yearly basis i.e. in the month of April/ May and October/ November on the basis of previous six months' consumption of the consumer.

*Recommendation: We recommend that the Company needs to adhere to the provisions of Clause 7.15(3) of Bihar Electricity Supply Code, 2007 relating to review of security deposit of the HTSS consumers.*

#### ***Irregular Grant of Rebate under Industrial policy***

**4.1.8** As per Paragraph 2 (xii) of the Industrial Policy, 2006 issued by the Industry Department, Government of Bihar, working units at present and new units shall avail exemption from payment of Annual Minimum Guarantee (AMG) / Monthly Minimum Guarantee (MMG) charges of electricity from the date of declaration of the New Industrial Policy. The aforementioned exemption under the Industrial Policy was extended for a further period of five years, vide the new Industrial Policy, 2011. However, the erstwhile Board issued an order in August 2008 to not to grant benefits of industrial policy to consumers being found guilty of theft of electricity/tampering of meter for the period of theft/tampering.

We observed that:

The erstwhile Board launched a scheme of voluntary disclosure of tampering of meter in June 2008 in line with clause 11.4 of ESC 2007. In response to the aforementioned scheme, six<sup>8</sup> consumers declared (June 2008) their meter as tampered. Accordingly, punitive bills were raised under clause 11.4 of the aforementioned Code for the period of tampering of meter. Further, it was observed that the erstwhile Board unduly granted the benefits of remission under Industrial policy, 2006 in July 2011 aggregating to ₹ 1.95 crore (***Annexure-4.1***) for the period of tampering of meter to these consumers notwithstanding, the instances of tampering of meters by them. However, as per the prevalent order of the Board, in case of tampering /theft of electricity, no incentive was to be given to the Consumer in terms of the Industrial Policy, 2006 for the period of tampering/theft.

M/s Gangotri Electrocasting Private Limited, Patna, an HTSS consumer, was served with a punitive bill of ₹ 1.01 crore for tampering of meter for the period of 12 January 2008 to 28 February 2008. At the direction of Hon'ble Patna High Court, the punitive bill was reviewed and the Assessing Officer upheld (September 2011) the earlier assessment of punitive bill of ₹ 1.01 crore. However, the consumer despite being served with a punitive bill for meter tampering, was also extended the benefit of remission amounting to ₹ 1.43 lakh in October 2012 for the period of theft (January 2008 to February 2008) under the said policy, in violation of the orders of the erstwhile Board.

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<sup>8</sup> M/s Dadiji Steel Private Limited, Patna (Didarganj); M/s Patwari Steel Private Limited, Patna (Rajendra Nagar); M/s Balmukund Concast Limited, Patna (Exhibition road); M/s J.G. Foundry Limited, Patna (Agam Kuan); M/s Dina Iron & Steel Limited, Patna (Didarganj); and M/s Gangotri Electrocasting Private Limited, Patna (Phulwarisharif).

The Management accepted the audit observation and stated (October 2014) that as per the observation of audit supplementary bill was served to the consumers.

***Revenue recoverable on account of Energy Bills Kept in Abeyance***

**4.1.9** In the event of any dispute arising between the Company and the Consumers with respect to the amount and correctness of the Energy bills served and the matters related thereto, the Company keeps the amount involved therein as “Kept in Abeyance” pending settlement of the issues/disputes.

It was observed in Audit that the premises of M/s Dina Metals Limited (Patna), an HTSS consumer, were inspected by vigilance team along with the officials of the erstwhile Board in April 2008. The meter of consumer was found to be tampered and accordingly a First Information Report (F.I.R) was lodged for theft of electricity and a punitive bill for ₹ 3.56 crore was raised. The Consumer, in protest, filed a petition in Hon’ble High Court, Patna, who directed that meter of consumer be tested in the laboratory of the consumer’s choice viz. National Physical Laboratory, Delhi to identify and detect as to whether the said meter was mechanically defective or tampered and then the Assessing Officer take appropriate steps in accordance with the law and in case of any provisional bill raised on the consumer, the said consumer shall pay 50 *per cent* of the amount thereof and then file his objection, if any (January 2011).

We observed that the Company, even after a lapse of more than three years, failed to get the meter tested as a result of which ₹ 3.56 crore remained blocked for more than three years. The Company failed to realise the punitive bill till date (October 2014) and the said amount was lying idle as “Kept in Abeyance”.

The Management while accepting the facts and figures stated (October 2014) that in compliance of the Hon’ble High Court’s order, appropriate steps in accordance with law, would be taken shortly.

*Recommendation: We recommend that the Company needs to dispose of cases of billing of consumers on a priority basis so as to avoid the incidents of the same being kept in abeyance as well as to avoid the unwarranted delays in collection thereof.*

The matter was reported to the Government (August 2014), reply was awaited (November 2014).

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**Conclusion**

- **The Company failed to enhance the Contract Demand of two HTSS consumers on the basis of the total capacity of the induction furnace and equipments of the consumers as per manufacturers’ technical specifications and bill them accordingly. This led to short determination**

of Contract Demand as a result of which the Company suffered revenue losses aggregating to ₹ 3.33 crore.

- The Company failed to enhance the Contract Demand of two HTSS consumers within the prescribed time limit of 27 days and as a result suffered revenue losses aggregating to ₹ 55.50 lakh.
- The Company, even after a lapse of more than three years and in contravention of the High Court's directives, failed to get the meter of an HTSS consumer tested in a laboratory of consumer's choice as a result of which revenue of ₹ 3.56 crore was lying blocked on account of disputed Electricity Bills.

#### 4.2 Loss of revenue

*Inordinate delay in enhancement of Contract Demand of Railway Traction Service (RTS) Consumer resulted in non-realisation of revenue of ₹ 5.14 crore.*

Bihar Electricity Regulatory Commission (BERC) approved Tariff Order 2006-07<sup>9</sup>, provided, *inter alia*, that the transformer capacity of all High Tension (HT) consumers shall not to be more than 150 *per cent* of the contract demand. It further provided that if a consumer was found to be utilising transformer of capacity higher than admissible for his contracted demand, then the same would be treated as malpractice. BERC Tariff Order 2010-11<sup>10</sup>, considering the special need of Railway, permitted the Railway Traction Service (RTS) consumers to have transformers of capacity up to 200 *per cent* of the contract demand.

Scrutiny of the records of the erstwhile Bihar State Electricity Board [now South Bihar Power Distribution Company Limited<sup>11</sup> (Company)], revealed that:

- An RTS consumer at Lakhisarai having contract demand of 9.5 Mega Volt Ampere (MVA) was having two transformers of 21.6 MVA capacity in violation of provisions of the aforementioned Tariff Order.
- The contract demand of the said consumer, as per the provisions of the aforementioned Tariff Orders, worked out to be 14.40 MVA<sup>12</sup> for the period November 2006 to November 2010 and 10.80 MVA<sup>13</sup> for the period December 2010 to May 2013 so as to conform to the provisions of the Tariff Orders and the said RTS consumer should have been billed accordingly.

