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HARYANA VIDHAN SABHA
COMMITTEE
ON
PUBLIC UNDERTAKINGS
(2001-2002)
(TENTH-VIDHAN SABHA)
FORTY-NINTH REPORT
ON THE
REPORTS
OF THE
COMPTROLLER & AUDITOR GENERAL OF INDIA
FOR THE YEARS 1996-97 & 1998-99 (COMMERCIAL)



(Presented to the House on 18th March, 2002)

HARYANA VIDHAN SABHA SECRETARIAT CHANDIGARH
MARCH, 2002

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**COMPOSITION
OF
THE COMMITTEE ON PUBLIC UNDERTAKINGS
(2001 2002)**

CHAIRPERSON

- 1 Shri Balwant Singh Mama

MEMBERS

- 2 Shri Krishan Pal Gujar
- 3 Shri Chander Mohan
- 4 Shri Rajinder Singh Bisla
- *5 Shri Krishan Lal Panwar
- 6 Shri Abhay Singh Chautala
- 7 Shri Balbir Pal Shah
- 8 Shri Dev Raj Diwan
- 9 Shri Puran Singh
- **10 Shri Pawan Kumar Dewan

SECRETARIAT

- 1 Shri Sumit Kumar Secretary
 - 2 Shri Balbir Singh Chauhan Under Secretary
-

* Resigned from the Committee on Public Undertakings w e f 4-4 2001

** Nominated as Member of the Committee on Public Undertakings w e f 4-4-2001

INTRODUCTION

I the Chairperson of the Committee on Public Undertakings having been authorised by the Committee in this behalf present this Forty Ninth Report of the Comptroller and Auditor General of India for the year 1996 97 (Haryana Financial Corporation) 1998 99 (Haryana Seeds Development Corporation Limited Haryana Forest Development Corporation Limited Haryana Land Reclamation and Development Corporation Limited, Haryana Power Generation Corporation Limited and Haryana Warehousing Corporation Limited)

2 The Committee for the year 2001 2002 undertook the unfinished work of the previous Committee(s) and also orally examined the representatives of the Government/ Public Sector Undertakings/Boards where necessary A brief record of the proceedings of the various meetings and of its inspection of the various Power Projects in Himachal Pradesh has been kept in the Haryana Vidhan Sabha Secretariat

3 The Committee are thankful to the Accountant General (Audit) Haryana and his staff for his valuable assistance and guidance in completing this report The Committee are also thankful to the Secretary to Government, Haryana, Finance Department including his representatives and representatives of Departments/Corporations/Boards concerned who appeared before the Committee from time to time The Committee are also thankful to the Secretary Under Secretary the dealing officer and the staff of the Haryana Vidhan Sabha for the whole hearted co operation and unstinted assistance given in preparing this report

Chandigarh
The 4th March 2002

BALWANT SINGH MAINA,
CHAIRPERSON

REPORT

REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA FOR THE YEAR 1996-97

3A HARYANA FINANCIAL CORPORATION (REVIEW)

3 A 5 2 Working Results

1 (a) The profits for the year 1994-95 and 1995-96 have been inflated by Rs 78.96 lakh and Rs 16.72 lakh respectively due to treating the interest on five term loans as income though all the loans (including interest) were converted into equity of the loanee units and no payment of interest was actually received. The Corporation paid Rs 37.90 lakh as interest tax and income tax on the interest income of Rs 78.96 lakh during 1994-95 not actually received. Conversion of interest into equity had resulted in avoidable payment of Rs 37.90 lakh as the Corporation had been following cash system of accounting since 1983.

In its written reply the State Government/Corporation stated as under —

The Corporation converted part amount of loans of existing borrowers into equity shares. The shares were received against the amount of interest accrued and due and it has rightly been treated as income.

The system of accounting whether it is on cash basis or mercantile does not have any effect on such accounting entries.

During the oral examination the Managing Director of the Corporation stated that in five cases no payment was received and as such their loans were converted into equity. **The Committee feels that the Corporation had made mistake by purchasing the shares of defaulting units.**

In response to Committee's observation that whether the Corporation had got any dividend from these units' shares of which were purchased by it, the representative of the State Government stated that the units were in losses. However, the logic behind purchasing the shares of these loss making units would be communicated subsequently to the Committee. The information was not given to the Committee till finalization of the report (February 2002).

The Committee, however, desired to know the details of units whose shares were purchased by the Corporation along with the names of officers who were involved in such deals.

(e) According to Section 26(1) of the Act, the Corporation shall not enter into any arrangements of granting loans or advances to or subscribing to debentures of an industrial concern guaranteeing loan raised by industrial concerns so that the total amount outstanding against that concern in respect of all such arrangements is more than Rs 60 lakh in case of a company or a cooperative society. Provided that the Corporation may with the prior approval of IDBI exceed the limit up to four times. In pursuance of this provision IDBI authorised (March 1995) the Corporation to provide such assistance up to Rs 2.40 crore. The Corporation, however, disbursed loans of Rs 43.20 crore upto

March 1996 to 11 Companies with disbursement in each case ranging between Rs 2.51 crore and Rs 8.54 crore in contravention of the provisions of the Act possibly depriving other small/medium scale units of the loans besides enhancing the risk of non recovery from the Companies heavily financed

In its written reply the State Government/Corporation stated as under —

The limit of Rs 240 lacs applies to advancing loans against security of fixed assets. In no case term loans were disbursed exceeding Rs 240 lacs. The disbursement of loan to any of the units whether small scale or medium scale was not delayed due to disbursement of funds sanctioned for other facilities.

During oral examination on 24th May 2000 the Managing Director of the Corporation stated that limit of Rs 240 crore is only for term loans and in case of leasing and equity participation loans were sanctioned above this limit of Rs 240 crore. In response to the Committee's observation that whether Corporation had any written document in support of the fact that loans be sanctioned in excess of Rs 240 crore in cases of leasing, the representative of the State Government stated that document would be given to the Committee subsequently.

In the subsequent meeting of the Committee held on 31st May 2000 the representatives of the State Government informed that there is no documentary evidence to show whether the Corporation can disburse loan beyond Rs 240 crore. However the Committee was also informed that disbursement of loan beyond Rs 240 crore was irregular. **The Committee recommended that the officers/officials who were involved for disbursing loan beyond Rs 240 crore may be held responsible and action be taken against them.**

3A.6 IMPLEMENTATION OF SCHEMES

3A.6.1 Equipment assistance leasing

3A.6.1.1 Equipment leasing

2 Under equipment leasing the lesser acquires an equipment by paying its 100 per cent cost and gives it for use to the lessee on predetermined lease/rent for a specific period. The lessor claims depreciation resulting in tax saving apart from charging lease rentals and the lessee saves tax by taking lease rentals as a part of operative expenses. Keeping in view various considerations involved in the activity the Board approved (September 1993) the scheme for equipment leasing. The scheme *inter alia* provided that the finance should be permitted to the concerns (lessees) in existence in the State of Haryana for the last four years (amended to two years in March 1994) having track record of good operational performance and in profit for last two years. A brief appraisal was also required in every case before sanctioning the lease finance. The Corporation on the request of lessee would place order with the supplier as per the commercial terms negotiated by the lessee. On confirmation by the lessee that equipment has been received and in order the Corporation would make payment to the supplier.

The Corporation disbursed equipment lease assistance aggregating Rs 36.51 crore in 80 cases during February 1994 to June 1996 and thereafter no disbursement has been made so far.

The following points were noticed in audit —

It was noticed that the Corporation opened foreign letters of credit (FLCs) for import of machines/equipment on behalf of seven lessees during 1994-95 and 1995-96 and advanced a sum of Rs 62.24 lakh by way of fixed deposits with two banks for opening of FLCs. As the deposit with the banks was in the shape of advance to the suppliers for import of machines, the Corporation as per terms of agreement and scheme was to charge interest at the rate of 24 per cent per annum on Rs 62.24 lakh till the date of release of FLCs. It was noticed that the Corporation had not charged the same as per agreement with the seven lessees resulting in non-recovery of Rs 3.74 lakh from them.

The Corporation while admitting the lapse stated (August 1997) that interest on margin money had not been charged and it was being charged to the respective lessee's accounts.

In its written reply the State Government/Corporation stated as under —

Rs 1.40 lacs has been earned by the Corporation on the fixed deposits with the banks and the balance Rs 2.34 lac has been debited to the respective lessees' account out of which Rs 1.56,777/- has been recovered. The balance amount could not be recovered due to possession of the Apex Multitech was taken over by the Corporation and the case is pending in the court. The court has ordered to maintain *status quo*. Whereas in case of M/s Punjab Potentiometer Pvt. Ltd. FIR has been lodged by the Corporation.

Before individual cases of equipment leasing are taken up by the Committee, the representative of the State Government/Corporation admitted that certain irregularities were committed by the officers/officials of the Corporation. The Committee was apprised (31st May 2000) that action had been taken against Shri Vashisht, ACM, Shri Manoj Arora, Manager, Shri Anil Lekhi, AGM and Smt. Manisha Gupta, AGM who were held responsible for the irregularities committed in the release of funds under Equipment Leasing. Shri Vashisht was dismissed, while the three were placed under suspension. In the subsequent meeting held on 24.10.2000, the Committee was informed that other three officers of the Corporation were also dismissed from service. The Committee was of the opinion that the Managing Director is also responsible for these irregularities.

Besides fixing the responsibility of the officials of the Corporation, the Committee expressed concern over non-recovery of its loan from the loanees under equipment leasing. It, however, recommends that filing of FIRs is not sufficient and expects that strenuous steps need to be taken to pursue the case in the court to have conclusive and concrete results.

(a) Punjab Potentiometers Private Limited, Panchkula

The Corporation sanctioned (27th February 1996) equipment lease assistance of Rs 167.31 lakh to M/s Punjab Potentiometers Private Limited, Mohali promoted by Shri Inderjit Singh and his two brothers for imported as well as indigenous machines/equipments to set up an independent Company at Panchkula in the same name. The pre-sanction appraisal was conducted by Manisha Gupta, Manager (Leasing). The lease period was 5 years with a rental of Rs 28.50 per Rs 1000 per month. The conditions of sanction *inter alia* provided that before disbursement the Company shall

- furnish proforma invoices in the name of the Corporation and
- provide 100 per cent collateral security for the lease assistance sanctioned to the satisfaction of the Corporation

The Corporation disbursed (March 1996) a sum of Rs 53.41 lakh (through 4 cheques and 7 bank drafts favouring various suppliers) directly to the lessee along with purchase orders contrary to the scheme of lease which provided for disbursement only on receipt of equipments as per purchase specifications. The Corporation also opened (March 1996) foreign letter of credit (FLC) for import of machinery and paid Rs 88.20 lakh in June/July 1996 to supplier through bank to release the documents for imported consignments.

The Branch Manager Panchkula of the Corporation reported (July 1996) that on his visit at the site of the unit it was seen that there were no machines and no sign of industrial activities as there was no roof/flooring of the shed and the area was covered by 4/6 feet high grass. The Branch Manager further reported (August 1996) that the lessee had submitted fake proforma invoices for purchase of machinery, opened fictitious accounts in bank to encash cheques/drafts and fictitious collateral security in the shape of land which did not belong to the persons who had offered it as the record showed that the land was owned by the Government of India and Government of Delhi.

While approaching (September 1996) the customs at Chennai for taking delivery of imported consignments it was seen that the machinery was not in conformity with the invoices and contained cordless telephones and used moulds for toys which was later seized by the customs to probe further in the matter as import of cordless telephone requires special import licence. The Corporation however lodged F.I.R. against the lessee with the police on 13th August 1996 for defrauding the Corporation the results of which are awaited (July 1997). The Corporation has however not filed civil suit against the lessee (November 1997).

