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HARYANA VIDHAN SABHA

**COMMITTEE
ON
PUBLIC UNDERTAKINGS
(2010-2011)
(TWELFTH VIDHAN SABHA)
FIFTY-SEVENTH REPORT
ON THE
REPORT
OF THE**

**COMPTROLLER & AUDITOR GENERAL OF INDIA
FOR THE YEAR 2006-2007
(COMMERCIAL)**



(Presented to the House on 15th March, 2011)

HARYANA VIDHAN SABHA SECRETARIAT, CHANDIGARH
MARCH, 2011

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**COMPOSITION
OF
THE COMMITTEE ON PUBLIC UNDERTAKINGS
(2010-2011)**

CHAIRPERSON

1 Shri Anand Singh Dangl

MEMBERS

2 Shri Devender Kumar Bansal

3 Shri Krishan Pal Gurjar

4 Shri Naresh Sharma

5 Rao Yadvendra Singh

6 Shri Abhay Singh Chautala

7 Dr Bishan Lal Saini

8 Shri Aftab Ahmed

9 Dr Hari Chand Midha

SECRETARIAT

1 Shri Sumit Kumar, Secretary

2 Shri Rajinder Kumar Nandal, Joint Secretary

INTRODUCTION

I, the Chairperson of the Committee on Public Undertakings, having been authorized by the committee in this behalf present this Fifty-Seventh Report of the Committee on the Report of the Comptroller and Auditor General of India for the Year 2006-2007 Haryana State Industrial and Infrastructure Development Corporation Limited (Review), Dakshin Haryana Bijli Vitran Nigam Limited (Review), Uttar Haryana Bijli Vitran Nigam Limited and Dakshin Haryana Bijli Vitran Nigam Limited (Review), Haryana Agro Industries Corporation Limited, Haryana State Roads and Bridges Development Corporation Limited and Haryana Financial Corporation

2 The Committee for the year 2010-2011 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 on its inspection /spot-study has been kept in the Haryana Vidhan Sabha Secretariat

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

Chandigarh
The 23rd February, 2011

ANAND SINGH DANGI,
CHAIRPERSON

REPORT

REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA FOR THE YEAR 2006-2007

2.1. Haryana State Industrial and Infrastructure Development Corporation Limited

(Review)

2.1.19 Growth Centre Saha

1 DIPP approved (October 1977) the GC, Saha for Rs 81 19 crore. The project was to be financed by providing Central/State Government grants (Rs 15 crore), loan (Rs 14 75 crore) and Company's funds (Rs 51 44 crore) The Company had spent Rs 17 62 crore so far (March 2007) on acquisition of land (Rs 9 27 crore) and development (Rs 8 35 crore) of this GC and received grants of Rs 12 96 crore - DIPP (Rs. 8 50 crore) and State Government (Rs 4 46 crore) The progress of this growth centre was very slow as discussed below

- As per the project report, an approximate area of 1,000 acres of land was to be developed in two phases (phase-I 410 acres and phase-II 600 acres) within a period of five years up to October 2002 The Company, however, could acquire only 410 25 acres of land in 1999 for phase-I and for phase-II proceedings for acquisition were started as late as in August 2005 against the stipulated month of December 1997.
- The Company could develop only 582 plots (243 industrial and 339 residential) during 2003-05 against 738 carved out plots and balance 156 plots could not be developed due to land being under litigation The Company allotted 187 plots up to March 2007 As per the terms of allotment, the stipulated period for start of production was three years The progress towards implementation of the projects by allottees was quite dismal as only 28 allottees could implement their project up to March 2007 despite the fact that 99 plots had been allotted prior to 2003-04 No residential plot could be allotted due to slow industrialisation in the area.

Employment to 50 persons only could be provided against 26,000 as envisaged in the project report even after a lapse of more than nine years

- The project report of GC Saha envisaged direct employment to 26,000 persons. However, even after a lapse of more than nine years, direct employment to 50 persons only could be provided (March 2007) thereby defeating the basic objective of providing infrastructural facilities in backward areas of the State to attract industries and generate employment opportunities.