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<sup>9</sup> Applicable with effect from November 2006.

<sup>10</sup> Applicable with effect from December 2010.

<sup>11</sup> After restructuring of the BSEB, the RTS consumers at Lakhisarai is being billed by the South Bihar Power Distribution Company Limited.

<sup>12</sup> 21.6 MVA/150 *per cent* = 14.40 MVA.

<sup>13</sup> 21.6 MVA/200 *per cent* = 10.80 MVA.

- The Company failed to enhance the contract demand of the said consumer in time so as to match the provisions of the tariff order. The Company enhanced the contract demand of the said consumer to 10.80 MVA in June 2013 only.

Thus, non-compliance with the provisions of the Tariff Orders and inordinate delay in enhancement of the contract demand of the said consumer by the Company resulted in non-realisation of revenue amounting to ₹ 5.14 crore on account of Demand charge and Energy charge for the period November 2006 to May 2013.

The Management while accepting the facts and figures stated (October 2014) that the billing for unrealised revenue for the period November 2006 to May 2013 was in process. However, the fact remains that the unrealised revenue for the said period is yet to be recovered (November 2014).

The matter was reported to the Government (April 2014); reply was awaited (November 2014).

### 4.3 Short-assessment of Punitive Charges

***Non-compliance with the provisions of the Tariff Order and Electricity Supply Code, 2007 by the Company resulted in short-assessment of punitive charges for an HTS consumer: ₹ 43.03 lakh.***

The Bihar Electricity Regulatory Commission (BERC), vide Tariff Order 2011-12 (effective from 01 May 2011) provided that the transformer capacity of High Tension Services (HTS) Consumer shall not be more than 150 *per cent* of the contract demand and the consumer found to be utilising transformer of higher capacity than admissible for his contracted load, will fall under malpractice. Further, as per Electricity Supply Code, 2007 (Code), as amended in 2010, the assessment of Energy charges in the case of unauthorised use/theft of electricity shall be worked out on the basis of the formulae<sup>14</sup> where the Connected Load in Kilo Watt (KW) for an HTS consumer shall be:

- the Contracted Demand, or
- actual demand in KVA found at the time of inspection/raid, or
- eighty *per cent* of the permissible transformer capacity, whichever is higher  $\times 0.90$  (PF<sup>15</sup>).

Scrutiny of records (February 2014) of Electric Supply Circle, Munger of South Bihar Power Distribution Company Limited (Company)<sup>16</sup> revealed that a Joint Inspection of the premises of Divisional Electrical Engineer, Eastern

<sup>14</sup>  $U = L \times F \times D \times H$ ; where U= Quantum of Energy assessed in Units, L= Connected load in KW found at the time of inspection/raid at site, F= Load factor as per the applicable category of service, D= Number of days during which unauthorised use of Electricity has taken place. If days were not ascertained then such period shall be limited to 12 months i.e. 365 days and H= Number of average hours of supply made available per day.

<sup>15</sup> PF denotes Power Factor and is defined as the ratio of the real power flowing to the load, to the apparent power in the circuit.

<sup>16</sup> Erstwhile Bihar State Electricity Board.

Central Railway, Danapur (Consumer No. LS – 58), an HTS – I consumer having a contracted Load of 267 Kilo Volt Ampere (KVA) was carried out by the Company officials on 16.11.2011. In the joint inspection, the said consumer was found to be using the transformers of 880 KVA capacity as against the admissible 400 KVA capacity transformer. Accordingly, the Company (erstwhile Bihar State Electricity Board) issued (February 2011) a provisional bill of ₹ 1.37 crore towards punitive charges to the consumer for unauthorised use of electricity which was also upheld in the final assessment order issued (April 2011) to the consumer.

We observed that the Company in contravention of the provisions of Tariff Order and Codal provisions assessed the punitive charge on the basis of Contract Demand of 469.3 KVA<sup>17</sup> as against the chargeable Contract Demand of 587 KVA<sup>18</sup>. As a result, the punitive charge was short assessed by ₹ 43.03<sup>19</sup> lakh.

The Management stated (November 2014) that the punitive bill amounting to ₹ 1.77 crore has been served to the consumer. The reply is not acceptable since punitive bill to the extent of ₹ 1.37 crore only was served to the consumer, which has already been considered in the paragraph. The other amounts of ₹ 29.67 lakh and ₹ 10.94 lakh relates to arrear bills and Delayed Payment Surcharge recoverable by the Company from the said consumer and such did not fall within the preview of the punitive bill. As such, the remaining amount of ₹ 43.03 lakh was still short assessed.

Thus, non-compliance with the provisions of the Tariff Order and Electricity Supply Code, 2007 by the Company resulted in short-assessment of punitive charges for the said HTS consumer by ₹ 43.03 lakh.

The matter was reported (June 2014) to the Government, reply was awaited (November 2014).

#### **North Bihar Power Distribution Company Limited**

#### **4.4 Short assessment of punitive charges**

***Non-compliance with the provisions of Electricity Supply Code, 2007 by the Company resulted in short assessment of punitive charges to the tune of ₹ 35.63 lakh and extension of undue benefit to the consumer.***

Section 135 (1) (a) of the Electricity Act, 2003 (Act), provides that whoever, dishonestly taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee<sup>20</sup> or the supplier, as the case may be, so as to abstract or consume or use electricity shall be punishable with an imprisonment for a term which may extend to three years or with fine or with both. Further Clause 11.1

<sup>17</sup> 469.3 KVA = 80 per cent of 2/3 of 880 KVA.

<sup>18</sup> 587 KVA = 2/3 of 880 KVA.

<sup>19</sup> i.e. Punitive charge as per the Tariff Order and Code imposable – Amount already billed = ₹ 179.88 lakh – ₹ 136.85 lakh = ₹ 43.03 lakh.

<sup>20</sup> Licensee means any person including a Company or a Local authority licensed under the Indian Electricity Act, 1910 to supply energy.

(b) (i) and 11.2.3 (b) (i) of Electricity Supply Code, 2007 (ESC) as amended in 2010, *inter alia*, provides that the assessment of Energy Charges in the case of unauthorised use/theft of electricity shall be worked out on the basis of formulae  $U = L \times F \times D \times H^{21}$ . Further, the said supply code also provides that for assessment of Energy Charges in cases of theft of electricity, as defined in Section 135 (1) (a) of the Act *ibid*, i.e. the load factor shall be taken as equal to 1 (100%).