This led to irregular disbursement of Rs 141.51 lakh which was mainly due to the following lapses

- the leasing assistance under the scheme was to be permitted to the concerns in existence and situated in the State of Haryana for the last two years whereas the Corporation had sanctioned and disbursed Rs 141.51 lakh to a Company which was not in the State of Haryana at all

- contrary to the scheme the Corporation handed over cheques/drafts and purchase orders to the lessee instead of to the supplier parties
- the pre sanction appraisal was conducted fraudulently for a unit which never existed in the State of Haryana
- the Corporation had not even verified the site where the machines were to be installed in the proposed unit at the time of pre sanction appraisal
- the Corporation accepted collateral security of land (valued at Rs 167.31 lakh) without any verification of ownership it was noticed that the land was owned by the Government of India and
- the Corporation had violated the provisions of Foreign Exchange Regulation Act, 1973 in not submitting exchange contract copy of custom bills evidencing import of full value of exchange drawn

The management stated (August 1997) that the party has defrauded the Corporation and action has been taken against the concerned officers and recovery action has been initiated against the lessee

In their written reply the State Government/Corporation stated as under —

An F I R has been registered against the Company at Sector 19 Police Station Panchkula for having defrauded the Corporation. The case is being investigated by Senior Police Officers of Crime Branch C I D Haryana Panchkula. The progress of the case is being reviewed periodically at the level of S P Crime C I D Haryana. All the accused have been arrested and are on bail from the Hon ble Court

The Corporation officials involved in the case has already been suspended from the services of the Corporation and Disciplinary action is being taken against them

Further the Corporation has not violated provisions of the Foreign Exchange Regulation Act, 1973. Custom Authorities have given a clean chit to the Corporation *vide* their order dated 24th October 1997. The Corporation has also apprised the status to R B I

During the oral examination the Managing Director while admitting the lapse informed the Committee that all the four erring officers had been dismissed from service

The Committee was further informed about the decision of the Board (18th December 1996) that the Chief Executive Officer means M D of the Corporation is supposed to know the decisions/limits decided by the Board and there was no need to apprise about the instructions fixed by the Board. In this context, the Board decided that matter may be referred to the State Government (Investigation Branch) for taking appropriate action against the Managing Director Chief Executive Officer

The representative of the Government also informed the Committee that it is not certain whether the letter was written to the Chief Secretary for taking action against the

then M D as simply an unsigned letter addressed to the Chief Secretary was lying in the file. The Committee was not satisfied with the reply and desired that action be taken on the recommendations of the B O D of the Corporation. The Committee recommended that it may be ascertained from the office of the Chief Secretary whether the letter conveying the decision of the B O D was received in its office and what action was taken on the recommendations of the B O D of the Corporation.

The Committee also recommended that Home Secretary may also be informed to take effective steps to pursue the recovery by the State Police. In the subsequent meeting held on 22.8.2000 the Committee was apprised by the representative of the State Government that all the relevant papers for taking action against the then M D of the Corporation as decided by the B O D were once again submitted to the Chief Secretary for necessary action.

(b) Reliance bulk drugs and Formulations Limited, Panchkula

The Corporation sanctioned (March 1996) equipment lease assistance of Rs 235.73 lakh to the above Company having manufacturing units in Himachal Pradesh (HP) and Haryana with registered office in HP for enhancing the existing installed capacity of its unit at Panchkula on a lease rental of Rs 29 per Rs 1000 per month repayable in a period of 5 years. The pre sanction appraisal of the company promoted by Shri G S Gill VK Chawla and their wives was conducted by Shri Manoj Arora Manager (leasing). The Corporation delivered bank drafts (March 1996) to the unit in the name of three machinery suppliers (M/S Hindustan Trust (P) Limited New Delhi Rs 72.26 lakh M/S Kavidex Engineers (India) Private Limited, New Delhi Rs 131.69 lakh and M/S Kunal Enterprises New Delhi Rs 31.78 lakh). The Branch Manager on investigation pointed out (December 1996) that M/S Kavidex Engineers and M/S Kunal Enterprises were not in existence and third supplier (Hindustan Trust (P) Limited) was in existence but were not manufacturer of the machinery quoted in the proforma invoice. The enquiries made (December 1996) by the Corporation from the bank revealed that the unit had withdrawn the money by opening fictitious bank accounts in the names of the suppliers.

The Corporation however accepted (February 1997) a proposal of the unit for liquidation of the lease finance (including interest) in two quarterly instalments up to August 1997 with an initial payments of Rs 50 lakh by 23rd February 1997. The unit did not follow the agreed payment schedule and up to July 1997 deposited Rs 75.83 lakh only towards interest thereby leaving the balance amount of Rs 242.57 lakh (including interest of Rs 6.84 lakh) outstanding. It was observed in audit that the Appraising Officer did not verify the credentials, capacity, existence of suppliers and authenticity of proforma invoices and the Corporation released the cheques direct to the lessee unit which facilitated misappropriation of Rs 242.57 lakh since March 1996.

The Corporation also sanctioned (April 1996) a working capital loan of Rs 246 lakh to the unit with the stipulations that it would furnish collateral security equal to loan in the shape of its Brotwala (HP) unit and bank guarantee equal to 15 per cent of loan as cash margin. The unit, however did not furnish any security/bank guarantee. It was noticed that the branch office disbursed (6/18 June 1996) Rs 50 lakh to the loanee without clearance from head office and this amount had also not been repaid by the unit.

so far (July 1997) The balance loan of Rs 196 lakh was cancelled (January 1997) in view of the misappropriation of funds under lease scheme

Thus the Corporation was defrauded by Rs 292.57 lakhs due to extending of undue favours by not following the procedure laid down in the scheme. No civil suit has however been filed against the lessee (November 1997)

The Management stated (August 1997) that action has been initiated against the erring officials

In their written reply State Government/Corporation stated as under —

The company has repaid the sum of Rs 151.79 lacs including interest of Rs 125.10 lacs. The company has also mortgaged the additional collateral securities in shape of immovable properties situated at Delhi Panchkula and Baddi (H.P.). However the company did not adhere to the repayment proposal. The corporation had recalled the entire financial assistance sanctioned to the company and notice under Section 29 of State Financial Corporations Act, 1951 was also issued. In view of party having paid substantial amount recently towards the clearance of dues and is to submit a viable proposal to clear the entire lease assistance in April 1999 further recovery action has been kept in abeyance for the time being. The Corporation has also initiated action against the erring officials

(c) Dhillon Kool Drinks & Beverages limited, Panipat

The Corporation sanctioned (January 1996) equipment lease assistance of Rs 100.30 lakh to the above unit for import of machinery for use in bottling plant on lease for a period of 5 years. The pre sanction appraisal of the unit promoted by Shri Kewal Singh Dhillon and Manjit Kaur Dhillon was conducted by Shri Manoj Kumar Arora, Manager (leasing). Two FLCs for US\$ 259,483 (Rs 90.59 lakh) were opened by the Corporation with Bank of Baroda Panipat in favour of supplier (M/S Beverage Service & Equipment Inc. Florida USA) for supply of imported equipment against proforma invoice and paid (April 1996) a sum of Rs 90.59 lakh. In terms of sanction the unit was required to pay 24 per cent interest on such advance payments.

On inspection (December 1996) conducted by the Corporation and from perusal of the documents submitted by the unit it transpired that the machinery was not in conformity with documents received under the FLC. Further verification (March 1997) revealed that the bill of entry of US\$ 1,59,500 (Excluding freight of US\$ 21,602) submitted by the unit was against some other machinery (Barry whemiller pine bottle washer) which was financed by Haryana State Industrial Development Corporation Limited (HSIDC) and not leased by the Corporation.

It was observed in audit that the Corporation released the amount to the bank without verification of original bills/documents. This resulted in misappropriation of Corporation's funds by Rs 90.59 lakh.

The unit agreed to liquidate the entire outstanding amount up to June 1997 but it deposited Rs 49 lakh only up to August 1997 thereby leaving balance outstanding amount

of Rs 43 lakh (including interest of Rs one lakh) which had not been paid so far (August 1997) The Corporation had not filed civil suit against the unit though a period of more than one year had elapsed

In their written reply the State Government/Corporation stated as under —

The Company has repaid the entire amount including interest and other miscellaneous charges incurred by the Corporation

During oral examination the Managing Director of the Corporation stated that Rs 1 20 crore had been recovered by the Corporation against the sanctioned loan of Rs 90 58 lakhs and the case had been settled

(d) Apex Multitech Limited, Panchkula

The Corporation sanctioned (January 1994) equipment lease assistance of Rs 58 31 lakh to the above unit promoted by Shri B C Puri R P Sarin Vivek Sarin and Anil Sarin for the import of auto zip slider making machine The lease assistance sanction was subsequently enhanced (August 1994) to Rs 64 69 lakh due to increase in the cost of equipment A sum of Rs 64 69 lakh was disbursed to the unit during the period from February 1994 to December 1994 The terms and conditions of sanction *inter alia* provided that the unit was to obtain a comprehensive policy of insurance in the name of the Corporation as owner at the full cost of the assets against all risks In case the unit failed to procure the insurance cover the corporation would get the assets insured and would have the right to recover the premium from the unit

The unit obtained only a fire temporary cover note from New India Assurance Company for Rs 60 05 lakh for the period from October 1994 to October 1995 and from November 1995 to November 1996 in its name The unit defaulted in making the payments of lease rental with effect from October 1995 but Corporation did not take any action till July 1996 The Corporation recalled (August 1996) the entire amount of outstanding lease finance from the unit and finally acquired (September 1996) its assets At the time of taking possession the leased equipments were found missing An FIR had been lodged (December 1996) against the unit, the results of which were awaited (July 1997) The Corporation has however not filed civil suit against the lessee (November 1997)

Thus failure of the Corporation in taking comprehensive insurance cover in its name in accordance with the provisions of sanction for leasing assistance knowing well that the unit had obtained only a fire cover note from New India Assurance and that too in its own name instead of comprehensive cover in the name of the Corporation resulted in non recovery of outstanding lease finance amounting to Rs 57 lakh so far (July 1997)

The Management stated (August 1997) that insurance cover did not protect the recovery of the dues in case of misappropriation of insured assets by the lessee himself The reply is not tenable as the Corporation could have recovered the cost of insured assets from insurance Company had it obtained comprehensive policy in its name

In their written reply the State Government/Corporation stated as under —

The Corporation has taken over the possession of the unit, however it could not dispose off the unit as the Hon ble Punjab & Haryana High Court has ordered a status quo to be maintained in the case. The Court has admitted the case.

At the time of taking over of the possession the leased assets were not available hence further insurance cover note was not taken. However the Corporation has registered an F I R against the promoter directors of the concern at Panchkula and the case is being investigated by senior police officers.

During oral examination the Managing Director of the Corporation stated that this firm was disbursed Rs 64.69 lakh in 1994 and Rs 12.70 lakh had been recovered and Rs 77.99 lakh are in default. F I R had been lodged and case is pending in the Court.

(e) Hyrel Enterprises Private Limited, Panchkula

The Corporation sanctioned (April 1996) equipment lease assistance of Rs 9.79 lakh to Hyrel Enterprises Private Limited, Mohali promoted by Shri Harbhajan Singh G P S Cheema and Harjinder Singh Sodhi for setting up a new unit in the same name at Panchkula to manufacture copper cable on lease for a period of 5 years. Pre sanction appraisal was conducted by Shri J P S Talwar Manager (leasing). A Banker's cheque payable at Chandigarh for Rs 9.79 lakh in favour of supplier of Rajpura was handed over to the unit in April 1996. The Corporation inspected the unit in August 1996 and found that the rented premises where machines were to be installed were lying vacant and no machinery was available.

On an enquiry from the supplier the Corporation learnt (October 1996) that they had neither received supply order nor issued any proforma invoice and received any payment thereagainst. The rent deed showing site at Panchkula taken on hire by the unit was also found fictitious as the said plot was in possession of the Haryana Urban Development Authority (HUDA). The Corporation cancelled the lease assistance in November 1996. A sum of Rs 13.37 lakh (including interest) was recoverable from the Company (July 1997).

Thus due to non verification of existence of site at Panchkula, before sanctioning loan handing over banker's cheque to the unit instead of sending the same directly to the supplier and sanctioning the lease assistance to a unit not in existence in Haryana for the last two years facilitated misappropriation of Rs 13.37 lakh by the unit. The Corporation lodged (April 1997) an F I R with the Police against the unit and further progress was awaited (July 1997). No civil suit was however filed against the leasee by the Corporation (November 1997).

The Management stated (August 1997) that as per practice in the Corporation the cheques are handed over to the party and not to the supplier so that these are given only after receipt of machinery. The reply is not tenable since as per approved scheme

the Corporation was to make payment to the suppliers after obtaining confirmation from the lessee that the equipment had been received in order

In their written reply the State Government/Corporation stated as under —

The Corporation has been defrauded by the Company. An FIR against the Promoters of the firm was lodged in April 1997 and the matter was followed up with the Police Authorities and FIR was registered in the month of July 1997. The case is being investigated by Senior C I A officers under the supervision of S P Panchkula. As informed by the Standing Counsel the challan in the case has also been filed on 30.10.1998 in the District Court.