The Management stated (July 2007) that the State had to compete with neighbouring States enjoying incentives given by GOI. The demand had, however, now picked up due to sealing of small units running in residential areas. The fact remained that even after existence of GC, Saha for over nine years, the process of industrialisation and employment generation was not satisfactory.

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

Land was to be acquired in two phases as approved by the Govt. of India. In phase-I 410.25 acre land was acquired but due to litigation development works could not be taken up for the entire acquired area, in some portion litigation is still continuing

Keeping in view the potential of Saha, land measuring about 300 acre is being acquired as a part of Phase-II and award of this land is likely to be announced shortly. Therefore, as and when acquisition of 300 acres of land is completed, the Corporation will go for the next Phase. The Town & Country Planning Department has prepared the development plan for Saha. All acquisitions are to be guided by this development plan.

The Corporation has already allotted 208 plots in the Industrial Growth Centre, 109 plots in Food Park Saha (Total: 317 plots) out of 582 plots carved out. Prestigious projects like Reliance Industries Limited, Epicu Agro Products, Mahant Agro Limited, Oswa Agro, Bharti Airtel Limited, Compact Disc India Ltd etc have been allotted plots in the area.

The State has competition from the neighboring States of Himachal and Uttarakhand as the GOI has extended incentives

to them, thereby giving a set-back to Industrial Growth in the area.

The residential plots will be allotted to the industrial allottees of the area.

The slow growth in the C-category backward area with low potential industrialization has now picked up due to sealing of small units running in the residential area. Now that maximum plots have been allotted and balance are in the process of allotment, the employment generation is likely to go up

During the course of oral examination of the departmental representatives, the Committee asked the latest position of Growth Centre, Saha. The Committee also desired to know that how much persons were given employment in growth centre.

The departmental representatives informed the Committee that about 1500 persons are benefited of employment. So far as the question of giving direct recruitment, it is to be quantified.

The Committee was not satisfied with the reply given by the departmental representatives and recommends that the Committee be informed about the latest position so far as the recruitment of persons and the development of this growth centre.

2.1.21 Setting up of food parks

2. The Company established two food parks at Saha and Rai under the Food Processing Industrial Park Scheme (2001) of Union Ministry of Food Processing Industry (MFPI) for development of common facilities such as analytical and quality control laboratories/cold storage/warehousing facilities, etc. The physical and financial progress of food parks up to March 2007 is given in the following table

(Rupees in Crore)

Financial pattern Particulars	Food Park Saha	Food Park Rai
Approved Project Cost by MFPI	7.31	53 20
Grant in-aid sanctioned	2 93	4 00
Company's contribution	4 38	49 20
Financial Progress particulars		
Grant in-aid received	1 46	2 00
Expenditure incurred	11 49 -	27 70
Physical Progress particulars		
Land to be acquired (acre)	30	116
Land actually acquired (acre)	70	116
Plots to be carved out (Nos)	56	208
Plots actually carved out (Nos)	197	208
Plots developed (Nos)	162	208
Plots allotted (Nos)	106	136
Plots where units in production (Nos)	7	11

It will be seen from above that although both the food parks were projected to be fully developed (December 2005) yet production was started (March 2007) in only 18 plots (7 at Saha and 11 plots at Rai) and construction was going on in 43 plots (3 plots at Saba and 40 plots at Rai) out of 405 plots (Saha 197 and Rai 208) carved out by the Company Audit scrutiny further revealed the following deficiencies

Food Park, Saha

- MFPI provides grant in-aid up to rupees four crore for setting up food park It sanctioned (January 2002 and March 2003) Rs 2 93 crore and did not sanction balance Rs. 1.07 crore as the Company failed to bring proposal for cold storage deemed essential for the food park