Scrutiny (March 2013) of records of the Electric Supply Circle, Muzaffarpur, North Bihar Power Distribution Company Limited (Company) revealed that:

- the premises of M/s Raj Flour Mill, a High Tension Services (HTS) consumer was inspected by the Company on 20 December 2012 wherein it was found that the said HTS consumer was dishonestly availing electricity by tapping 11 Kilo Volts Overhead line which comes under the purview of theft as defined under Section 135 (1) (a) of the Act *ibid*.
- a punitive charge of ₹ 49.28 lakh was imposed (December 2012) on consumer by the Company in its Provisional Assessment Order which was upheld in the Final Assessment Order issued in January 2013.
- in assessment of the punitive charges on the basis of the aforementioned formulae by the Company, Load factor i.e. F was considered as 0.75 as against 1 specified by the Act.
- as per this the imposable punitive charge worked out to be ₹ 84.91 lakh. However, a sum of ₹ 49.28 lakh only was imposed as fine on the said consumer. This in effect, tantamounted to extension of undue benefit to the consumer to an extent of ₹ 35.63 lakh<sup>22</sup>.

The Management stated (October 2014) that the objectionable amount of ₹ 35.63 lakh has been imposed upon the consumer in the Energy Bill for the month of August 2014. However, the fact remains that the said amount is still recoverable as on date (October 2014).

Thus, non-compliance with the provisions of Electricity Supply Code, 2007 by the Company not only resulted in short assessment of punitive charges but also led to extension of undue benefit to the consumer to the tune of ₹ 35.63 lakh.

The matter was reported to the Government (June 2014); reply was still awaited (November 2014).

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<sup>21</sup> U = Quantum of Energy assessed in Units,  
L= Connected load in KW found at the time of inspection/raid at site,  
F= Load factor as per the applicable category of service,  
D= Number of days during which unauthorised use of Electricity has taken place  
and H= Number of average hours of supply made available per day.

<sup>22</sup> ₹ 84.91 lakh – ₹ 49.28 lakh = ₹ 35.63 lakh.

**Bihar State Power (Holding) Company Limited**

**4.5 Undue benefit to the supplier**

***Irregularity in finalisation of tender resulted in procurement of sub-standard Poly Carbonate Seal bit materials valuing ₹ 1.28 crore and extension of undue benefit to the supplier by the Company.***

Clause 12 of the Central Electricity Authority (CEA) (Installation and Operation of Meter) Regulation, 2006, *inter-alia*, stipulates that only the patented seals (seal for which the manufacturer has official right to manufacture) shall be used for sealing the energy meters. The erstwhile Bihar State Electricity Board (BSEB) [Now, Bihar State Power (Holding) Company Limited (Company)] invited (December 2011) sealed tenders vide Notice Inviting Tender (NIT<sup>23</sup>) for supply of 20 lakh Patented Poly Carbonate transparent seal bit along with stainless steel seal wires suitable for sealing energy meter with code number coded monogram serial number. Paragraph 2.2 of technical specifications of the said NIT stipulated that the manufacturer shall compulsorily have the patent right to manufacture the seal and necessary documents in respect thereof shall be submitted along with the bid. Further, clause 12 of the General conditions of NIT stipulated that the sample of the patented seal bit manufactured shall be sent to any laboratory accredited by National Accreditation Board for Testing and Calibration Laboratory (NABL) for conducting the tests<sup>24</sup> at the bidder's cost and the type test reports issued in respect thereof shall also be submitted along with the bids.

Scrutiny of records (November 2013) of Store and Purchase wing of the Company revealed that:

- against the aforementioned NIT, four bidders<sup>25</sup> submitted (January 2012) their bids. Technical part of the bid was opened in January 2012. However, none of the bidders was found suitable and acceptable for procurement of Patented Poly Carbonate seal bit since none of them had a valid patent for manufacturing the seal bit. The Technical Committee<sup>26</sup>, however, requested (February 2012) all the bidders for further clarification/submission of required documents in support of their valid patent right.
- after examination of additional documents submitted by the bidders, the Company, perceiving M/s Secure Seals India (Private) Limited (Supplier) to be a valid patent holder, placed (April 2012) a purchase order for supply of 20 lakh Patented Poly Carbonate seal bit at a landed rate of ₹ 6.49 per unit valuing ₹ 1.28 crore.

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<sup>23</sup> NIT No.: 206/PR/BSEB/2011 dated 30 December 2011.

<sup>24</sup> Identification of base polymer, Boiling water tests, Seal wire tests, specific gravity test, chemical tests, heat resistance test reports, melting point, ultra violet resistance test.

<sup>25</sup> M/s Safcon Seals Private Limited (Kolkata), M/s Secure Seals (India) Private Limited. (Mumbai), M/s Manoj Seals and Locks, Maharashtra and M/s Power Center, Patna.

<sup>26</sup> Consisting of Electrical Superintending Engineer (Purchase), Electrical Superintending Engineer (S&I) and Electrical Executive Engineer (Purchase).

Audit observed that:

- The supplier did not have a patent right to manufacture Poly Carbonate seal bit and had entered (October 2003) into a joint venture agreement with M/s E.J. Brooks (India), INC for the manufacture and marketing of seals and sealing devices pursuant to the terms and conditions of license from M/s E.J. Brooks, New Jersey, USA.
- The Company failed to ensure the authenticity of the patent document and/or assignment/joint venture agreement submitted by the supplier prior to the issue of purchase order in April 2012 which was essential and decisive for selection of the manufacturer as well as the product as per the terms of aforementioned NIT.
- The Assistant Controller of Patent & Design intimated (May 2012) the Company that supplier did not have a patent right to manufacture the Poly Carbonate Seal bit. Further, no assignment/license agreement between M/s E.J. Brooks Company (grantee) and M/s Secure Seals (India) Private Limited. was filed for registration with the Patent Office, Government of India. Notwithstanding this, the Company failed to rescind the contract with the supplier and continued to receive the supplies.
- The Company in contravention of the purchase order failed to ensure the quality of the seal bit supplied since pre-dispatch inspection was not done by Rail India Technical and Economic Services (RITES) Limited for the first lot comprising of two lakh seal bit. Further, Ultra Violet Resistance (UV) Test was not conducted for the second lot comprising of six lakh seal bit. Besides, the UV test failed in third lot comprising of 12 lakh seal bit.

This indicated deficient internal control mechanism not only with respect to finalisation of tenders but also in ensuring the quality of the materials procured. As a result, the Company received sub-standard materials from the supplier, which in effect, tantamounted to extension of undue benefit of ₹ 1.28 crore to the supplier.

The management replied (September 2014) that the supplier had submitted affidavit with regard to patent right for manufacturing of seal bit which was given by M/s E.J. Brooks (Patent holder). Two lakh seal bits were tested by Board officers in the interest of Board for avoiding delay in release of non-service connection, meterisation of un-metered consumers. The Management further stated that UV test was done by Electrical Research and Development Association (ERDA) and found satisfactory.

The Management's reply is not acceptable since Section 69 (1) of the Patents Act 1970, *inter alia*, provides that the notification of assignment, extension and revocation of patents should be registered whereas the Assistant Controller of Patent & Design intimated (May 2012) that no such assignment/license agreement between M/s E. J. Brooks Company and M/s Secure Seals (India) Private Limited for the said patent was filed. Further, in respect of two lakh seal bits, the said seal bits were tested in hot water in place of 8 tests required to be done by RITES. As regards the UV test, the same failed in ERDA report (August 2012) in respect of serial no. 1200001 to 1200010 of seal bit.