During oral examination the departmental representative stated that the firm was sanctioned Rs 9.78 lakh in June 1996 and Rs 26.09 lakh has already been recovered from it. Case is pending in the court. In response to the Committee's observation that why loan had been sanctioned to the firm, who does not have its unit in Haryana, the Corporation admitted its lapse.

(f) Hallmark Healthcare Limited, Gurgaon

Before sanction of lease assistance to the above unit, the Advisory Committee observed (December 1995) that the main promoters (Shri H R Swaminathan and his wife Smt. Prema Swaminathan) of it were Directors of M/s Lifeline Injects Limited, Rewari, which had defaulted in repayment of loans given by HSIDC and stood personal guarantor. Pre-sanction appraisal was conducted by Manisha Gupta, Manager (Leasing). Based on the statement of the promoters that they had been absolved of all liabilities of the said company, the committee without consulting the HSIDC sanctioned (December 1995) the lease assistance of Rs 238.83 lakh for expansion of the existing unit named Hallmark Healthcare Limited, Gurgaon, with stipulation that the unit would furnish credit worthiness certificate from the Industrial Reconstruction Bank of India (IRBI) from whom the unit had availed a loan of Rs 135 lakh. The Corporation disbursed (December 1995/January 1996) a sum of Rs 228.08 lakh through Bank drafts drawn in the favour of the suppliers by handing over the same to the unit along with purchase orders without obtaining credit worthiness certificate of the IRBI.

The HSIDC informed (April 1996) the Corporation that it had taken over the assets of M/s Lifeline Injects under Section 29 of the Act and the main promoters had not been absolved of the guarantee. On inspection (August 1996) by the officer of the Corporation it was found that there were no machines at the site and the addresses of the two suppliers given in the bills were wrong as there were no factories owned by them at the given addresses. The Corporation had lodged (March 1997) FIR at Gurgaon and further progress was awaited (July 1997). No civil suit was, however, filed against the lessee (November 1997).

Despite knowing well that the main promoters of the unit were in default in the other unit, the Corporation did not obtain credit worthiness certificate from HSIDC/IRBI before disbursement of loan. This resulted in loss of Rs 329.78 lakh (including interest of Rs 101.42 lakh).

The Management stated (August 1997) that action against the erring officials was being taken

In their written reply the Government/Corporation stated as under —

FIR against the Promoters of the company has been registered by the Corporation. The main Promoter Directors of the company has been arrested by the Police. The case is being followed up for the recovery of the Corporation dues.

Official Liquidator has taken over the possession of the factory as per orders of Hon ble Punjab and Haryana High Court dated 30-4-1998 (C P No 150/97 Messrs Raunag Finance Ltd v/s Hallmark Health Care Ltd)

During oral examination the departmental representative stated that this firm was disbursed Rs 2.28 crore in 1995 and only Rs 16.28 lakh had been recovered. The Committee asked the Corporation to apprise it of the latest outcome of the case after one month.

The Committee was further apprised that areas viz. leasing financing where the Corporation did not have any experience have already been dispensed with. No further leasing is being done now. Managing Director has not been empowered to sanction any loan at his own level. The Committee was ensured that in future all loans would be sanctioned strictly in accordance with the procedure.

The Committee observed that the assistance for equipment leasing had been sanctioned by an Advisory Committee headed by the Managing Director on the basis of pre-sanction appraisals conducted by Managers who were very junior level officers.

In the background of the written replies and justification given by the representatives of the State Govt./Corporation during oral examination in respect of paras relating to equipment leasing from 3A 6 1 1(a) to 3A 6 1 1 (f) the Committee made the following recommendation in all cases of equipment assistance leasing.

1 The pre-sanction appraisal of each case should have been done by a senior officer who must be technically and financially qualified. The appraising officers were required to verify meticulously the title, existence and value of securities offered.

2 In case the Corporation was unable to recover the loan due to defective appraisal, inadequate security etc., the appraising officers should have been held responsible and required to make good the loss.

3 Since financial assistance under equipment leasing was sanctioned by an Advisory Committee headed by the Managing Director, as such all members of the Committee should be held equally responsible in case of non-recovery of these loans.

4 Post-sanction appraisals and disbursements of loans/assistance should be strictly as per the approved policies/procedures of the Corporation and there should not be any relaxation/waiver in favour of any loanee. The officers who relax or do not adhere to the terms and conditions of the sanctions and disbursements, should be held personally responsible for loss caused to the Corporation.

5 **FI Rs./Criminal cases filed in all these cases may be persued to the logical conclusions**

6 **Disciplinary proceedings pending against erring officials may be finalised immediately without further loss of time and final outcome be reported to the Committee within six months**

7 **Civil suits be filed against the defaulters for recovery of outstanding loans**

3A 6 1 2 Sub Leasing scheme of vehicles

3 The Corporation introduced (January 1995) the scheme of sub leasing of vehicles with the total lease assistance under the scheme not exceeding Rs 5 crore. The Corporation however disbursed funds under this scheme up to June 1996 and thereafter the scheme was closed. The scheme *inter alia*, provided that

- sub lessor company should be in profits and income tax assessee for the last two years
- sub lessor to offer clear marketable collateral security/bank guarantee against the assistance
- sub lessor to release 25 per cent of the sanctioned amount at the initial stage and subsequent instalment to be released against submission of proof of utilisation of instalment earlier released and
- sub lessor to have its office in Haryana and shall make disbursement under the scheme to Haryana based beneficiaries

Following points were noticed in case of disbursement of Rs 1 75 crore to five sub lessors

(a) The Corporation disbursed Rs 62 50 lakh to M/s Allianz Capital and Management Services Limited (Promoted by Shri Ashwajit Singh and Shri Navjeet S Sobti) and M/s Chaitanya Hire Purchase Private Limited (promoted by Shri Qimat Rai Garg and Smt Madhu Garg) without verifying from the returns submitted that they had filed returns of losses with the Income Tax Department for the last two years

In their written reply the State Government/Corporation stated as under —

In the cases of M/s Chaitanya Hire Purchase (P) Ltd and M/s Allianz Capital and Management Services Ltd Panchkula there was no loss as per the annual accounts. Though these Companies filed the returns of losses but this could be due to difference in the depreciation rates allowed under Income Tax Act and other weighted deductions permissible under the Income Tax Act

During oral examination the Managing Director of the Corporation while admitting the lapse stated that Rs 62 50 lakh and Rs 1 25 lakh was disbursed to M/s Allianz Capital and Management Services Ltd Panchkula and M/s Chaitanya Hire Purchase (Pvt) Ltd respectively. In response to Committee's observation that the officer

who had not verified that whether the unit is in profit or loss is responsible for this lapse. The Managing Director of the Corporation stated that Mr. Vashisht, Additional G.M. who had dealt with this case had already been dismissed from service. Committee was further apprised that quantum of recovery would be very low in these cases. The case is pending in the Court. F.I.R. too had been lodged in this case and the next date of hearing is 25th November 2000. Further progress in this case is awaited by the Committee till the finalization of the report (February 2002).

(b) The Corporation had disbursed Rs. 125 lakh to M/s Indian Saving and Investment Limited (promoted by Sh. Bhupinder Singh, Shri Ramesh Kumar and Shri Harinder Singh), M/s Chatanya Hire Purchase and M/s Sato Leasing Company (promoted by Shri Anadi Nath and Shri R.K. Sharma) under the scheme although they were not having their offices in Haryana which was in contravention of the scheme.

In their written reply the State Government/Corporation stated as under —

These three sub lessors had proposed to open their offices in Haryana to take up the lease finance activities in the State of Haryana.

The Corporation has also lodged F.I.R. against the sub lessors. Action against erring officials has also been taken.

During oral examination while admitting the lapse the Managing Director of the Corporation stated that though as per rules these units were required to have their offices in Haryana but on unit's assurance that office would be opened in Haryana, subsequently assistance had been granted to them.

(c) The Corporation accepted collateral security of Rs. 146.50 lakh in the shape of shares in respect of M/s Unimate Financial Services Limited (promoted by Shri R. Ramesh, Mrs. Ranju Goel and Shri Satwant Singh) and M/s Allianz Capital and Management Services Limited to whom Rs. 50 lakh had been disbursed. Collateral security includes shares of Rs. 99 lakh of a Private Company which are not marketable at all. M/s Chatanya Hire Purchase and M/s Sato Leasing Company furnished collateral security valued at Rs. 102.50 lakh against the said amount of loan by pledging fake land to the Corporation as it belonged to Government of India.

The Management stated (August 1997) that collateral security had been obtained as a secondary safeguard since the Corporation was having charge on the vehicle financed. The reply is not tenable as the Corporation was required to obtain 100 per cent collateral security.

During oral examination the representative of the Government while admitting the lapse stated that in this case the collateral security was not verified properly before granting the assistance. Further the Corporation accepted the shares of these companies which were not listed and as such these shares have no value. The Committee was further apprised that due to non observance of the required procedure the lapse occurred as one person should apprise the case and other should do disbursement whereas in the instant case only one person had dealt with whole of the case viz. processing, verification and disbursement etc. Now this scheme had been discontinued. **The Committee desires to**

know the latest position of these cases alongwith the action taken by the Management.

(d) The Corporation released further sum of Rs 37 50 lakh to Messrs Unimate Financial Services Limited and Messrs Sato Leasing Company without verification of the utilisation of initial advances of Rs 25 lakh

The Corporation accordingly recalled (December 1996) the entire loans of Messrs Sato Leasing Company and Allianz Capital and Management Services Limited to whom a sum of Rs 37 50 lakh had been disbursed (February/March 1996) due to above referred irregularities. Of the above five sub lessors pre sanction appraisal in four cases was conducted by Manisha Gupta and in the case of Unimate Financial Services the same was conducted by Shri Manoj Kumar Arora Manager (Leasing). The Corporation lodged (April/May 1997) FIRs with Police against all the 5 sub lessors and further progress was awaited (July 1997). No civil suit was however filed against the sub lessors (November 1997).

Hence in view of the above irregularities in disbursement of funds to these sub lessors the Corporation funds amounting to Rs 1 75 crore had been blocked and chances of recovery were also doubtful.

The Management while confirming the fact stated (March 1997) that in all the above cases the erring officers had been placed under suspension.

During oral examination the Managing Director of the Corporation while admitting the lapse stated that loan in this case had been sanctioned and disbursed without verification of utilization of initial amount disbursed. After discussing individual cases of sub leasing scheme of vehicles from para 3A 6 1 2(a) to 3A 6 1 2(d), the Committee was not satisfied. During oral examination the Corporation however admitted the lapse in sanctioning/ disbursement of loans. Disbursement of Rs 1 75 crore under sub leasing schemes of vehicles to five sub lessors was in contravention of the provisions of the scheme. Irregularities committed in sanction/disbursement of loans such as non verification of profitability/filing of income tax returns accepting collateral securities in the shape of non marketable shares and sub-lessors having offices out of the State of Haryana had resulted doubtful recovery of Rs 1 75 crores. **The Committee expressed concern that neither cases for recovery were filed in the court nor efforts made to recover the amount from the officers responsible for the loss to the Corporation. The Committee, therefore, recommends that vigorous steps needs to be taken to make good the loss to the Corporation.**

3A 6 2 Merchant Banking

3A 6 2 1 Bought out deals

4 The Companies were facing problems in raising capital through public issue due to high costs and time consuming procedures which were resulting in delay in project implementation and cost escalation. In order to simplify this system Over the Counter Exchange of India (OTCEI) started the system of bought out deal. In bought out deal a member of OTCEI along with co investors buys the entire amount of equity shares of a Company at a bargained price and off load (sale) to the public at a future date after the

Company has started performing and showing results at a price fixed by the members. The Corporation approved (May 1994) a scheme of participation in bought out deals and also approved (October 1994) a scheme for equity participation in public issue with a view to gain an attractive premium on investment in short period. Further it introduced (January 1995) the scheme for conversion of term loans of its borrowers into equity capital of the existing defaulted borrowers.