- Due to unilateral revision (September 2002) of project cost from Rs 7.31 crore to Rs 20.88 crore without approval of MFPI and slow progress in achievement of physical and financial targets, the central assistance of Rs 1.47 crore out of Rs 2.93 crore had not been released by the bank (March 2003) on the directions of the MFPI
- The Company spent Rs 34.32 lakh (up to September 2006) for construction of laboratory building but deferred the installation of laboratory equipments, thereby depriving the allottees of this crucial facility. Further, the Company failed to provide backward/forward linkages and other common facilities such as warehouse and cold storage, thereby resulting in poor response from entrepreneurs to set up agro-based industries in the park

Food Park, Rai

- Out of rupees four crore sanctioned, MFPI released (March - April 2002) rupees two crore to the bank but due to slow progress, the bank released this money after five years (February 2007) on the directions of MFPI. The balance assistance of rupees two crore had not been released so far (July 2007). Even after spending Rs 56.41 lakh up to December 2006 for construction of laboratory building, the Company deferred (April 2005) the installation of laboratory equipments, thereby depriving the allottees from this crucial facility

The Management stated (July 2007) that the laboratory equipments would be installed in food parks, Saha and Rai after sufficient number of industrial units came up in these food parks. The action of the Company lacked justification in view of the fact that MFPI had sanctioned grant specifically for such type of common facilities and by providing these facilities the Company could have facilitated the entrepreneurs to implement the projects.

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

Matter of record

In this respect, it is clarified that GOI had approved Rs 2.93 crore as grant in respect of Food Park, Saha on the basis of approved cost of project for Food Park, Saha as Rs 731.01 lacs. The grant was to be released by the Ministry to the extent of 40% of the approved project cost subject to a maximum limit

of Rs 4 crores. Out of the permissible grant of Rs 2 93 crores, an amount of Rs 146 50 lacs has already been credited/ released to the Corporation's Account. The balance grant of Rs 146.50 lacs is still pending which is being perused with the Ministry of Food Processing and Industries, GOI, New Delhi and is expected to be released shortly.

The Laboratory Building constructed in Food Park, Saha is being used for our field office for the time being and the installation of Laboratory Equipment had been deferred, as the response from the entrepreneurs for providing an industry in the Food Park was poor initially and therefore it was decided to provide necessary equipment as and when the demand arises in order to avoid unnecessary blockade of funds/inventory. Now the response from the Food Processing related industries are encouraging and the allotments of plots are being made by HSIIDC at Food Park, Saha. The installation of Laboratory equipments shall be taken up as soon as sufficient number of Food Processing Industries start their operations in the Food Park.

In this reference, it is submitted that Govt of India has now released the installment of Rs 2 00 crore and the amount has been deposited into the Corporation's Account. Further it is submitted that an amount of Rs. 56 41 lacs for construction of Lab Building has been incurred, the equipment's has not been installed due to Food Park not being fully allotted and only some units are under production. The installation of Laboratory equipments shall be taken up as soon as sufficient numbers of Food Processing Industries start their operations in the Food Park.

During the course of oral examination of the departmental representatives, the Committee observed that the department failed to receive the grant given by the Government of India.

Taking a serious view, the Committee recommends that the department should have taken the grant. The Committee feels that it is a serious lapse on the part of the department and would like to know the reasons of such lapse.

The Committee also recommends that such kind of lapses be avoided in future and the department may furnish the latest position of acquisition of land for food parks within three months.

2.1.22 Fixation of price

3 The Company allots industrial plots on 'no profit no loss' basis. It was noticed that the Company had been working out allotment rates by aggregating the development expenditure, interest cost, land cost on estimated basis divided by the area to be allotted. At no stage had the Company ever compared the actual expenditure estate wise so as to ensure strict adherence of its declared policy of 'no profit no loss'. Following points relating to allotment rates were noticed in audit

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

On price fixation, the Corporation only computes various components of development and submits the proposal to the Government for its fixation and approval. After approval of the Government, the applications for allotment of plots are invited. Fixation and revision of price is within the power of the State Government. The Corporation has limited role of submitting the proposal from time to time for consideration and approval of the Government.