Thus, irregularity in finalisation of tender led to procurement of sub-standard seal bit materials valuing ₹ 1.28 crore and consequently resulted in extension of undue benefit to the supplier.

The matter was reported to the Government (June 2014), the reply was awaited (November 2014).

#### **4.6 Undue benefit to the Supplier**

***Deficient procurement planning as well as failure on the part of the Company to safeguard its financial interests not only resulted in undue benefit to the supplier but also led to avoidable excess expenditure of ₹ 1.19 crore.***

General Conditions of the Notice Inviting Tender (NIT) issued by the erstwhile Bihar State Electricity Board [now Bihar State Power (Holding) Company Limited (Company)], *inter alia*, stipulated that in the event of an order being placed on the tenderer, the tenderer will have to supply additional 30 *per cent* of the ordered quantity on the same terms and conditions, if the extension order was placed by the Board/Company within twelve months from the date of acceptance by the tenderer/placement of the order.

Scrutiny of the records of the Company revealed that:-

- the Company invited (January 2012) three NITs<sup>27</sup> for procurement of 3,500 Kilometers (Kms) of Aluminum Conductor Steel Reinforced (ACSR) Rabbit conductor, 4,000 Kms of ACSR Weasel conductor and 1,000 Kms of ACSR Dog conductors. Against these NITs, the Board placed (June 2012 to September 2012) three Purchase Orders<sup>28</sup> for supply of the aforementioned materials at a firm “per Km landed rate” of ₹ 30,671.98, ₹ 17,498.95 and ₹ 60,556.81 respectively on M/s Balaji Enterprises (supplier).
- the Company again invited (November 2012) three NITs<sup>29</sup> for procurement of 6,000 Kms of ACSR Rabbit Conductor, 4,000 Kms of ACSR weasel conductor and 2,000 Kms of ACSR Dog Conductor which was well within the time period permissible for placement of Repeat Purchase Order /Extension Order on the basis of the previous Purchase Orders. Purchase Orders against these NITs were placed in April 2013. Against this, purchase orders for procurement of 6000 kms of ACSR Rabbit Conductor, 2000 kms of ACSR Dog Conductor at a rate of ₹ 35,775.42, ₹ 20,712.27 and ₹ 69,464.15 per km respectively were placed on the same supplier in April 2013.

We further observed that:-

- the Company failed to comply with the General Terms and Conditions of the aforementioned NIT.
- as the Company noticed significant increase in rates in the new tender, hence the benefit of repeat purchase order for procuring 30 *per cent* of the quantity of the aforementioned materials tendered under new NITs by placing

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<sup>27</sup> NIT No - 01/PR/BSEB/2012, 02/PR/BSEB/2012 and 03/PR/BSEB/2012.

<sup>28</sup> Purchase order No: 40 dated 03/09/2012, P.O No: 36 dated 20/07/2012 and P.O No: 29 dated 26/06/2012.

<sup>29</sup> NIT No. 145/PR/BSPHCL/2012, 146/PR/BSPHCL/2012 and 147/PR/BSPHCL/2012.

Extension Orders on the basis of previous Purchase Orders should have been resorted to. However, the Company placed three new Purchase Orders on the same supplier in April 2013 for procurement of above materials at a firm “per Km landed rate” of ₹ 35,775.42, ₹ 20,712.27 and ₹ 69,464.15 respectively.

- failure on the part of the Company to procure 30 *per cent* of the quantity of the aforementioned ACSR conductors tendered afresh in disregard of the provision of Repeat Purchase Order/Extension Order not only resulted in undue benefit to the supplier but also led to excess expenditure of ₹ 1.19 crore (as per *Annexure-4.2*) which was avoidable.

Thus, deficient procurement planning as well as failure on the part of the Company to safeguard its financial interests not only resulted in undue benefit to the supplier but also led to avoidable excess expenditure of ₹ 1.19 crore.

The Company replied (September 2014) that the supply of materials was not urgently needed under the old NITs and the new NITs were floated for meeting the future requirements of replacement of the old conductors. Further, the supplier did not show his interest for supplying materials against the extended purchase orders under the old NITs and if the extended orders were placed to supplier without getting the consent from him, the supply of the aforementioned material would have been impossible.

The reply is not acceptable since the supplier was bound to supply the materials if the repeat purchase orders were placed within twelve months from the date of acceptance by the tenderer/placement of the order. The Company without obtaining any consent from the supplier presumed that the supplier would not accept the Repeat Purchase Order.

The matter was reported to the Government (January 2014), reply was awaited (November 2014).

#### **Bihar Urban Infrastructure Development Corporation Limited**

#### **4.7 Undue favour to the Consultant**

***Deficient Internal Control System as well as failure on part of the Company to comply with the provisions of Master Service Agreement (MSA) resulted in irregular payment of ₹ 3.56 crore to the Consultant. Besides, it also led to extension of undue benefit to the Consultant.***

The Bihar Urban Infrastructure Development Corporation Limited (Company) is a Company established (2009) by the Government of Bihar to execute and accelerate urban infrastructure projects such as construction of Buildings, Roads, Parks, Highways, Street, Drinking water, Sanitation, Sewerage system, etc. in the State of Bihar. The Company invited an open tender (January 2012) for availing the services of Theory of Constraint-Critical Chain Project Management (TOC-CCPM<sup>30</sup>) Consultants to implement Integrated Scheme Administrative System for the projects undertaken (as detailed in

<sup>30</sup> TOC – CCPM is a set of concepts, principles and tools created by Dr. Eliyahes Goldratt which involves managing time buffers and task priorities to systematically work through a project plan that will define and exploit constraints.

**Annexure-4.3)** by them. Two firms<sup>31</sup> participated in the tender and on the basis of evaluation of technical and financial bids submitted by the tenderers<sup>32</sup>, the rate quoted by M/s Realization Technologies India Private Limited turned out to be the lowest rate i.e. L1 rate. The Company issued (March 2012) a Letter of Acceptance (LOA) to the Consultant. As per the conditions laid down in the LOA, the Consultant had to execute an agreement within seven days from the date of issue of the LOA, deploy personnel immediately to the project, and deposit Performance security in the form of Bank Guarantee at the rate of 0.25 *per cent* of the project cost for each project. An Agreement termed as Master Service Agreement (MSA) was entered (16 July 2012) into between the Company and the Consultant in respect of 15 projects with estimated value of ₹ 1201.57 crore. The provisions of MSA, *inter alia*, stipulated that: (i) the parties to the MSA shall from time to time enter into individual work order/s, (ii) Consultant shall deposit 0.25 *per cent* of the project cost as security for each project in the form of Bank Guarantee, (iii) the Consultant was to assist in developing Scheme, Projects/Plans, monitoring Scheme/Projects, necessary training and hand holding to the selected contractors for ensuring successful implementation of the Scheme etc., and (iv) a monthly payment of ₹ 16.55 lakh plus service tax shall be made to the Consultant for performance of services in accordance with provisions of schedule D of the MSA. Further, schedule D of MSA, *inter alia*, provided that consultant shall provide the resume, photographs and briefing on the personnel to be deployed, to the Company.