The Corporation invested a sum of Rs 10.62 crore in bought out deals (Rs 2.29 crore) in 10 Companies in equity participation (Rs 6.09 crore) in 25 Companies and in debt conversion (Rs 2.24 crore) in 5 Companies. All these three schemes were discontinued in August 1996 as these were not found profitable. A review of these schemes revealed the following points:

(i) A Sub Committee consisting of MDs of HSIDC and the Corporation, Director of Industries and Manager SIDBI constituted by the Board to formulate guidelines for operation of the schemes decided (June 1994) to discuss the aspect of buy back of shares by the Company with an advocate. However the Corporation continued bought out deals and provided assistance of Rs 2.29 crore till the receipt of advice (October 1995) of the advocate who opined that the assisted Company and its promoters could not buy back its shares.

The Management stated (August 1997) that there was no decision for not considering the assistance till the opinion of the advocate was available. The reply was however not tenable as obtaining of legal opinion by the Sub Committee implies certain doubts about its implementation which ultimately turned out to be correct.

In their written reply the State Government/Corporation stated as under —

The Sub Committee decided in its meeting held in June 1994 that the aspect of enforcement of buy back arrangement from legal view point may be discussed with some advocate. In the same meeting the Committee approved participation in the Bought Out Deal of Messrs Asian Diet Products Ltd to the extent of Rs 21 lakh as per the scheme approved by the Board. The MoU containing the buy back clause was vetted by the Legal Advisor of the Corporation. Further the Board while approving the scheme desired that as far as possible the buy back agreements may be obtained from the promoters. Further as per the recent judgement in case of Bought Out Deal of Messrs Apex Multitech Limited the buy back clause in the Bought Out Deal agreement has been held valid by the Hon'ble Punjab & Haryana High Court. In view of dismissal of the writ petition filed by the Company in the Hon'ble Supreme Court, further recovery action is being initiated.

During oral examination the representatives of the State Government while admitting the lapse stated that decision had been taken without the receipt of the Advocate's reply although the Sub Committee decided (1994) that further action would be taken only after the receipt of the legal opinion. The Committee was not satisfied with the reply and observed that timely action should have been taken. Effective

steps be taken to avoid misutilization of the public money

(ii) Investment decisions as per scheme were to be made by the above Sub Committee. However, in six cases involving Rs. 1.43 crore in the case of bought out deal and in six cases involving Rs. 1.66 crore in respect of equity participation, the decisions were taken by a single member of the committee i.e. the MD of the Corporation which was against the spirit of the scheme.

In their written reply, the State Government/Corporation stated as under —

The Board of Directors in its 213th meeting held on 9.5.1994 authorised the Sub Committee to take final decision on proposals received under the scheme and no quorum was defined by the Board. The fact that the Sub Committee meeting was attended by only one member has already been put up before the Board in its 237th meeting held on 1-11-1996. As regards attendance of Investment Committee Meetings, the Board decided that in future there should be a quorum of minimum two members present in the Investment Committee while taking a decision on any item. The same has been noted as policy decision for such meetings in future.

During oral examination, the representative of the State Government stated that due notices were issued to all the four members of the Sub Committee. But only M.D. H.F.C. was attending this Sub Committee's meeting. In response to the Committee's observation that whether a single member of a Committee can take the decision, the Corporation stated that without quorum no decision can be taken by a single member. The Committee was apprised that resolution was passed by the Board of Directors of the Corporation to take action against the then M.D. and accordingly reference was made to the Chief Secretary. Reminders were also issued to the Chief Secretary's office for pursuing the case further. It was further brought to the notice of the Committee that file was misplaced from Chief Secretary's office. In response to the Committee's observation that who is responsible for the misplacement of file, the State Government representative stated that this is not in our purview and only Joint Secretary, Political and Services (J.S.P.S.) would be able to give more details of the case. J.S.P.S. (Shri Abhilaksh Likhri IAS) stated that he took over the charge in April 2000 and got the first letter on 13th June 2000 for taking action against the Chief Executive Officer (C.E.O.). The Committee was further apprised that the explanation of the C.E.O. was called for on 22nd February 2001 and reply is still awaited. **The Committee desired (June 2000) that records regarding the follow up action taken in the matter by the Services Branch of the State Government may be obtained and Committee may be apprised of the latest status.**

The Committee recommended that besides taking strict disciplinary action against the officer, the matter as regards misplacement of file be investigated by the State Vigilance Department and result in the matter be intimated to the Committee within a period of three months. The information has not been received by the Committee till the finalization of the report (February 2002).

(iii) Apex Multitech Limited, Panchkula (promoted by Shri B.C. Puri, R.P. Sarin, Vivek Sarin and Anil Sarin) was given accommodation under the bought out deal of

Rs 20 lakh by the Corporation in Decemooer 1994 which was in contravention of the terms of sanction as this firm was in default in respect of other term loan at the time of investment. The Management stated (August 1997) that action against the erring officials was being examined

(iv) The Corporation invested Rs 1 30 crore in six companies under bought out deal but could not buy the entire amounts of equity shares of these companies alongwith co investors as per requirement with the result the Corporation could not impress these companies for bringing out public issue of equity shares

Due to irregularities in investment in shares as discussed above and these share holdings either not quoted or where quoted, their listed pr ces being less than the purchase prices the shares could not be disposed of and the entire amount of Rs 10 62 crore had been blocked. As the Corporation is arranging its funds for investment mainly through borrowings at an interest rate of 18 per cent the above blocked of funds resulted in loss of Rs 3 12 crore on account of interest. Besides the recovery of the above blocked funds is also doubtful in the absense of any securities and remote chances of sale through public issue of equity shares

The State Government/Corporation in its written reply stated as under —

The companies could not come out with the Public Issue due to depressed capital market conditions

It is incorrect to say at this stage that any loss has ocured. The depreciation in the value of investment may be temporary phenomenon owing to the depressed capital market scenario. The investment may be off loaded as and when the capital market improves and the companies come out with an offer for sale/public issues on adequate return

The Committee after considering the reply of the Government/Corporation on bought out deals from para 3A 6 2 1(i) to (iv) observed that as all the three schemes viz bought out deals, equity participation in public issue and conversion of term loan of its bor-owers into equ ty capital approved by the Corporation in May, 1994, October, 1994 and January, 1995 were discontinued in August, 1996, it is evident that proper economic viability of these schemes was not meticulously worked out. Subsequently the implementation of these schemes was not done as per guidelines framed by the Corporation. It was found that without waiting for the advice of an advoate as desired by the Sub Committee consisting of Managing Directors of HSIDC, the Corporation, Director of Industries and Manager SIDBI, the Corporation provided assistance of Rs 2 29 crore to 10 companies. Secondly investment decisions as per scheme were to be made by the above Sub Committee. However, in six cases involving Rs 1 43 crore in the case of bought out deals and in another six cases involving Rs 1 66 crore in respect of equity participation, the decisions were taken by the single member of the Committee i e Managing Director of the Corporation.

Thirdly, the Corporation's decision to invest Rs 1 30 crore in six companies under bought out deals was injudicious as it could not buy the entire amount of equity stake of these companies resultantly the companies failed to bring out public issue and Corporation's funds were blocked

In the above background, Committee recommend that the officials/officers who firmed/approved and executed these schemes should be identified and responsibility be fixed

3A 6.2 2 Bridge loan against Public issue (Pre issue stage)

5 The Corporation approved (September 1994) a scheme for bridge loan against public issues (pre issue stage) The scheme *inter alia* provided that—

- initially loan should not exceed six months from the date of first disbursement with a maximum period of one year
- mortgage of collateral security in the shape of fixed assets of the value of principal amount and interest for the initial period or unconditional and irrecoverable bank guarantee
- before disbursement, the loanee Company had filed the prospectus for the issue with SEBI and issue is fully underwritten and
- before disbursement the promoters contribution in the project has been fully raised and the Company had already availed the term loan as envisaged in the means of finance

The Reserve Bank of India (RBI) instructed (April 1995) the FIs to ban the sanctioning of bridge loans and *inter alia* directed that

- (i) under no circumstances allow extension of time for repayment of loans and
- (ii) FI should not circumvent instructions by purport and/or intent by sanction of credit under a different nomenclature

In view of RBI instructions the Corporation stopped (October 1995) loaning under the scheme

The Corporation sanctioned (January 1995) bridge loan of Rs 150 lakh to Shivalika International Limited, Panipat (promoted by Shri Suresh Dahuja and Smt Ramesh Dahuja) for a period of six months with the stipulations that promoters will raise their contribution and invest in the unit The Corporation disbursed (24th March 1995) the loan after obtaining collateral security of immovable assets (valued at Rs 70 lakh) and unit's own shares (valued at Rs 154.28 lakh) and on the assurance of the promoters that they would contribute their share of investment of Rs 198 lakh one day before opening public issue The prospectus was filed (6 March 1995) with SEBI for approval of bringing out public issue at a premium of Rs 20 per share which has not been approved by the SEBI so far (July 1997) with the result the unit could not bring out the public issue and promoters did not contribute their share of investment of Rs 198 lakh

The unit defaulted in payment of interest on bridge loan and requested (October 1995) the Corporation to extend the currency up to March 1996 which could not be extended formally in view of RBI instructions of April 1995 The Corporation however sanctioned (March 1996) a working capital loan of Rs 100 lakh and bill discounting limit of Rs 120 lakh with the stipulation that the entire loan amount be first

adjusted against the bridge loan and interest thereon (Principal Rs 150 lakh Interest Rs 42 63 lakh up to March 1996) After adjustment of Rs 187 35 lakh (Working capital Rs 97 35 lakh and bill discounting Rs 90 lakh) between March 1996 and September 1996 the balance bridge loan of Rs 5 28 lakh (interest up to March 1996) was outstanding (as on 13 September 1996)

The loanee did not repay any instalment of working capital loan and discounting limit and an amount of Rs 199 lakh including interest (upto December 1996) was still recoverable (July 1997) The amount of interest due after December 1996 was not intimated by the Corporation

The Corporation extended all favours to the unit in disbursing the bridge loan by committing following irregularities

- (a) The instructions of RBI for not allowing extension of time and not sanctioning of credit under a different nomenclature were violated by sanctioning working capital loan of Rs 220 lakh to the unit just to adjust the bridge loan which the unit was not repaying within the stipulated period Pre sanction appraisal of working capital loan was conducted by Shri P C Gupta Assistant General Manager of the Corporation

The reply (August 1997) of the Management that it has not violated the instructions of RBI is not tenable in view of the clear cut guidelines of RBI

- (b) The loanee did not raise his contribution in the unit and term loan was also not availed as agreed before disbursement of bridge loan

The Management stated (August 1997) that the condition of bringing entire contribution of promoters was relaxed and no note was taken in raising term loans

- (c) In contravention of the scheme the Corporation accepted collateral security in the shape of shares (valued at Rs 154 28 lakh) which had no market value (being no public issue could come)
- (d) The prospectus for public issue was not approved by SEBI and issue was not fully underwritten before disbursement of bridge loan

The State Government/Corporation in its written reply stated as under —

- (a) The currency was not extended by the Corporation The Corporation charged penal interest for the defaulting period The other facilities released to the Company were need based and secured This is the policy of the Corporation that at the time of release of funds to the Company The Company should not be in default in any other account and if so the funds are first adjusted towards default
- (b) The condition regarding promoter's contribution was relaxed by the sanctioning authority As per the sanction letter issued by IDBI one of the condition was that the company should obtain SEBI approval for the proposed public issue

- (c) The Managing Director was authorised by the Board to call for collateral security for any amount as deemed fit on the merits of the case

However the bridge loan against public issue account stands adjusted

- (d) The draft prospectus was filed with SEBI. As per the draft prospectus the issue was proposed to be fully underwritten

During oral examination the representatives of the State Government stated that this scheme was discontinued in 1996. Vigilance Department is conducting detailed enquiry and action had already been taken against the defaulting officers/officials. Charge sheets had already been issued in 12 out of 18 cases. Remaining persons had either been dismissed or tendered their resignations before the start of the enquiry proceedings. The Committee was apprised that the Vigilance Department had already conducted preliminary enquiry. The Corporation assured the Committee that it would give all required co-operation to the Vigilance Department. The Committee was apprised that Vigilance Department had already conducted the preliminary enquiry and had submitted its report to the State Government. Now the Government had asked the Vigilance Department to do the regular enquiry. The representative of the State Government stated that the Chief Secretary who is the Administrative Secretary of the Vigilance Department, would be apprised with the proceedings of the Committee and requested that enquiry be completed at the earliest. The Committee considered the reply and observed that disbursement of bridge loan to M/s Shivalik International Limited, Panipat by accepting collateral security in the shape of shares which had no market value, non-availing the term loan by the loanee and non-approving the prospectus from the SEBI by the Company was in contravention of the scheme approved by the Corporation and sanction of working capital loan of Rs. 220 lakh against guidelines issued by the Reserve Bank of India had resulted into blockade of Rs. 199 lakh including interest up to December 1996. As such the Committee observed that disbursement of Rs. 150 lakh without adhering to the provision of the scheme and subsequently sanctioned disbursement of the working capital loan of Rs. 220 lakh in contravention of instructions issued by RBI, called for strict action against the officials/officers who sanctioned/dispensed the bridge loan/working capital loan to a private Company. As informed by the Company, the case has been referred to the Vigilance Department. The Committee desires that the findings of the Vigilance be communicated to the Committee within three months.