The Committee recommends that the latest position of fixation of price be informed at the earliest.

2.1.25 Irregular allotment and non-auction of commercial plot at Gurgaon

4. The Company invited (January 2000) joint venture (JV) partners to develop a recreational park (a commercial activity) on four acres of land in phase-III of Gurgaon through open advertisements. Against the average auction price of Rs. 9,023 per sqm for industrial plots in this area (August 1996 to May 1999), the Company offered the rate of Rs. 5,000 per sqm for the JV. It selected Leisure City India Private Limited for JV and signed (June 2000) MOU. The Letter of intent (30 November 2000), *inter alia*, provided that the project would be implemented by Special Purpose Vehicle@ (SPV) viz Gurgaon Recreation Park Limited and the Company would subscribe equity share capital not exceeding 15 per cent in the said SPV. The physical possession of land would be handed over after receipt of 25 per cent of the total price of land. The balance 75 per cent would be paid either in lump sum within 60 days from the date of issue of regular letter of allotment (RLA) or in six equated half yearly instalments with interest at the rate of 18 per cent per annum. The RLA would be issued subject to necessary approval/clearance from State/ Central Government agencies.

The collaborators deposited (January 2001) Rs. 80 lakh (10 per cent) and Rs 1 20 crore (15 per cent in May 2003). The SPV had failed to obtain no objection certificate (NOC) from National Highway Authority of India (NHAI) for road connectivity within 30 days from the date of issue of Company's letter (September 2003) but the Company signed (April 2004) the financial collaboration agreement and handed over (26 July 2004) the physical possession of site.

The SPV deposited (January 2005/February 2005) Rs 6 52 crore (balance 75 per cent) by bank drafts despite the fact that the Company had not issued any RLA. The Company neither returned these bank drafts to the SPV nor encashed them on the plea that the implementation of the project was under review. The Advocate General suggested (May 2005) cancellation of plot due to non obtaining of NOC from NHAI. The Legal Remembrancer also held (June 2005) that the plot should have been auctioned even for joint venture estates instead of quoting fixed rate of Rs. 5,000 per sqm while inviting tenders. He also suggested to reappraise the project to determine its viability. Instead of auctioning this land at prevailing rate of Rs 1.50 lakh per sqm being the reserve price fixed for auction of Convention Centre—cum— Commercial Complex, Gurgaon, the Company decided (May/August 2006) to implement the project with some

@ a Company floated for specific project

modifications. Accordingly, the Company signed (September 2006) supplementary agreement containing certain benefits to the Company viz. allotment of sweat equity equivalent to 15 *per cent* of its share capital and transfer of 25 *per cent* additional FAR in the shape of constructed property free of cost to the Company. But as compared to prevailing land rates these benefits were meagre. The Company accepted (September 2006) fresh drafts for Rs 6 52 crore. There was no headway towards implementation of the project (June 2007)

Thus, irregular allotment of commercial site to the SPV, non cancellation of allotment on failure of the allottee to fulfil terms and conditions of allotment and non auctioning at the prevailing rates had resulted in loss of Rs. 236 89 crore (16,337 sqm at the rate of Rs 1 45 lakh per sqm)

Non cancellation of allotment on failure of the allottee to fulfil terms and conditions of allotment and non auctioning at the prevailing rates had resulted in loss of Rs 236 89 crore

The Management stated (July 2007) that selection was made on competitive basis and site allotted at prevailing price at that time. The matter regarding obtaining of clearance from NHAI was being pursued. The contention of the Management is not acceptable as it had invited bids at fixed price instead of putting the site to open auction. Legal Remembrancer of the State had also opined that the site should have been auctioned