Scrutiny of records of the Company revealed that:-

- the MSA did not clearly define the role, duties and responsibilities of the Consultant and as such was pervasive in nature.
- the Consultant neither deposited the required Performance Security in form of unconditional Bank Guarantee nor submitted to the Company the list of engineers and/or personnel project wise to be deployed on the site or in the Corporate office respectively.
- the Company after a lapse of one year from the issue of LOA requested (April 2013) the Consultant to submit the Bank Guarantee immediately and arrange for deployment of personnel for the projects. The Consultant, in response to the Company's request, submitted (May 2013) 15 numbers of conditional<sup>33</sup> Bank Guarantee valuing ₹ three crore together with a list of personnel deployed for the various projects during the period April 2012 to May 2013 with a request to the General Manager (Technical) of the Company to confirm the deployment of the personnel mentioned in the aforementioned list into the Company during the said period.

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<sup>31</sup> (i) M/s Vector Management Consulting Private Limited, Thane and (ii) M/s Realization Technologies India Private Limited, Pune.

<sup>32</sup> M/s Realization Technologies India Private Limited – ₹ 16.55 lakh/ month plus service tax and M/s Vector Management Consulting Private Limited – ₹ 49.00 lakh/ month plus service tax.

<sup>33</sup> Subject to the condition that the Company shall pay under the MSA, an amount of ₹ 2.50 crore into the accounts of consultant within 104 days failing which the Bank Guarantee shall stand cancelled.

- The G.M. (Technical) of the Company issued direction (June 2013) to all Project Directors to finalise work order with consultant and subsequently work order was issued after a lapse of 10 months from signing of the MSA i.e. July 2012.
- the Bank Guarantee submitted by the Consultant was cancelled by the bank in September 2013 for not depositing ₹ 2.50 crore in consultant's account by the Company by 31 August 2013. Further, the list of personnel deployed during the period April 2012 to May 2013 was neither confirmed by the General Manager (Technical) of the Company nor by the Project Director as well as Manager, Finance of the Company. A total payment<sup>34</sup> of ₹ 3.56 crore (including taxes and centage) was made to the consultant on account of personnel deployed in the various projects of the Company during the period April 2012 to October 2013.

We further observed that:-

- there were deficiencies in the agreement such as risk and cost clauses were not included in the Agreement, payment to the consultant was not linked with the performance of the consultant and progress of the Projects, provision for Supervision and monitoring by the Company was not incorporated in the Agreement.
- payment to the consultant for the period April 2012 to May 2013 was made without ensuring execution of any work towards the various projects of the Company covered under MSA.
- though the attendance sheet of the deployed personnel for the period August 2013 to October 2013 was made available to the Company, the same was not authenticated by the Company at any level.
- all the 15 projects covered under MSA were incomplete as of October 2013, when the consultant left the Job.

The Company replied (July 2014) that the Company benefited significantly from the engagement of the consultant and adoption of Critical Chain based method of managing projects. The reply is not acceptable since the Company failed to produce the documentary evidence of the day to day work performed/executed by the consultant's personnel. Besides, the Company being the Appointing Authority was solely responsible to ensure the progress of the works prior to payment for the same as well as to ensure the deployment of personnel of the consultant to various works.

Thus, deficient internal control mechanism prevalent in the Company as well as failure on the part of the Company to comply with the provisions of MSA not only resulted in irregular payment of ₹ 3.56 crore to the Consultant but also led to extension of undue benefit to the Consultant. Besides, the intended objective of appointing TOC-CCPM Consultant, to ensure expeditious completion of the various projects covered under MSA, was also defeated.

The matter was reported to the Government (August 2014); reply was awaited (November 2014).

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<sup>34</sup> Payment was made during the period July 2013 to November 2013.

**Bihar State Building Construction Corporation Limited**

**4.8 Loss to the Company on account of non-claiming of refund of TDS**

***Deficient Internal Control System and non-observance of financial interests on the part of the Company resulted in a loss of ₹7.33 crore to the Company due to non-claiming of refund of TDS.***

Section 194A of the Income Tax Act, 1961 (Act), *inter-alia*, provides that interest earned on fixed deposits shall be subject to deduction of Income Tax at source (TDS) by the Banks. The tax so deducted shall be deposited by the Banks to the Income-Tax Department and a certificate to that effect shall be furnished to the assessee organisation by the Payee Banks in the manner prescribed under Section 203 of the Act. The assessee organisation shall claim refund of TDS by filing Income Tax Return (ITR) within a period of two years if its taxable income is nil/there is no/lesser tax liability.

Scrutiny (March 2014) of the records of Bihar State Building Construction Corporation Limited (Company) revealed that:

- the Company had deposited an amount of ₹ 305 crore, ₹ 377 crore and ₹ 347 crore in Term Deposits in six<sup>35</sup> Banks during the financial years 2008-09, 2009-10 and 2010-11 respectively.
- the Banks deducted TDS amounting to ₹ 7.33<sup>36</sup> crore on the interest earned by the Company on its Terms Deposits during the financial years 2008-09 to 2010-11.

We observed that:

- the Company failed to take timely action in obtaining TDS certificates from the Banks for the aforementioned financial years. Thus, the Company had no information regarding amount of tax deducted at source by the Banks which was indicative of absence of an effective Internal Control System prevalent in the Company to ensure timely flow of information in respect of tax deducted at source by the Banks.
- though the Company filed the Income Tax Return (ITR) for the financial years 2008-09 and 2010-11, it did not claim refund of TDS in the said ITR. Further, the Company failed to file the ITR for the financial year 2009-10 within the prescribed time limit of two years with the Income Tax Department for claiming refund in respect of tax deducted at source by the Banks. The Company had written off the TDS aggregating to ₹ 7.33 crore from its accounts for the year 2012-13 on account of the same becoming time-barred and unrecoverable.
- since the Company incurred losses of ₹ 25 lakh, ₹ 1.62 crore and ₹ 67 lakh during the financial years 2008-09, 2009-10 and 2010-11 respectively, it was imperative on the part of the Company to claim the refund of TDS by filing ITR within the prescribed time limit. However, the Company failed to do so.

<sup>35</sup> State Bank of India (SBI), Vishwesaraiya Bhawan, Patna; SBI, Shekhpura, Patna; SBI, High Court Campus, Patna; Allahabad Bank, Khazpura, Patna; Allahabad Bank, Shekhpura, Patna and Syndicate Bank, Bailey Road, Patna.

<sup>36</sup> TDS of ₹ 37 lakh in 2008-09, ₹ 2.69 crore in 2009-10 and ₹ 4.27 crore in 2010-11.