The Committee also desired that a copy of the recommendation made by the Committee be sent to the Chief Secretary, Government of Haryana in Vigilance Department by the Haryana Vidhan Sabha Secretariat for further necessary action.

3A 6 2 3 Adhoc limits to merchant bankers

6 The Corporation introduced (January 1995) the scheme of sanctioning of adhoc limits to merchant bankers for participation in bought out deals on OTCEI with a view to help in syndication of deals. The merchant bankers were required to give collateral security in the shape of marketable immovable assets or in shape of pledging of shares of good listed Company.

The Corporation sanctioned adhoc limits of Rs 6 crore to three merchant bankers namely Allianz Securities Limited (promoted by Shri Ashwajit Singh Shri Navjeet S Sobti and Shri Satvinder Singh) (A) Brisk Capital Services (promoted by Shri Naresh K Aggarwal) (B) and CIFCO Limited (promoters name not made available) (C) which availed the limit to the extent of Rs 1 78 crore during the year 1995 96 Pre sanction appraisal in case of A and B was conducted by Shri Rajesh Handa Manager (Merchant Banking) In case of C the name of the officer who conducted the pre sanction appraisal was not made available The scheme was however discontinued (June 1996) by the Corporation due to investment by merchant bankers in the companies which were not financially sound and in view of the depressed capital market

Following irregularities were noticed in audit

- (a) The Corporation disbursed (April 1995 to February 1996) the loans of Rs 1 45 crore to A and B merchant bankers against already acquired shares (during December 1994 to August 1995) which was against the spirit of the scheme
- (b) The Corporation released (April 1995 to February 1996) the limit of Rs 1 08 crore to A and C merchant bankers without obtaining any collateral security thereagainst which was contrary to the scheme A sum of Rs 37 50 lakh was overdue as on 31st March 1997

Thus Corporation's funds to the tune of Rs 1 78 crore had been disbursed without any security/adhering to the provisions of the scheme as a result of which the chances of recovery of the funds were doubtful

The State Government/Corporation in its written reply stated as under —

- (a) The shares of the Company whose bought out deal was being syndicated, held by the merchant banker were required to be pledged with the Corporation and the Corporation disbursed the funds only after that
- (b) The funds were invested as per the approved scheme of the Board of Directors The Managing Director has taken a decision on the collateral security on case to case basis In all the cases personal/corporate guarantees were obtained for securing the Corporation's investment

During the oral examination the Corporation representatives stated that these three Companies availed the limit of Rs 1 78 crore M/s Allianz Securities Limited was sanctioned a limit of Rs 2 crores and was disbursed Rs 75 lakhs only Rs 0 24 lakh had been recovered and Rs 2 29 crores are yet to be recovered Recovery Certificate had already been issued M/s Brisk Capital Services Limited was disbursed Rs 70 lakhs against the sanctioned limit of Rs 2 crores Rs 4 28 lakhs had been recovered and Recovery Certificate for outstanding amount of Rs 2 45 crores had been issued to Collector Delhi M/s CIFCO India Limited was sanctioned Rs 2 crores and Rs 32 75 lakhs has been disbursed Rs 11 94 lakhs have been recovered and Recovery Certificate for outstanding amount of Rs 80 06 lakhs had already been issued In response to the Committee's observation about the latest position for Recovery Certificate the Managing

Director of the Corporation stated that the Committee would be apprised with the latest position after getting the reply of the D O letters issued to the concerned Collectors

The Committee considered the reply and observed that since the disbursement was not made in accordance with the provisions of the scheme, the Committee, therefore, recommended that responsibility of the officers for committing these irregularities may be fixed under intimation to the Committee. As informed by the Corporation that the matter is being investigated by the State Vigilance, the Committee recommends that the findings of the State Vigilance and action taken against the defaulting officers be intimated to the Committee within a period of three months.

The Committee further desired that the latest position regarding the recoveries be also intimated to the Committee within a week.

The Committee further desired that a copy of the recommendations made by the Committee, be sent to the Chief Secretary, Government of Haryana, in Vigilance Department by the Haryana Vidhan Sabha Secretariat for further necessary action.

3A 6 3 2 Scheme for waiver/settlement of irrecoverable loans

7 The Corporation introduced (January 1993) a settlement scheme to waive/settle irrecoverable loans from defaulter loanes. The scheme *inter alia* provided the settlement of loans where

- the loanee/guarantors has no property
- security mortgaged has been disposed off
- the district authorities have declared the amount as irrecoverable and
- the sole proprietor of the loanee unit has expired and his legal heirs do not have any means to repay the loan

The Board constituted (January 1991) a standing settlement committee consisting of MD nominee directors of SIDBI and Punjab National Bank (one each) to consider the cases for settlement under the scheme.

Following were the members of the Committee during the five years up to 31 March 1997

Sl No	Name of Person		Period
1	S/Sh Ajit M. Saran	MD	01 04 92 to 21 05 96
2	Manik Sonawane	MD	22 05 96 to 31 03 97
3	N. K. Maini	Director	01 04 92 to 05 07 95
4	Dharam Dev	do	06 07 95 to 31 03 97
5	R. V. Shastri	do	01 04 92 to 13 12 93
6	V. N. Saxena	do	14 12 93 to 21 04 96
7	P. P. Gupta	do	22 04 96 to 31 03 97

The table below indicates the number of cases settled loans outstanding amounts settled and amounts waived by the Corporation thereagainst during last four years ending 31st March 1997

Particulars	1993 94	1994-95	1995 96	1996 97
No of cases	73	85	49	12
	(Rupees in crore)			
Loans outstanding	10 88	9 21	3 58	0 97
Loans settled/recovered	3 41	2 34	6 87	0 47
Loans waived	7 47	6 87	2 68	0 50
Percentage of recovery	31	25	25	48

It would be seen from the above table that percentage of recovery to total outstandings was just 25 to 48 during these years

As a result of a test check of 25 cases under the scheme the irregularities noticed in the following cases are discussed below

(a) Haryana Wire & Allied Industries, Hansi

The Corporation disbursed (April 1981 and July 1984) two loans of Rs 12 19 lakh to the above unit promoted by Devender Singh on personal guarantee of the promoter. Due to persistent default, the unit was auctioned (May 1992) for Rs 9 01 lakh. After adjustment of auction proceeds Recovery Certificate (RC) for recovery of shortfall amount of Rs 49 50 lakh was issued (April 1993) to the Collector Hisar for attaching the personal properties of the guarantors valued at Rs 33 05 lakh. The Corporation on request of a close relative of the guarantor settled (February 1995) the loan for Rs 3 lakh and this resulted in undue favour to the unit entailing a loss of Rs 46 50 lakh.

The Management stated (December 1995) that the guarantors had already disposed of their personal properties and were not having adequate capacity to pay the dues. The reply is not tenable as the guarantors had sufficient personal properties as evident from the collateral security offered (March 1992) and branch manager categorically indicated (May 1995) that guarantors were reluctant to disclose their present means.

In its written reply the State Government/Corporation stated as under —

The Board of Directors of the Corporation in its 191st meeting held on 15 11 1991 approved certain guidelines for waiver as well as settlement of irrecoverable loans. Further some amendments were incorporated in the aforesaid guidelines by the Board in its meeting held on 5 1 1993. Therefore regarding waiver of irrecoverable loan in bad cases the Board approved the following eligibility criterion —

- (i) Where the security mortgaged to the Corporation has been disposed off and the unit is not in existence

- (ii) Where there is no property/means of the party/guarantors to repay balance outstanding and the security mortgaged has already been disposed off
- (iii) Where District Authorities have declared the amount as irrecoverable
- (iv) Where the amount or RC has been recovered out the interest charged after issue of RC has not been recovered provided the amount involved is upto Rs 5 000
- (v) Where whereabouts of the party/guarantors are not known for the last 5 years and the assets mortgaged to the Corporation have been disposed off
- (vi) The sole prop has expired and his legal heirs do not have any means to repay the loan and assets mortgaged to the Corporation have been disposed off
- (vii) Where after adjustment of DICGC claim amount in party's accounts outstanding is upto Rs 5 000

For settlement of irrecoverable loans the Board approved that cases where loan account has become irrecoverable after taking possession of the unit or units lying closed and borrowers/guarantors are interested to adjust the loan account through settlement with the Corporation will come under the purview of Settlement Committee comprising of the Managing Director of the Corporation nominees of SIDBI and PNB provided the amount of waiver is above Rs 50 000. Cases where the amount is to be waived is upto Rs 50 000 shall be decided at the level of the Managing Director of the Corporation.

It is submitted that in this case RC was issued on 21.3.1988 because the party was reluctant to hand over the possession of the unit. The Tehsildar attached the unit on 5.1.1989 and Superdani was given to the Guarantor Shri Hari Singh. The Revenue Authorities did not take necessary action for the auction of the unit and returned the RC with the remarks that the loan was in the name of the Guarantor and was on lease with the loanee company. It should be got transferred in the name of the concern before the unit is attached. Therefore no action was taken by the Revenue authorities for recovery. Under the circumstances the possession of the mortgaged properties was taken over by the Corporation under Section 29 of State Financial Corporations Act, 1951 in April 1990 and sold the same for Rs 9.01 lacs on 2.6.1992 after vacation of stay from the Court. It is also pointed out that one of the Guarantor Shri Hari Singh approached the Corporation vide its request dated 25.3.1992 for settlement of loan when the unit was under the possession of the Corporation at simple rate of interest. He was also ready to give extra collateral security to the Corporation but no where mentioned whether the security which he wants to give was his own or arranged from some other person and also had not given any

details of his property standing in his name in 1992. So the objection of Accountant General Audit that guarantor was having sufficient personal properties and Branch Manager categorically indicated in May 1995 that guarantors were reluctant to disclose their present means is incorrect as neither the guarantors offered any collateral security to the Corporation at any stage nor Branch Manager given any information to AG Audit team either in writing or orally that guarantors were reluctant to disclose their present means during their visit at Branch Office Hisar.

After sale of unit, RC for shortfall amount was lodged on 21-4-1993 for attaching the personal properties of partners/guarantor but no action was being taken by the Revenue Authorities as the partners/guarantor were not having any properties in their names disclosed by them at the time of availing of loan. This fact has also been confirmed in the Joint report dated 21-12-1994 submitted by our two officers.

The Corporation had put in all efforts to locate/find out assets of the partners and guarantor and it was ascertained that one of the four partners had expired and whereabouts of his legal heirs were not known. Another partner did not have any property in his name and was serving as a clerk/store keeper with HAFED and was not earning much. The third partner was unemployed having no assets in his name and 4th partner was a house wife not having any assets or income of her own and fully dependent on her husband. The guarantor was also not having any property except a jeep. Their affidavit and documentary proofs with regard to disposal of their personal properties were obtained by the Corporation. Therefore, there is no lapse on the part of the Corporation at any stage and it has settled the account at the maximum possible recoverable amount under the given circumstances. Hence, no favour has been done in the case to the party for settling the loan account.