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

As pointed out by the Audit, the land for this project has been allotted for setting up of a joint venture project through an SPV in collaboration with Private promoter(s). The Corporation inviting applications from the interested parties for selecting the Collaborators and an advertisement was released in newspapers on 10.1.2000. The selection of collaborators was done in a competitive manner and the collaborator was selected after examining technical expertise, volume of projects handled and financial capabilities of the parties. The Committee under the Chairmanship of Financial Commissioner and Secretary Industries with SPSCM, MD / HSIIDC, CTP, ED (F), GM (F), GM (Projects), IT, GM (Estate), GM (Haryana Tourism), DTP, after screening the proposals of nine parties recommended the selection of collaborator to set up this project and thereafter the same was approved by the Board of Directors in its meeting held

on 16/2000. Since the rate applicable at that time was Rs. 5000/- per sq. mtr in Udyog Vihar, Gurgaon, the same rate was offered while selecting the collaborators for this project.

Since the allotment in this case was made to a SPV jointly owned by the private party as well as HSIIDC, therefore, it was considered appropriate to sign land transfer agreement with the SPV containing the relevant terms and conditions in addition to the Joint Venture Agreement with the private collaborators. The SPV had paid the amount of Rs. 652 Crore as per provisions of Land Transfer Agreement. It is submitted that the Demand Draft deposited by SPV towards 75% cost of the land were not encashed by HSIIDC as the proposed project was under review and terms of participation were later on revised through a supplementary agreement wherein it was decided that the SPV would be allotting 15% equity shares in favour of HSIIDC either as a sweat equity or cost of which shall be borne by the collaborator. No contribution shall be made by HSIIDC for 15% share in the project. The total amount towards land cost will be received by HSIIDC through bank draft, it was also decided that SPV shall also transfer constructed area (excess of 150% FAR) to HSIIDC without any further cost.

As already explained above, the advice obtained from Advocate General as well as Legal Remembrancer were put up to the Board of Directors for consideration. The Board after consideration decided to review the project. Therefore, the terms of participation were reviewed by the Corporation and the matter was sorted out with fresh terms of participation in the form of supplementary agreement which was entered into between the Corporation and the private parties on 19/2006.

It may be appreciated that on the one hand the HSIIDC has got the full amount towards the cost of the land as per terms of participation and on the other hand the Corporation is owner of 15% share in the project. The collaborator had offered about 44,000 sq. ft. of constructed area to HSIIDC and the Corporation will be able to fetch handsome rentals by leasing out the said area. It is in fact a true Public Private Partnership Model of Joint Venture Project.

The project is at advanced stage of implementation. The Company has availed loan of Rs. 141.70 crore from HDFC Bank. It is informed by the Company that the construction activity is at full swing and Basement, Ground floor and 1st Floor of Hotel

Block and Office Block of the building at the site are about to complete. As per terms the party has to complete the project by March 2009.

The matter was discussed with AG Haryana during the review meeting held on 23.8.2007 wherein it was clarified that since it was not possible to go back on the assisted sector agreement signed by the Corporation with the private promoter as such the Corporation has got the assisted sector agreement modified to its advantage by incorporating the terms of 15% sweat equity as well as constructed area free of cost to HSIIDC.

During the course of oral examination of the departmental representatives, the Committee observed that the land was allotted to Unitech on an average rate of Rs. 5000/- per Sq. meter instead of Rs. 9000/- per Sq. meter.

The Committee was not satisfied with the reply furnished by the department.

The Committee has taken it seriously and recommends that latest position of the case may be supplied for the information of the Committee within a month.

2.3 Dakshin Haryana Bijli Vitran Nigam Limited (Review)

2.3.10 Energy audit

5. In Faridabad circle, losses on 10 urban feeders ranged between 27.45 and 65.95 *per cent* during 2005-06. The same feeders again recorded losses ranging between 25.34 and 67.14 *per cent* during 2006-07. The Company had not analyzed the reasons for recurring and higher losses on these feeders to take remedial measures.