This was indicative of deficient management of financial resources prevalent in the Company as well as non-observance of financial interests on the part of the Company.

The Company while confirming the facts and figures, stated (July 2014) that efforts are being made to claim refund of TDS. However, the fact remains that perceiving refund of TDS becoming time-barred and irrecoverable, the Management has already written off the TDS amount.

Thus, deficient Internal Control System and non-observance of its financial interests resulted in a loss of ₹ 7.33 crore to the Company due to non-claiming of refund of TDS and writing off the same from the accounts.

The matter was reported to the Government (June 2014); reply was awaited (November 2014).

#### **Bihar State Educational Infrastructure Development Corporation Limited**

#### **4.9 Irregular contribution to the Chief Minister's Relief fund**

***Incorrect recognition of revenue as well as non-adherence to the provisions of the Companies Act, 1956 by the Company resulted in irregular contribution to the CM Relief Fund.***

As per Section 293(1)(e) of the Companies Act, 1956 (Act), the Board of Directors (BoD) of a public Company, shall not, except with the consent of Shareholders in general meeting contribute to charitable and other funds not directly relating to the business of the Company or the welfare of its employees, any amounts, the aggregate of which in any financial year, exceeds fifty thousand rupees or five *per cent* of its average profit during the immediately preceding three financial years, whichever is greater. Further, Voluntary Guidelines for implementation of Corporate Social Responsibility (CSR) issued (December 2009) by the Ministry of Corporate Affairs, Government of India, *inter alia*, stipulated that the Companies should allocate specific amount in their budgets for CSR activities. This amount may be related to profits after tax, cost of planned CSR activities or any other suitable parameter.

The Managing Director of the Bihar State Educational Infrastructure Development Corporation Limited (Company) proposed to the BoD vide a resolution by circulation (March 2012), to grant approval to make a donation of ₹ one crore to the Chief Minister's (CM) Relief Fund on the ground of Corporate Social Responsibility. The BoD approved donation of ₹ one crore to the CM Relief Fund in anticipation of approval of shareholders in a General meeting. Accordingly, the Company contributed (March 2012) a sum of ₹ one crore to the CM Relief Fund.

Scrutiny (September 2013) of records of the Company further revealed that:

- As against the admissible income of ₹ 1.31 crore in the Accounts for the year 2011-12, the Company exhibited a total income of ₹ 27.03 crore inclusive of ₹ 25.72 core, being the amount of interest earned on funds relating to the

Government projects and treated by the Company as its own income in contravention of the Accounting Standard 9 on revenue recognition. Thus, as against the exhibited profit of ₹ 24.15 crore, the Company, in fact, incurred loss of ₹ 1.57<sup>37</sup> crore. A comment on the incorrect recognition of revenue was also made in the Accounts of the Company for the year 2011-12.

- Since no surplus was available with the Company, the contribution of ₹ one crore to the CM Relief Fund, in fact, was made from the capital of the Company which was in violation of Section 293 (1) (e) of the Act.
- Further, the aforementioned contribution to the Chief Minister's Relief Fund was made in the absence of any specific call for contribution for an emergent cause.

The Management while accepting the facts and figures stated (March 2014) that interest earned on Government projects are being treated as Government Project's income from 2012-13 onwards. The Management further stated (July 2014) that in absence of specific instruction of the State Government, the interest earned on fund received for specific project was taken as income of the Company and ₹ one crore was contributed towards CM Relief fund accordingly.

The reply of the Management confirms that interest earned on the fund of the Government was wrongly recognised as Company's income which resulted in irregular contribution to the CM's Relief Fund.

Thus, incorrect recognition of revenue in the Accounts and non-adherence to the provisions of the Companies Act, 1956 and CSR guidelines resulted in irregular contribution of ₹ one crore to the CM Relief Fund.

The matter was reported to the Government (May 2014); reply was awaited (November 2014).

#### **Bihar State Electronics Development Corporation Limited**

##### ***4.10 Avoidable payment of Corporate Tax***

***Erroneous treatment of interest earned on the funds pertaining to the Government projects lying unutilised and invested in bank deposits, as its own income by the Company resulted in avoidable payment of Corporate Tax amounting to ₹8.43 crore.***

Bihar State Electronics Development Corporation Limited (Company) is "State Implementing Agency" for the schemes and projects related to Information Technology sponsored by Central and State Government. Various Government Departments of Central and State Government provide funds in advance to the Company for implementation of schemes and projects. As per Generally Accepted Accounting Principles and conventions, the interest earned on the funds pertaining to the Government projects, lying unutilised and invested in bank deposits, shall not be treated as income of the Company and the same shall be credited to the specific work/Government projects. The

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<sup>37</sup> Inadmissible income (₹ 25.72 crore) - Exhibited Profit(₹ 24.15 crore)= ₹ 1.57 crore

State Government also clarified (October 2012) that the interest earned on unutilised funds pertaining to the running projects is to be credited to the respective project funds.

Scrutiny of records (January 2013) of the Company revealed that:

- the Company invested unutilised fund pertaining to four<sup>38</sup> Government projects in interest bearing bank deposits and earned interests thereon to the tune of ₹ 25.43 crore during the period 2009-10 to 2011-12.
- in violation of Generally Accepted Accounting Principles, the interest earned in respect of unutilised funds pertaining to the Government projects was recognised as its own income by accounting for the same in its Profit and Loss Account for the period 2009-10 to 2011-12. This has resulted in payment of Corporate Tax to the Income-Tax Department of ₹ 8.43 crore for the period 2009-10 to 2011-12 which was irregular and avoidable in nature.

The Company stated (July 2013) that it was guided by the sanctioned terms and conditions of the Projects/Schemes issued or prescribed by the Project sanctioning Department/Agency. In compliance of the sanctioned terms and conditions of many Projects, interest accrued directly to the specific Projects did not route through the books of accounts of the Company. However, in case of other Projects, in absence of any specific terms and conditions, funds received against such sanctioned Projects was kept in general pool of surplus fund (including the funds belonging to the Company) which was then invested in Bank fixed Deposits to earn interest on surplus fund.

The reply is not acceptable since the Managing Director of the Company had instructed (March 2008) the Banks to not to deduct tax at source on interest earned on Government projects citing the reason that the same was not the income of the Company.

Thus, erroneous treatment of interest earned on the funds pertaining to the Government projects, lying unutilised and invested in bank deposits, as its own income by the Company resulted in avoidable payment of Corporate Tax to the tune of ₹ 8.43 crore.

The matter was reported to the Government (May 2014), reply was awaited (November 2014).

#### **4.11 Wasteful Expenditure**

***Failure on the part of the Company to sub-lease the vacant space led to wasteful expenditure of ₹ 2.08 crore. Besides, the intended objective of establishing Software Technology Park remained unachieved.***

Government of Bihar (GoB) decided (March 2001) to set up a Software Technology Park (STP) with a vision to develop an excellent state of art infrastructure facilities and professional management to attract investment in the fast growing Information Technology (IT) sector. The said STP was established in Bihar State Co-operative Marketing Union Limited

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<sup>38</sup> ICT@School Project, Jail Modernisation Project, Unified Power Project and e-Shakti Project.