During the oral examination the Department representatives stated that firm was sanctioned two loans amounting to Rs. 12.19 lakhs (Rs. 3.49 lakhs and Rs. 8.70 lakhs). Rs. 15.36 lakhs had been recovered in this case. The unit was auctioned for Rs. 9.01 lakhs due to non-payment of instalments. Further, after adjusting the auction proceeds the recovery certificates for Rs. 49.50 lakhs was issued to the Collector, Hisar for attaching the personal properties worth Rs. 33.05 lakhs of the guarantor. It was further apprised that after recovering Rs. 3 lakhs the loan case was settled on the request of the close relative of the guarantor and the Corporation suffered a loss of Rs. 46.50 lakhs. The revenue authorities could not recover any amount in 1993 since none of the 4 partners in the partnership deed were not having any property. **The Committee observed that partnership deed contains all the details of the assets possessed by the partners and if the deed does not contain above details then the loan sanctioned on the basis of this deed is faulty.**

The Committee desired that the copy of the partnership deed be given to the Committee besides break up of the recovery of Rs. 4.75 lakhs made by the

Corporation Same are awaited by the Committee till the finalization of the report (February 2002)

(b) Anil Rolling Industries, Hisar

The Corporation disbursed (September 1986 to August 1988) a loan of Rs 13 26 lakh to the captioned partnership firm formed by Shri Mohan Lal Jindal and Smt Shanti Devi. Due to persistent default in repayment, the unit was taken over (July 1992) and disposed off (October 1993) for Rs 4 lakh by the Corporation. After adjustment of the proceeds RC for recovery of shortfall amount of Rs 22 28 lakh (including interest) as on September 1993 was lodged with the Collector, Hisar.

Two partners requested (December 1993) the Corporation for settlement of account as none of them was having any property in their name and were not having other source of income. The Corporation settled (September 1994) the outstanding loan of Rs 25 68 lakh (including interest) for a sum of Rs 8 75 lakh which was paid by the firm between June 1994 and September 1995.

It was observed in audit that as per report (June 1994) of the Branch Manager all the partners were having immovable properties and the district authorities have not declared the amount as irrecoverable. Thus the firm was not covered under the scheme and settlement of loan in contravention of the provision of the scheme resulted in undue favour to the firm entailing a loss of Rs 16 93 lakh to the Corporation.

The State Government/Corporation in their written reply stated as under —

The Board of Directors of the Corporation in its 191st meeting held on 15 11 1991 approved certain guidelines for waiver as well as settlement of irrecoverable loans. Further some amendments were incorporated in the aforesaid guidelines by the Board in its meeting held on 5 1 1993. Therefore regarding waiver of irrecoverable loan in bad cases, the Board approved the following eligibility criterion —

- (i) Where the security mortgaged to the Corporation has been disposed off and the unit is not in existence
- (ii) Where there is no property/means of the party/guarantors to repay balance outstanding and the security mortgaged has already been disposed off
- (iii) Where District Authorities have declared the amount as irrecoverable
- (iv) Where the amount of RC has been recovered but the interest charged after issue of RC has not been recovered provided the amount involved is upto Rs 5 000
- (v) Where whereabouts of the party/guarantors are not known for the last 5 years and the assets mortgaged to the Corporation have been disposed off
- (vi) The sole prop has expired and his legal heirs do not have any means

to repay the loan and assets mortgaged to the Corporation have been disposed off

- (vii) Where after adjustment of DICGC claim amount in party's accounts outstanding loan is upto Rs 5 000

For settlement of irrecoverable loans the Board approved that cases where loan account has become irrecoverable after taking possession of the unit or units lying closed and borrowers/guarantors are interested to adjust the loan account through settlement with the Corporation will come under the purview of Settlement Committee comprising of the Managing Director of the Corporation nominees of SIDBI and PNB provided the amount of waiver is above Rs 50 000 Cases where the amount is to be waived is upto Rs 50 000 shall be decided at the level of the Managing Director of the Corporation

In the Audit observations the eligibility criterion maintained by audit is applicable for waiver of irrecoverable loans The said loan account has been settled as per provisions of the Settlement Policy stated above under which this case is covered

In this case no recovery had been forthcoming since October 1989 as such the mortgaged assets were sold by the Corporation on 22 11-93 As per Branch Manager report dated 23 6 94 stated in the report, one outgoing partner Shri Mohan Lal Jindal (change in partnership approved by the Corporation) was having residential House No 158/6 in the joint name with Shri Sham Lal at Hisar which could not be attached being a joint property Smt Shanti Devi another old lady partner was having one shop in her name However both the said old partners settled their share at Rs 1 25 lacs i.e 5% of total outstanding, in proportion to their share, as per New Partnership Deed as the change in partnership was already accepted by the Corporation Therefore there was no ground to attach their properties, when they had deposited the amount out of total outstanding dues as per their shareholding in the new partnership deed

Regarding other three new partners namely S/Sh Rajesh Bansal Rishi Sami and Rajinder Singh they were neither having assets in their names as per affidavit submitted by them nor as per B O report dated 23 6 94 Though Recovery Certificate was lodged against the partners on 9 12 1993 with Collector, Hisar for the recovery of shortfall amount of Rs 22 67 lacs but same was returned by Collector Hisar when party approached for settlement of loan Moreover there were no personal assets of the new partners available which could be sold by the Corporation

Therefore keeping in view the above facts the case was settled after ascertaining the paying capacity and sources of income of the partners as per settlement scheme and as such no undue favour has been done to the firm for settling this loan account

During the oral examination the Managing Director of the Corporation stated that when the settlement was made Rs 8.75 lakhs had been recovered against the total recoverable amount of Rs 15.85 lakhs. The Committee was apprised that the partners have changed their partnership deed and out of two partners first had transferred its 95% shares in the name of the second partner and thus he is having only 5% shares and the second partner do not have any property in his own name. When the promoters from whom the recovery was to be effected, were not having any property in their name effecting recovery was very tough.

The Committee considered the reply and observed that had the partners were having property in their own name at the time of transfer of partnership deed, the recovery could have been effected. The Corporation while admitting the lapse stated that as desired by the Committee it will give all the details regarding transfer of shares and the total recovery effected by it. The Committee further desired that the Management should be aware of all the facts and figures before coming to it. No details of transfer of shares effected have been received by the Committee till the finalization of the report (February 2002).

3A.7 Other topics of interest

3A.7.1 Public issue of the Corporation

8. The public issue of the Corporation for 57,87,500 equity shares of face value of Rs 10 each at a premium of Rs 25 per share was opened on 18 May 1995 which was over subscribed. The Corporation however allotted 58,34,000 equity shares to 4183 applicants and incurred an expenditure of Rs 160.28 lakh on the public issue. In terms of allotment of shares Rs 20 per share was called as application money and Rs 15 per share was to be deposited as allotment money by 11 September 1995 without interest after which the allottees were required to pay interest at 15 per cent per annum. The Corporation received Rs 1201.38 lakh as application money and after adjusting excess application money of Rs 34.58 lakh a sum of Rs 840.52 lakh was due on account of allotment money of which the Corporation received only Rs 251 lakh including interest of Rs 2.75 lakh (March 1996). A sum of Rs 577.27 lakh and interest amounting to Rs 133.49 lakh was due (March 1997) from the allottees on account of allotment money. The Corporation has not forfeited the partly paid shares so far (July 1997). The consultant appointed (January 1997) by the Corporation *inter alia* pointed out (January 1997) following irregularities in the issue:

- (a) Expenditure on non mandatory items worked out to 3.3 per cent of the issued amount against the limit of 2 per cent fixed (May 1985) by the Central Government resulted in excess expenditure of Rs 26.57 lakh.
- (b) A sum of Rs 6.10 lakh (stay ur tickets lodging & boarding and banquet charges) was paid to M/s Concept Communication Limited, New Delhi as conference charges. Details of delegates who attended the public issue conference and their deliberations were not furnished by the firm.

The Corporation placed (December 1996) one officer under suspension and a charge sheet was issued (February 1997) to him for these lapses the results of which were awaited (November 1997).

In their written reply the State Government/Corporation stated as under —

The departmental enquiry against the erring officer is in progress

During the oral examination the Managing Director of the Corporation stated that the Corporation floated (1995) shares worth Rs 20 42 crores (shares with face value of Rs 10 was issued at a premium of Rs 25 per share) Out of Rs 35 per share Rs 20 was application money and Rs 15 was to be paid at the time of allotment The Committee was apprised that the persons who failed to deposit the allotment money of Rs 15 per share application money of Rs 20 per share paid by them was forfeited as decided by the Board of Directors of the Corporation and in total Rs 8 20 crores had been forfeited

Regarding the excess expenditure on non mandatory items the Managing Director of the Corporation while agreeing to the version of audit, stated that this excess expenditure was on account of holding conferences at Mumbai Delhi Kolkata, Chennai and Ahmedabad The Committee was apprised that action had already been initiated against the erring officers

The Committee considered the reply and desired that the final outcome of the case be reported to it. Same is, however awaited till the finalization of the report (February 2002)

4A 1 HARYANA SEEDS DEVELOPMENT CORPORATION LIMITED

4A 1 1 Loss due to failure of Fresh Cotton Seed

9 The Company procures raw seed cotton from growers for production of certified seed after ginning of raw cotton and processing of seed at its plants at Sirsa and Hisar. It is the overall responsibility of Regional Manager Incharge of respective plant to accept seed cotton conforming to prescribed quality norms which *inter alia* provide moisture up to highest limit of 10 per cent.

The Head Office of the Company directed (November 1997) Regional Managers of the plants to constitute plant level committees so as to ensure the receipt of seed cotton of prescribed quality. During Kharif 1997 there was unprecedented bad weather and rains in the months of October and November 1997. Hisar plant of the Company did not procure any seed cotton as it was found to be having moisture content above 10 per cent. However it was observed in audit (August 1998) that Sirsa plant accepted 3841.63 quintals of seed cotton from growers without checking its moisture content and germination potential. The Company got 2530.64 quintals of seed after ginning of seed cotton at Sirsa. Out of this, 1455.53 quintals of Seed was retained at Sirsa for machine delinting and 1075.11 quintals of seed was sent (March 1998) to Hisar for acid delinting.

The Company obtained 1930.77 quintals of fresh cotton seed after delinting at Sirsa (1140.47 quintals) and Hisar (790.30 quintals). On processing for certification seed weighing 126.55 quintals (11.10 per cent) at Sirsa and 659.60 quintals (83.46 per cent) at Hisar finally failed as it could not meet minimum standards of germination required for certification. The Company disposed of rejected seed at a loss of Rs. 10.65 lakh.

On being pointed out in audit (August 1998) the Company constituted (November 1998) a committee to conduct preliminary enquiry to find out the reasons for failure of cotton seed. The enquiry committee attributed (December 1998) the large scale failure of seed to acceptance of seed cotton with higher moisture content, non/drying of seed in sun before acid delinting, over heating of seed during delinting and improper storage of seed. The Company issued charge sheets (February 1999) to three officers of Sirsa plant and two officers of Hisar plant for causing financial loss to the Company.

The Government stated (June 1999) that an enquiry on the charge sheets issued to five officers had been ordered and further administrative action would be taken on receipt of findings of the enquiry report.

The State Government/Company in their written reply stated as under —

As already informed in this case on the basis of the preliminary findings five officers of the Corporation were chargesheeted on dated 2-2-1999 under Regulation 6.3 of HSDC Employees Service Regulations 1989. Subsequently finding their replies to the chargesheets not satisfactory the punishing authority i.e. M.D. ordered a regular departmental enquiry in this case *vide* orders dated 27-5-1999. The enquiry proceedings are in progress and on the basis of the findings of the Enquiry Officer as and

when received the action against the defaulting officers will be taken accordingly

During oral examinations (3rd October, 2001) the representative of the State Government stated that the purchase of cotton seed was effected badly due to heavy rain in 1997. Hisar plant of the Company did not produce any cotton seed as it was having moisture content of more than 10 per cent. Sirsa plant accepted 3841.63 quintals of seed from growers. The Company got 2530.64 quintals of seed after ginning. 1455.53 quintals of seed was retained at Sirsa and 1075.11 quintals was sent to the Hisar plant. The Company obtained 1140.47 quintals fresh seed at Sirsa and 790.30 quintals at Hisar plant. 126.55 quintals of seed at Sirsa and 659.60 quintals at Hisar failed during process. The Committee was further apprised that the Company constituted a committee in 1998 to find the reasons for the failure of seed. The Committee submitted its report in February 1999 and chargesheets were issued to five officers for causing loss to the Company. After receipt of the reply from three officers in February 1999, enquiry officer was appointed. Enquiry officer after conducting detailed enquiry submitted report (13th September 2001) in respect of two officers (Shri M. S. Kataria R. M. Shri K. L. Kataria, AE) and both were found guilty. The Committee observed that 2½ years had already elapsed and the enquiry had yet not been completed. It desired to know the period by which the report in respect of other three officers would be completed. The State Government representative stated that it would be done within fifteen days.