As the Company had not taken adequate and prompt preventive measures such as metering of AP consumers, installation of check meters at poles, analysis of higher losses on feeders etc., the transmission and distribution losses remained higher and uncontrolled.

In their written reply, the State Government/Company stated as under -

It is mentioned here that the report of feederwise losses is prepared quarterly. However, the billing cycle for a few categories of consumers is bimonthly. So while calculating the losses of the feeders, the consumption incurred in these categories in one month is not accounted for, so the losses reported are extremely high (sometimes to the tune of 70%). It is submitted by the Nigam that in the feederwise report for losses prepared on a bimonthly basis, the losses reported would be considerably less.

During the course of oral examination the Committee discussed the audit point about the loss in 10 Nos. of urban feeders in Faridabad Circle as the rate was very high.

The Committee desired to know as what steps have been taken in this regard. The department informed the Committee that it is analyzing the reasons for excessive losses and remedial measures have been taken and the losses have come down.

The Committee was not satisfied with the reply submitted by the department and recommends that the department should take serious steps to reduce the losses in 10 Nos. of urban feeders and the action taken in this regard be informed to the Committee at the earliest.

**Uttar Haryana Bijli Vitran Nigam Limited and
Dakshin Haryana Bijli Vitran Nigam Limited
(Review)**

2.4 Implementation of Accelerated Power Development and Reforms Programme

2.4.27 Energy accounting and audit

6 One of the most important measures to ensure reduction of commercial losses, with relatively lower capital investment, is comprehensive energy accounting, which would enable quantification of losses in different segments of the system and their segregation into commercial and technical losses for taking specific corrective measures. Following deficiencies were noticed in the energy accounting and audit:

Both the Utilities failed to complete the works relating to replacement/ installation of consumer meters, feeder meters and DT meters as planned. Resultantly, the purpose of correct energy accounting and effective energy audit could not be achieved.

- UHBVNL had one division of energy audit at its head office and DHBVNL had two divisions (Hisar and Fardabad). However, there was no schedule of energy audits prepared or to be conducted. The energy audit cells could not provide details of energy audit conducted during 2001-06. In response to audit query, it was stated (February 2007/June 2007) that regular energy audit was not being done due to shortage of staff (UHBVNL) and non-availability of vehicles (DHBVNL).

Due to ineffective energy audit T&D losses were abnormal in Gohana division of Sonapat circle of UHBVNL and in 154 feeders of Hisar and Fardabad circles of DHBVNL.

- In UHBVNL the energy audit cell was compiling the sub-division wise T & D losses on the basis of data received from the field offices. The T & D losses in all the four sub-divisions of Gohana Division in Operation Circle, Sonapat ranged between 48 *per cent* to 54 *per cent* during 2006-07. As energy audit cell had not compiled feeder wise losses and identified reasons for high losses, corrective action to contain the high T & D losses was not taken.

- In DHBVNL, energy audit cell had compiled feeder wise losses to identify feeders with high losses. In the absence of effective energy audit and corrective measures, the distribution losses on 154 feeders in Hisar Circle (82) and Faridabad Circle (72) covered under APDRP remained above 40 *per cent* up to March 2007. During ARCPSE meeting the Management stated that DT metering would be provided for reducing losses.

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

Last Submitted reply

UHBVNL

Due to shortage of staff as brought to the kind notice or audit earlier, the work of energy auditing could not be done effectively in the past. However, steps are taken to replace the defective meters installing consumer meters on the pole & replacement of defective feeder meters. Further more the work of energy auditing has been initiated in respect of the works of DT metering allotted to M/s Secure Meters.

This provision has also been made in the new tender of DT metering under process.