(BISCOMAUN) Bhawan and is managed by Bihar State Electronics Development Corporation Limited (Company), being the IT nodal agency of the IT Department; GoB.

Scrutiny (February 2014) of records of the Company revealed that:

- The Company acquired (April 2002) three floors (13<sup>th</sup>, 14<sup>th</sup> & 15<sup>th</sup>) of 11667 Square feet each in BISCOMAUN Bhawan, Patna aggregating 35000 Square feet through a lease agreement for a period of 10 years on a monthly rent of ₹ six per Square feet. The lease agreement was renewed (July 2013) for a further period of two years at a rate of ₹ 41.50 per Square feet per month with a retrospective effect from April 2012.
- The Company sub-leased (October 2003) 23,333 Square feet area of the 14<sup>th</sup> & 15<sup>th</sup> floor to M/s Reliance Communications (sub-lessee). The sub-leased area, however, was vacated by the sub-lessee in December 2011 after giving three months advance notice and since then the said area has been lying vacant.
- The Company requested (March 2012) for a financial assistance of ₹ two crore from the IT Department, GoB towards payment of rent to BISCOMAUN for floors lying vacant since January 2012 and the same was provided (February 2013) by the GoB. Thus, the Company paid rent of ₹ 2.08 crore in respect of the vacant space out of rental support received from the IT Department, GoB.
- The Company belatedly invited (May 2013) tender for sub-letting the vacant space after a span of 14 months from the date of advance notice of vacation given by the sub-lessee M/s Reliance Communications. The space vacated by the sub-lessee was still lying vacant as on date (March 2014).

The Company while accepting the facts and figures stated (June 2014) that the rent was paid to a State Co-operative organisation i.e. BISCOMAUN and the same was spent by BISCOMAUN in salary payment of their employees and as such can not be considered as a wasteful expenditure.

The reply of the Company is not acceptable since rent was paid in respect of the space lying vacant for over two years.

Thus, failure on the part of the Company to lease out the vacant space led to wasteful expenditure of ₹ 2.08 crore which was avoidable. Besides, the intended objective of establishing Software Technology Park remained unachieved.

The matter was reported to the Government (April 2014), reply was awaited (November 2014).

#### ***4.12 Avoidable Extra Expenditure***

***Deficient procurement planning as well as failure on the part of the Company to purchase Desktop Computers and Laptops on the basis of prevailing market prices resulted in avoidable extra expenditure of ₹ 1.51 crore and consequential loss to the Government.***

Bihar State Electronics Development Corporation Limited (Company) is the “State Procurement Agency” for the Government of Bihar for purchase of

Information Technology (IT) related software and hardware materials. The Company purchases IT related Software and Hardware materials on Rate Contract basis to meet the orders received from various departments/offices. For the finalisation of Rate Contract, the Company issues Request for Proposal (RFP) to vendors. As per the terms of RFP, “the rates offered shall be competitive and shall be better than the prices offered for similar items in any Government supplies/Rate Contract. Government supplies include Director General of Supplies and Disposals (DGS&D)”.

Scrutiny of records (February 2014) revealed that:-

- the Company received (March 2012) supply orders from four<sup>39</sup> engineering colleges for supply of 348 Desktop (Dell make) Computers. Further, the Commercial Tax Department, Government of Bihar placed (May 2012) an order for supply of 274 Desktop (Dell make) Computers and 389 Laptops (Dell make) to the Company.
- the Company placed (April 2012 to May 2012) five Purchase Orders (PO) to M/s Wizertech Informatics Private Limited (Vendor) at a rate of ₹ 58,347 per Desktop Computer and at a rate of ₹ 55,731 per Laptop on the basis of the prices fixed through Rate Contract in September 2010. The vendor supplied all the Desktops and 300 laptops against ordered quantity.
- the Company failed to consider the DGS&D rates prevailing on the date of placing of the aforementioned Purchase Orders. Further, during the aforementioned period of 21 months, the market prices of the Desktop Computers as well as the Laptops had undergone significant downward revisions to ₹ 38,627 per unit and ₹ 46,200 per unit respectively, as was evident from the Rate Contract entered into by the DGS&D for the period March 2012 to March 2013 with respect to the similar products.
- the Company failed to place the aforementioned Purchase Order on the basis of prevailing market prices which resulted in avoidable extra expenditure of ₹ 1.51 crore as detailed in *Annexure-4.4*.

Thus, deficient procurement planning as well as failure on the part of the Company to purchase Desktop Computers and Laptops on the basis of prevailing market prices resulted in avoidable extra expenditure of ₹ 1.51 crore. Besides, it also resulted in consequential loss to the respective departments who had placed orders for purchase of Desktop Computers and Laptops.

The Company stated (July 2014) that: (a) a rate contract finalised through tender existed at the time of requirement and the same was used and (b) model of the Desktops purchased was “Dell Optiplex 990 SF” whereas the audit compared the same with “Dell Optiplex 990 MT”. The configurations of the Desktop purchased by the Company were better than those purchased by DGS&D and accordingly their value was also more than those purchased by DGS&D, and (c) Laptops supplied by the Company were better than the Laptops purchased by DGS&D.

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<sup>39</sup> Bhagalpur Engineering College, Bhagalpur; Government Polytechnic, Katihar; Loknayak Jaiprakash Technical Institute, Chapra and MIT, Muzaffarpur.

The reply is not acceptable as the time difference between finalisation of rate contract and requisition was more than 21 months. Therefore, the prices should have been re-examined on the basis of prevailing market/ DGS&D rates. Further, comparison of both the models of Desktops purchased by the Company and DGS&D as done by the Company was not based on facts, the details of which are provided in *Annexure – 4.5*. The said annexure clearly indicated that no superior quality products were purchased by paying more. Further, as regards the Laptops, the model purchased by the Company as well as the Model purchased by the DGS&D were same (i.e. Dell Latitude E 5420).

The matter was reported to the Government (April 2014); reply was awaited (November 2014).

#### **Bihar State Hydroelectric Power Corporation Limited**

##### **4.13 Idle expenditure**

***Deficient planning as well as execution of the SHP projects and subsequent non-review of the work resulted in expenditure of ₹ 7.28 crore becoming idle for over two years. Besides, there was irregular withdrawal of further instalment of NABARD Loan by submitting incorrect expenditure certificates by the Company.***

To ensure successful completion of any construction project, efficient Project Planning requires that the availability of land for the project as well as the completion of its techno-commercial feasibility should be ensured prior to the commencement of execution of the project itself. A mention of a similar theme was made in the Paragraph Number 4.9 of the Report of the Comptroller and Auditor General of India on Public Sector Undertakings for the year ended 31 March 2013 captioned “Wasteful expenditure” which was related to wasteful expenditure of ₹ 0.31 crore incurred on account of deficient planning on the part of the Company. Besides, there was irregular drawal of further instalments of National Bank for Agriculture and Rural Development (NABARD) loan by submitting incorrect expenditure certificates by the Company.