The Committee asked (3-10-2001) the State Government representative to complete whole of the enquiry within 2½ months and apprise the Committee with the action taken on the basis of this enquiry. The State Government representative stated (3-1-2002) that enquiry against the remaining three officers had also been completed. One officer Shri K. L. Kataria A. E. had been exonerated. Show cause notice had been served to the remaining four officers in December 2001. Committee was further apprised that the Company could not take final action against the guilty officers within the time period of 2½ months, as recommended by it on 3rd October, 2001. **The Committee desired that complete examination of the case be done in 2 months and action taken against the erring officers be intimated to it. Final outcome is awaited till the finalization of the report (February 2002).**

4A 3 HARYANA FOREST DEVELOPMENT CORPORATION LIMITED

4A 3 1 Avoidable payment of interest on income tax

10 According to the provisions of the Income Tax Act, 1961 advance tax is payable in four instalments on or before 15 June 15 September 15 December and 15 March each year. In case of default, simple interest at the rate of 1.5 per cent per month for a period of three months on the amount of shortfall of the tax due is payable and in case advance tax paid is less than 90 per cent of the assessed tax up to March of the financial year simple interest at the rate of 2 per cent per month is payable upto the date of such payment.

It was noticed in audit (August 1998) that the Company failed to deposit income tax in advance during the financial year 1996-97 except for the one instalment of Rs. 55 lakh deposited on 15 March 1997 and the balance of Rs. 7.99 lakh in November 1997 against the self-assessed tax of Rs. 62.99 lakh. Consequently the Company paid (November 1997) interest of Rs. 5.11 Lakhs for not making the payment of advance income tax as per schedule despite the fact that the Company had sufficient fund ranging between Rs. 42.64 lakh and Rs. 141.63 lakh during April 1996 to March 1997.

The Company stated (February 1999) that most of the timber was sold during second half of the financial year and quantum of sale of timber and expected income could not be anticipated. The reply is not convincing as the Company has to estimate its taxable income at every stage on the date of payment of advance tax.

The matter was reported to the Government in February 1999. The reply has not been received (December 1999).

The State Government/Company in its written reply stated as under —

- (A) The interest U/s 234 B and 234C of the Income Tax Act is levied in case the Advance Tax on estimated income is not deposited in time.
- (B) The estimated income is calculated by taking into account the income of the previous years and current year expectation.
- (C) During the previous years, the trend of the total income of the Corporation was as follows

F Year Year	Income as per Returns (lakhs)	
	Gross Profit	Net Profit
1993—94	3.16	0.61
1994—95	12.09	5.49
1995—96	27.85	14.00
1996—97	167.79	103.85

This shows the huge and unexpected inflation of income during the year under reply i e 1996 97

(D) As per previous trends income could not be expected at the beginning of the year Moreover out of total interest of Rs 5 11 Lac interest amounting to Rs 1 28 Lacs was paid under section 234 B of the Income Tax act as the total advance tax paid was less than 90% of the assessed Income tax Since actual advance tax deposit was 87 30% the difference was very narrow and could be justified on the basis of abnormal increase in income for the current year 1996 97 (under reply)

(E) Interest u/s 234 C amounting to Rs 3 83 lac was paid due to deferment of advance tax The Corporation submitted a petition in this regard to Chief Commissioner Income Tax for the waiver of interest on the following grounds

That income if accrued after the due date of payment of instalment of advance tax shall be eligible for waiver of Interest levied u/s 234 C

(F) The Corporation has paid interest u/s 234 C amounting to Rs 3 83 lac as per the provisions of the Income Tax Act. The increased income was accrued in the later part of the year hence it could not be estimated in the beginning or at the mid of the year Moreover there had been frequent changes in the corporation at the level of Managing Director So timely action for payment of advance tax and correct assessment of the total taxable income could not be done

There are separate provisions for waiver of interest in such circumstances Thus a petition for waiver has been filed But no relief has been granted

Now the advance tax is being paid as for projected income estimates in consultation with the Internal Auditors

During oral examination the Managing Director of the Company stated that the quarterly instalment of advance Income Tax could not be deposited since the Company could not assess it In reponse to the Committee's observation that why it could not assess the tax the Company's Managing Director stated that in the previous years, the Company was having nominal profits and only in the year 1996 97 it made huge profits of Rs, 1 04 crore It was further stated that Income Tax Rules provides that if in a particular quarter the advance tax could not be assessed then that period could be waived off and appeal for this had already been filed with the Commissioner of Income tax The representative of the State Government stated that as per decision of the Hon'ble Supreme Court, no private auction of the trees would be done and only the Forest Department/ Forest Corporation would cut the dead and decayed trees and then put them to auction As a result of this too the Income Tax could not be assessed since there was sudden increase in the stock of wood The Committee was further apprised that generally the auction of the trees is done simultaneously when the trees were cut but in 1996 97 auction was done at the fag end of the year so there were more profits because of increased turnover/income While discussing the para, the Committee visited the Jagadhari depot of the Forest Department, to observe the working of the department

The Committee observed that the Company could have assessed the Income Tax on the basis of wood that was lying with it during the year 1995-96 and 1996-97 and accordingly tax could have been deposited in advance. So, whosoever is responsible for this negligence, the responsibility may be fixed and the Committee may be intimated after three months about the action taken. The State Government representative stated that petition had also been filed for reducing the interest on the delayed deposit of Income tax and the matter is pending with the Income Tax Department. The Committee further desired that decision of the Income tax Commissioner may be brought to the notice of the Committee. Copy of the judgement of the Supreme Court, vide which felling of trees by the private parties was banned, be also given to the Committee.

4A 4 HARYANA LAND RECLAMATION AND DEVELOPMENT CORPORATION LIMITED

4A 4 1 Avoidable payment of interest on income tax

11 As mentioned in paragraph 4A 3 1 supra that according to the provisions of Income tax Act, 1961, advance tax is payable in instalments and in case of default, interest is payable. Further, tax on capital gains does not attract penal interest if it is paid by 31 March of the relevant financial year.

It was observed that the Company estimated its total income at Rs 77 65 lakh for the year 1994 95 on which the advance income tax worked out to Rs 35 67 lakh payable as Rs 5 35 lakh Rs 10 70 lakh 10 70 lakh and Rs 8 92 lakh on 15 June 1994 15 September 1994, 15 December 1994 and 15 March 1995 respectively. However the Company did not consider the capital gain of Rs 64 36 lakh accrued on sale of old tractors while estimating the total income. The Company deposited tax of Rs 23 50 lakh on 14 December 1994 and Rs 9 lakh on 15 March 1995 and after taking into account capital gain of Rs 64 36 lakh deposited a sum of Rs 38 lakh on the total assessed income of Rs 141 90 lakh on 27 November 1995. The Assessing Officer imposed (August 1996) penalty of interest of Rs 9 26 lakh for delayed payment. Had the income tax been deposited in advance as per provisions of the Act, *ibid* interest of Rs 9 26 lakh could have been avoided.

The Company and Government in their replies stated (May June 1999) that income tax on capital gains on sale of vehicles could not be anticipated in advance as these were sold in last quarter of the year. The reply is not acceptable as the vehicles were sold from April 1994 to 25 March 1995 and the Company could pay advance income tax accruing out of capital gains by 31 March 1995 to avoid penal action.

The State Government/Company in its written reply stated as under —

The activities of the Corporation are totally based on the agro climatic conditions prevailing in the State of Haryana as well as availability of subsidy on agricultural inputs and market trend of demand and supply of various agricultural inputs.

During the first quarter the Corporation never remained in a position to predict its sales and profit. Thereby no advance tax is being deposited by the Corporation on or before 15th June and same is true of the AY 1995 96 also. It is pertinent to point out here that even the administrative and other expenses during the first quarter are not recovered fully as we have meagre sales during first quarter. During the second quarter from July to September, the position of profit is also not so clear from which it can be estimated as to how much profit would be earned by the Corporation during whole of the year because of the peculiar nature of the operations of the Corporation. The adverse affect to the programme even in one quarter can cause a great setback to the profitability/business of the Corporation for whole of the year. Therefore question of depositing advance tax during the month of June to September also did not arise.

As regards the computation of income tax for the third quarter in December 1994 is concerned the trading profit was estimated at Rs 67 lacs and the liability of 75%

income tax was worked out to be Rs 23 12 lacs. Accordingly the Corporation deposited Rs 23 50 lacs as advance tax on 14 12 1994 which is within the prescribed limit. Similarly the advance tax for the fourth quarter was estimated on the basis of trading profit of Rs 70 lacs. The net liability of income tax on estimated income of Rs 70 lacs worked out to be Rs 32 20 lacs, whereas, the Corporation deposited Rs 32 50 lacs upto 15 3 95. While filing the income tax return in November 1995 the actual profit on the basis of annual accounts came to Rs 141 90 lacs. After deducting capital gains of Rs 64 36 lacs on the sale of tractors and vehicles net trading profit was Rs 77 54 lacs. Thus it would be seen that the actual profit during the year 1994 95 (AY 1995 96) was Rs 77 54 lacs as against the estimated profit of Rs 70 00 lacs from trading operations. The difference in the actual and estimated income was only about 10% which bears a very nominal variance.

As regards the income tax liability on the capital gains on account of sale of tractors and vehicles amounting to Rs 64 36 lacs it is clarified that it was not a normal activity of the Corporation and could not have been anticipated in advance. Moreover the income was received in the last quarter of 1994-95. Since it was not a normal trading profit, therefore no assessment of advance tax could be made in respect of income tax liability on the capital gains because the government decided to close the activity of Land Levelling thereby causing surplus machinery which were sold resulting in capital gains.

The interest liability on shortfall of payment of advance tax on trading profit of Rs 77 54 lacs comes to Rs 1,66 438 as per details given in Annexure A. It is pertinent to point out here that the income from capital gain was not a subject of advance tax. The income tax return was due to be filed by the Corporation on 30-11-95. Against the income tax liability of Rs 29 60 547 due to the capital gains the Corporation deposited Rs 38 lacs on 27 11 95 as Self Assessment Tax. As per proviso 2 to Section 234 C of Income Tax Act the interest under that section shall not be levied under certain circumstances. The relevant provisions of law are reproduced below.

Section 34 C

Provided that nothing contained in this sub section shall apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of under estimate or failure to estimate

- (a) the amount on capital gains or
- (b)

It is also added here that the Corporation kept surplus funds and earned an interest amounting to Rs 3 45 000/- on the amount of tax not deposited, which has been confirmed by the A G And as such there is no loss to the Corporation against the liability of interest amount to Rs 1 66 438/ the Corporation earned the interest of Rs 3,45 000/ on F D Rs

It is also mentioned here that some cases of the Corporation in respect of refunds and carry forward losses and depreciation were lying pending with the Income Tax Department and it was anticipated that benefit of carry forward losses and depreciation

as well as refunds of past period will reduce the tax liability but the carry forward of losses and depreciations were disallowed by the DCIT (Spl Range) Karnal before filing of the income tax return for the AY 1995 96

An appeal challenging the action of DCIT (Spl Range) Karnal was filed before the CIT (Appeals) Chandigarh. This appeal was decided after filing of return for the AY 1995 96 and CIT (Appeals) vide his order dated 4 9 97 (AY 1994 95) directed the DCIT (Spl Range) Karnal to redetermine the carry forward of losses and depreciation of previous years and allow the same. These orders are yet to be implemented by the Income Tax Department. It is expected that after final assessment and decision of the appeal the overpayment of interest on capital gain charged by the Income Tax Department will be revised and refunded. The refund of the excess amount paid will carry 12% interest and shall be to the advantage of the Corporation.

As is evident from the details given in Annexure B the major chunk of the assets were sold during the last quarter of the year 1994 95. The position stated in the A G para is not justified because out of Rs 77 86 608 00 only assets worth Rs 1 55 153 00 was sold during the month of April and May 1994 and the remaining assets were sold during the last quarter of the financial year 1994 95. This fact has not been considered by the audit while finalizing the audit para. Moreover the computation of capital gain can't be predicted as it is computed considering the whole of the block of assets of the Corporation and not the individual assets which could be possible while finalizing the Annual Income Tax Return of the Corporation i e 30th November, 1995 and accordingly the income tax on capital gain was deposited immediately after its computation.