DHBVNL

DHBVN has been preparing feeder wise distribution losses and subdivision wise collection efficiency to effect energy accounting and audit. The feeder wise loss reports are also compiled quarterly and submitted to the Hon'ble Commission along with the feeder wise loss reduction strategy for high loss feeders. It would be only appropriate to say that in order to achieve proper benefits of energy accounting and audit, distribution system should be IT enabled with automatic data acquisition and analysis.

All the feeders in the jurisdiction of DHBVN are metered. The current progress of DT meters up to June 2008 is 7030 meters against the target of 8196 meters as per DPR, making the progress as 86%.

Current Status

As the implementation of IT works were new to utility, there was delay in IT related works like GIS based consumer indexing, assets codification, data logging and feeder mapping which are essential for efficient energy audit.

Hence, even though feeder meters and DT meters were provided but effective energy audit & accounting could not be done in the absence of above activities.

However, the provision has been made for the same in Restructured - APDRP

During the course of oral examination of the departmental representatives it was informed to the Committee that internal audit was not effective in Gohana Division of Sonapat Circle, Hisar and Faridabad.

The department also informed the Committee that in Sonapat Circle the losses are 24% and in Gohana TNT losses are 50%.

The Committee recommends that the department should check the losses regularly after interval of 10-15 days so that the rate of losses be reduced.

The Committee also recommends that the action taken be informed to the Committee from time to time.

Haryana Agro Industries Corporation Limited

3.1 Non recovery of transportation charges

The Company suffered a loss of Rs. 1.17 crore due to non recovery of transportation charges from the millers.

7. The Government of India (GOI) prescribes the rates of Custom Milled Rice (CMR) each year delivered to the Central Pool by the State Procurement Agencies. GOI *vide* their notification (December 2004 and November 2005) prescribed rates for CMR for Khariff 2004-05 and 2005-06 which, *inter alia*, provided that the milling charges in respect of paddy and rice include transportation charges up to eight km. on each side from the purchase centre to the mill and from mill to the FCI's godown. Accordingly, clause 16 of the agreement executed with the millers stipulated that all the expenditure incurred including labour, transportation and other incidentals in connection with the lifting of paddy from storage points or any other place and delivery thereof shall be borne by the millers. The GOI confirmed (July 2006) these stipulations in response to representations received from the various State Governments and rice millers associations.

Audit scrutiny (February 2007) revealed that the Company had incurred an expenditure of Rs. 1.17 crore during 2004-06 on transporting paddy to the millers within eight kms from purchase centres to the mills. Management stated (May 2007) that the transportation charges were not recovered from the millers as per the instructions from the Chief Minister's Office. The reply is not tenable as the milling charges fixed by the GOI included transportation charges in such situations. The action of the Company in not recovering the transportation charges on paddy from the millers despite clear stipulation in the agreement amounted to undue favour to them.

Thus, the Company suffered a loss of Rs. 1.17 crore due to non recovery of transportation charges from the millers.

The matter was referred to the Government in April 2007; the reply had not been received (September 2007).

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

The State Procuring Agencies do not hire separate godown/Plinth for the storage of paddy and store its paddy in the premises of the rice millers to avoid the extra expenditure on account of transportation from mandi to mill. As such, storage points of the State Procuring Agencies are rice mills as per terms & conditions

of the agreement as well as instructions of the State Govt received from time to time Paddy remains in joint custody of State Procuring Agencies and Millers. The paddy was not delivered to the rice mills in the mandis during the years mentioned in the Audit Para. Therefore, the mandis cannot be treated as first storage point of the Corporation/Procuring Agencies. Thus, it is amply clear that the storage point of State Procuring Agencies is the rice mills. In the meeting held under the Chairmanship of Haryana Chief Minister, Haryana on 1-6-08, following decisions had been taken by the Government (copy placed at **Annexure-I**) —

- (i) All the procurement agencies will get the storage point at or around the mill specifically notified and incorporate it very clearly in the individual agreements with the concerned millers
- (ii) Affidavits will be taken from each rice miller along with post dated cheques equal to the cost of recoverable amount on account of transportation charges of paddy since 2004-05 seasons up to 2007-08 season till final decision is received from the Govt of India.
- (iii) the fixed deposit receipts of the millers pledged with the Food and Supplies Department and other procurement agencies as security will be returned to the millers only after the finalization of all accounts.