National Bank for Agriculture and Rural Development (NABARD) sanctioned (March 2008) a loan<sup>40</sup> of ₹ 6.91 crore and ₹ 8.54 crore to Bihar State Hydroelectric Power Corporation Limited (Company) to set up Small Hydel Power (SHP) projects at Barbal (1.6 MW) and at Katanya (2 MW) respectively in the district of West Champaran at estimated costs of ₹ 7.27 crore and ₹ 8.99 crore respectively. The balance amount of fund (i.e. ₹ 36 lakh for Barbal SHP and ₹ 45 lakh for Katanya SHP) was to be funded by the Government of Bihar. As per the sanction order of NABARD, the scheduled date of completion for the aforementioned projects was March 2010. The Company was required to submit drawal applications along with duly certified statement of expenditure to NABARD through the Department of Energy, Government of Bihar for reimbursement of the subsequent expenditures incurred on the project. Government of Bihar also granted (February 2009)

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<sup>40</sup> Interest at the rate of 6.5 per cent per annum was payable by GoB to NABARD for the Loan.

Administrative Approval for execution of the aforementioned projects and released loan <sup>41</sup> amounting to ₹ 5.43 crore for Barbal SHP and ₹ 6.90 crore for Katanya SHP to the Company till March 2011.

Scrutiny (February 2013) of records of the Company revealed that:

- the Company, without acquiring land or ensuring its availability for construction of the aforementioned projects, issued a Notice Inviting Tender (NIT) in January 2009 for execution on a Turnkey basis. However, the said NIT was cancelled (June 2009) on the ground of review of the projects due to administrative and technical reasons.
- the Company issued (April 2010) Letter of Intent (L.O.I.) for civil works for Barbal and Katanya projects to M/s Chanakya Techno Private Limited and M/s Gandak Construction Private Limited at a cost of ₹ 8.62 crore and ₹ 6.00 crore respectively against the cancelled NIT and the agreements for the same were entered into in July 2010. The scheduled date of completion of civil works for the said projects was June 2012. These works were awarded to the contractors against the cancelled tender which was irregular and against the basic tenets of Contract Management.
- the electro-mechanical work for Barbal and Katanya projects was awarded (July 2010) to M/s Energy Development Private Limited and M/s Beas Infrastructure Private Limited respectively at a cost of ₹ 6.45 crore and ₹ 6.55 crore on a limited tender basis. The scheduled date of completion of electro-mechanical work for these projects was June 2011.
- after completion of 10 *per cent* of civil works and incurring expenditure of ₹ 7.28 crore<sup>42</sup> on Barbal and Katanya projects, civil works of both the projects were suspended by the Company in January 2012 and February 2012 respectively to once again review the techno-commercial feasibility of the said projects which was not yet done (November 2014).
- the Company failed to ensure the availability of land prior to the commencement of these projects which persisted even after expiry of two years from the date of award of the work order and which was indicative of deficient planning.
- the Company failed to assess the techno-commercial feasibility of the aforementioned projects accurately since the said projects already suffered cost-overruns aggregating to ₹ 11.36<sup>43</sup> crore in the commencement stage itself.

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<sup>41</sup> Interest at the rate of 13 *per cent per annum* was payable to GoB for Loan and additional 2.5 *per cent per annum* in case of default in repayment of loan.

<sup>42</sup> ₹ 3.52 crore for Barbal SHP (inclusive of mobilisation advance of ₹ 62.42 lakh) plus ₹ 3.76 crore for Katanya SHP (inclusive of mobilisation advance of ₹ 67.90 lakh).

<sup>43</sup> Estimated cost of Barbal SHP (i.e. ₹ 7.27 crore) + Estimated cost of Katanya SHP (i.e. ₹ 8.99 crore) – Contract value of Barbal SHP( ₹8.62 crore on account of civil work + ₹ 6.45 crore on account of E.M work) - Contract value of Katanya SHP (₹ 6.00 crore on account of civil work + ₹6.55 crore on account of E.M work) = ₹ 11.36 crore.

- the Company obtained further instalments of loan amounting to ₹ 5.05<sup>44</sup> crore during the period February 2009 to March 2011 in excess of expenditure incurred by submitting incorrect expenditure certificates to NABARD.
- the electro-mechanical work pertaining to the said projects were awarded to the contractors without ascertaining the additional sources of finance which was irregular and against the canons of financial propriety.
- though the funds for the said projects were taken on loan, mobilisation advances amounting to ₹ 1.30 crore given by the Company to the Contractors up to July 2011, were lying unadjusted/unrecovered till date (May 2014).

Thus, deficient planning as well as deficient execution of the SHP projects and subsequent non-review of the work not only resulted in expenditure of ₹ 7.28 crore becoming idle for over two years but also defeated the intended objectives of the targeted capacity addition of 3.6 MW of power in the State. Besides, there was irregular withdrawal of further instalment of NABARD Loan by submitting incorrect expenditure certificates by the Company.

The matter was reported to the Government/Company (June 2014), their replies were awaited (November 2014).

## **GENERAL**

### ***4.14 Response to Inspection Reports, Draft Paragraphs and Performance Audit Reports***

Audit observations made during audit and not settled on the spot were communicated to the heads of PSUs and concerned departments of the State Government through Inspection Reports (IRs). The heads of the PSUs were required to furnish replies to the IRs through respective heads of departments within a period of four weeks. IRs issued up to March 2014 pertaining to 23 PSUs disclosed that 1545 paragraphs related to 589 IRs were outstanding at the end of September 2014. These outstanding Inspection Report paragraphs had not been replied to for one year to eight years. Department-wise break-up of IRs and audit observations outstanding as on 30 September 2014 is given in *Annexure-4.6*.

Similarly, Draft Paragraphs and Performance Audit Reports on the working of PSUs were forwarded to the Principal Secretary/Secretary of the administrative department concerned demi-officially, seeking confirmation of facts and figures and their comments thereon within a period of six weeks. It was, however, observed, that replies to 13 Draft Paragraphs and two Performance Audit Reports forwarded to the various departments during April to August 2014 as detailed in *Annexure -4.7* were awaited (November 2014).

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<sup>44</sup> [ Loan obtained in respect of Barbal SHP( i.e. ₹ 5.43 crore) + Loan obtained in respect of Katanya SHP ( i.e. ₹ 6.90 crore)] – [Expenditure incurred in respect of Barbal SHP ( ₹ 3.52 crore) + Expenditure incurred in respect of Katanya SHP (₹ 3.76 crore)] = ₹ 5.05 crore.

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

**Patna**  
**The**



**(P. K. SINGH)**

**Accountant General (Audit), Bihar**

**Countersigned**



**New Delhi**  
**The**

**(SHASHI KANT SHARMA)**

**Comptroller and Auditor General of India**