It is also pertinent to point out here that the interest liability of the Corporation u/s 234B and 234 C comes to Rs 1 66 438 00 only and not 9 26 lakh, as per computation annexed as Annexure A and on the other hand the Corporation earned Rs 3 45 lakh as interest on surplus funds.

Keeping in view of the facts and considerations it is quite clear that the Corporation has not suffered any loss and deposited the advance tax as per real calculations of trading profit.

During oral examination the representative of the State Government stated that the Company could not deposit the tax in time as the selling of tractors was not the regular feature of the Company. It is not possible in the beginning of the year to assess as to how many tractors would be sold during the year and how much would be income. The Company deposited tax according to its estimated income of Rs 70 lakh. In response to Committee's observation that when the tractors were sold upto 22nd March and the last date for deposit of tax is 31st March why the tax could not be deposited the State Government representative stated that the claim for the refunded of Rs 17 25 lakh of previous year was pending with the Income Tax Department and the management thought that refund would be got by 31st March. It was further stated that since the decision of the claim is pending and if it comes in Company's favour then the amount of tax to be paid by the Company and tax paid by it alongwith interest would be refunded by Income Tax Department.

The Committee was not satisfied with the written reply and the arguments put forth during oral examination and observed that had the tax been deposited upto 31st March the Company could have avoided the payment of penal interest. The Committee desired that responsibility of the erring officers/officials be fixed and action taken against them be intimated to the Committee. The State Government representative stated that it is not possible to fix the responsibility till the decision of the claim is awaited and in case the Company do not get the refund responsibility would be fixed. **The Committee agreed with this reply of the State Government's representative, and recommended that the responsibility of the defaulting officers/officials be fixed in case the Company failed to get the refund from the Income Tax Department.**

4A 7 HARYANA POWER GENERATION CORPORATION LIMITED

4A 7 1 Loss due to non taking of safety measures

12 The hydel channel on which power houses (A B&C) are situated emanates from West Yamuna Canal (WYC) at Tejewala and terminates at Dadupur. The Irrigation Department, Haryana regulates the water flow in the hydel channel as the control of head regulator etc. of WYC (at Tejewala) vests with it.

In view of the annual repair and maintenance of the hydel channel and power houses, Company's Chief Engineer (Hydel) requested the Irrigation Authorities to stop the supply of water in the channel through Tejewala head regulator from 15 March to 9 April 1997. Accordingly, the Executive Engineer (Irrigation) closed the head regulator on 15 March 1997. The repair work was taken up as per schedule. It was observed in audit (February 1998) that on the night of 31st March/1st April 1997, the water entered into the channel due to overflowing the closed head regulator gates at Tejewala. Water entered into the channel, flowed into the machine hall of Power House A, thereby causing damage to the machinery/equipment installed therein. According to Irrigation Department, damage to the machinery occurred due to negligence and omission on the part of officials of the Company because they did not take precautionary measures while carrying out repairs viz. non-closing of intake gate of power house, keeping the main hole of generator unit open after the workmen were out, closing of exit gates of power house etc. However, the Company held the staff of Irrigation Department responsible for the mishap because they failed to exercise timely regulation of gates.

The damaged equipment were repaired at a cost of Rs. 20.16 lakh, and the Power House A became operative on 23 June 1997 (Unit I) and 16 August 1997 (Unit II) as against the scheduled date of 10 April 1997. The loss on account of power generation worked out to 28,624 MUs (value Rs. 2.49 Crore) for the intervening period. The Company lodged (February 1998) its claim of Rs. 20.16 lakh in respect of repairs which had not been admitted by Irrigation Department so far (February 1999).

The Company/State Government did not conduct any enquiry to fix the responsibility.

The matter was reported to the Company and the Government in June 1999; their replies had not been received (December 1999).

The State Government/Company in their written reply stated as under —

It is incorrect on the part of Irrigation Department to state that damage to the machinery occurred due to negligence and omissions on the part of Hydel staff as proper precautionary measures for repair maintenance of the machines were not taken by them. The fact is that Irrigation staff is alleging the Hydel staff to cover their own fault. Subsequent to occurrence of the incidence, Irrigation Department suspended their staff namely Sh. Junshar, Shri Raj Kumar and Sh. Chander Pal, manning the Head Regulator which regulates/controls the water flow in hydel channel for negligence of duty. Moreover, a departmental enquiry was conducted by the Hydel authorities and it was established that flooding of the power house was on

account of carelessness on the part of Irrigation Department staff. The report of the departmental enquiry was put up to the HSEB through a memorandum and the same was accepted by HSEB authorities which inter alia confirms that the HSEB has agreed with the findings of the Project Authorities.

Irrigation had further alleged that Hydel authorities did not close the intake gates of power house, kept the manhole open after the workmen were out and closing of exit gates of power house.

It is clarified that it was not technically feasible to keep the intake gates closed as during welding lot of smoke and fumes spread in the area and for their escape to atmosphere opening of intake gate was required. As regards closing of exit gate of power house as pointed out by Irrigation authorities, it is to state that exit gate has to be essentially kept in closed position under such like circumstances because if we keep the exit gate in open condition then the tail race level will be almost reaching the level of runners of the turbine and thus there will be water in the turbine upto the runner level and we cannot work at all for carrying out any maintenance job.

Similarly for carrying out repair and maintenance of the turbine components the workmen entry was through manhole and manhole cover is so heavy that it is not possible to close it after the welding work in the shifts is over. Also welding leads and other cables required for giving lights etc. are passed through the manhole.

From the above it is clear that the incidence of flooding of power house occurred on account of dereliction of duty on the part of Irrigation staff who were manning the Head Regulator and X Regulator gates.

It is admitted that the expenditure on repair was incurred as per approval of Hydel Standing Committee. The expenditure incurred by the Hydel authorities is recoverable from Irrigation Department as approved by Hydel Standing Committee.

It is a fact that claim has not been agreed by the Irrigation Department, so far but it will be recovered as sufficient cover is available with us in the account of Irrigation Department Haryana.

D C Yamuna Nagar stated the project is to be completed. Final report received from Deputy Commissioner Yamuna Nagar as under —

In this connection it is stated that as per this office record no such regular fact finding enquiry was conducted and no formal proceedings of the enquiry were therefore made. It appears that informal enquiry might have been conducted and facts conveyed verbally at that time. As such no enquiry is lying pending in this office.

During oral examination the State Government representative stated that for the annual repair and maintenance of the hydel channel and power houses the Chief Engineer

of the Company requested Irrigation Authorities to stop the water supply in channel for 25 days from 15th March 1997 to 9th April 1997. But on the night of 31st March/1st April 1997 the water came into the channel and the guard on duty at that time immediately brought this thing to the notice of the guard of Irrigation Department and asked him to stop the supply of water. The Committee was apprised that when the repair work is going underway it was not possible to close the intake gates as it lead to accumulation of smoke in the area. In response to the Committee's observation that why the gates were not closed daily at night, the representative of the State Government stated that it is not possible as closing of gates requires the crane. Further the water came only on the 16th day.

On the basis of the reply given by the Irrigation Department the Committee pointed out that in the requisition for nil water, the purpose for the same was not mentioned. The Committee, however, expressed concern that due to negligence of the officers/officials of the company, the State exchequer was put to the loss of Rs 2.49 crore due to loss of generation and Rs 20.16 lakh as repair of power house. Since the loss is substantial, the Committee decided to verify the ground realities by visiting the hydel site and decide the case accordingly.

4B 1 HARYANA WAREHOUSING CORPORATION LIMITED

4B 1 1 Storage gain in wheat stocks below norms

13 Wheat stored in warehouse gets gain in weight due to moisture content in the atmosphere. In order to bring uniformity in storage gain norms the State Government in its meeting (July 1992) with procuring agencies fixed norms for storage gain in wheat, which were adopted by the Corporation w e f April 1992. As per these norms storage gain was fixed between 800 grams and 1400 grams per quintal from the months of July to March. The Corporation accordingly instructed (August 1992) its district Managers to comply with the norms and in case the storage gain was less than the prescribed norm a detailed enquiry was to be conducted for fixing the responsibility of the concerned staff for the shortages noticed.

During the course of audit, it was noticed (December 1998) that at Ratia (Hisar) and Bani (Sirsa) centres of the Corporation there was storage gain of only 4960 61 quintals and 3409 76 quintals of wheat against the required gain of 12044 39 quintals and 6491 27 quintals during the year 1992 93 to 1996 97 and 1993 94 to 1996 97 respectively. Thus there was shortage of 10165 29 quintals (7083 78+3081 51 quintals) valued Rs 42 08 lakh which was not accounted for. The storage gain in the other centres was more or less within the accepted norm.

The Corporation stated (May 1999) that disciplinary proceedings had been initiated against the concerned staff in August 1998. Further developments were awaited (July 1999).

The matter was reported to the Government in March 1999 the reply has not been received (December 1999).

The State Government/Corporation in their written reply stated as under —

Facts and figures of storage gain mentioned in the Audit Para are not denied. Although no uniform norms of storage gain could be achieved as food grains are semi hygroscopic in nature and gain in weight of food grains depend upon the atmospheric conditions, locations and direction of godown etc. yet in order to bring uniformity in storage gain norms the Corporation on the directions of State Government fixed norms for storage gain in wheat stock w e f April 1992 vide letter No HWC/Tech/92/27091 98 dated 31 8 1992 which were further revised as per decision of the State Government w e f 1 4-1999 vide letter No HWC/SGI/Norms/99/30857 64 dated 24 6 1999. In compliance with the said instructions the cases of less storage gain were examined and disciplinary action was initiated against the concerned staff but the employees of the Corporation challenged the fixation of storage gain norms before the Hon ble High Court of Punjab and Haryana by way of writ petition in September 1999. The Hon ble High Court vide its order dated 14 9 2000 has quashed the norms fixed vide letter dated 31 8 1992 and 24 6 1999. The Corporation has filed SLP against the orders of the High Court before the Hon ble Supreme Court of India and the same is pending.

During oral examination the representative of the State Government stated that disciplinary proceedings were initiated against the defaulting officials in August, 1998, for causing loss to the Corporation. These officials challenged the State Government norms regarding storage gain in the Hon. High Court. Hon. High Court decided on 14th August, 2000 that the officials are not responsible for the less storage gain as the same is not within the scope of Corporation rules. Committee was further apprised that the Corporation had filed SLP in the Supreme Court and same had been admitted. Committee desired that the decision of the Court may be intimated to it.

ANNEXURE A

Para No 4A 4 1

COMPUTATION OF INTEREST ON ADVANCE TAX U/S 234 B & 234 C

Total Trading Income Rs 77 54 513

Total Tax on Trading Income Rs 35 67 076

Due Date	Tax Due	Period	Rate	Amount of Intt
15 6 1994	Rs 5 35 061/ (15% of total tax)	3 Months	18%	Rs 24 078/-
15 9 1994	Rs 16 05 184/ (45% of total tax)	3 Months	18%	Rs 72 233/
15 12 1994	Rs 26 75 307/ (75% of total tax)	3 Months	18%	Rs 14 639/
Less				
	Advance tax deposited on 14-12 1994			Rs 23,50,000/
	Balance tax (Short deposited)			Rs 3 25 307/
15 3 1995	Total Tax			Rs 35 67 076/
Less				
	Deposited (Rs 9 lac deposited on 15 3 95)			Rs 32,50,000/
	Balance Tax (Short deposited)	1 Month	18%	Rs 4 756/
		8 Months	24%	Rs 50 732/
Total				Rs 1,66,438/

ANNEXURE B**Details of Sale of Fixed Assets during 1994 95**

JV/Date	Date of Sale	Discrip of Assets	Place of Auction	Amount (In Rs)
JV98/22 3 95	23 2 95	10 Nos Tractors	M/Garh	1373800
JV861/31 3 95	3 5 94	10 Nos Tractors	M/Garh	41000
JV880/31 3 95	22 3 95	11 Nos Tractors	Palwal	1529500
JV652/28 2 95	4 & 5 1 95	36 Nos Tractors	Hisar	4451550
JV652/28 2 95	4 & 5 1 95	4 Nos Tractors	Hisar	255650
JV1066/31 3 95	4 & 5 1 95	2 Nos Levellers & 14 Nos Harrows	Palwal	23955
/28 2-95	4/94	2 Nos Tractors sold to Ex to s under Golden hand shake scheme		111153
Total				7786608

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