Accordingly, all the concerned District Managers were directed to take the necessary action in this regard.

The matter (issue No.2) regarding transportation charges was also again discussed in the meeting held under the chairmanship of Hon'ble CM, Haryana on 6/8/08 (copy placed at **Annexure-II**).

Again, the Financial Commissioner & Principal Secretary, Govt. of Haryana, Food & Supplies Department conveyed the following decisions *vide* their Memo No 2(2)2007 -Comp-1/25871 dated 22-10-08 taken by the State Govt at Highest Level for implementation with immediate effect (copy placed at **Annexure-III**) —

1. Post dated cheques may be taken from the millers along with appropriate affidavits regarding the full recoverable amount of transportation cost of paddy by each agency and DFS.
2. Security amount pending with the agencies may be immediately returned if the millers have delivered the custom milled rice to the FCI and fulfilled all local formalities.

- 3 The amount already recovered on account of transportation cost of paddy will be refunded to the millers against post dated cheques and an appropriate affidavit in this regard
- 4 The security amount of the millers for this coming KMS-2008-09 shall not be released under any circumstances till all the charges on account of transportation cost of paddy are fully recovered, if the Govt of India finally decides, that it has to be borne by the millers only
- 5 **The entire recovery of the outstanding cost of transportation of paddy upto 8 K.M. shall be made from the concerned miller from his milling charges of the KMS-2008-09, if the GOI does not unequivocally clarify this issue till 31st March, 2009. Obviously, if the GOI sticks to the present definition of Milling charges then the entire cost of transportation of paddy shall be recovered from the bills of the millers of season 2008-09 before 31st March, 2009.**
- 6 The millers will also have to bear interest @CCL on the outstanding payments of transportation charges of paddy due against the millers This interest will also be recovered from the millers if GOI decides not to pay transportation charges to the agency

These were issued with the concurrence of Finance Department *vide* their U O letter No 1/64/08-4 FG-II/2009 dated 22/10/08 The Hon'ble Chief Minister had approved these decisions on 13/10/08

Accordingly, all the concerned DMs were directed to take the necessary action in the light of above decisions of the Govt of Haryana The DMs had received the cheques from the millers

Again, *vide* Memo No 2(2)2007-Comp-I/16748 dated 05-08-2009 (copy placed at **Annexure-IV**), Clause No 5 of Memo No 2(2)2007-Comp-1/25871 dated 22/10/08 was amended as under —

- 5 **The entire recovery of the outstanding cost of transportation of paddy upto 8 KM. shall be made from the concerned miller from his milling charges of the KMS-2008-09, if the GOI does not unequivocally clarify this issue till 31st March, 2009. Obviously, if the GOI sticks to the present definition of Milling charges then the entire cost of transportation of paddy shall be recovered from the bills of the millers of season 2009-10 before 31st March, 2010.**

In Memo No 2(2)2007-Comp-I/16748 dated 05-08-2009 a Clause No.7 was added which is as under.-

- 7 An affidavit may be obtained from Haryana Pardesh Rice Millers & Dealers Association (Regd) that in case any Rice Miller closes his business or Paddy is not given to him for milling due to any reason, during the forthcoming Kharif Marketing Season-2009-10, then Haryana Pardesh Rice Millers & Dealers association will be responsible for the recovery of balance amount of transportation charges up to 8 K Ms from the Rice Millers

The rest of the clause are same

This concurrence of Finance Department *vide* their U O letter No.I/64/2008-4FG/1/1489 dated 4/8/2009 The Hon'ble CM approved these decisions on 21/7/09 The Corporation has issued the directions to the DMs concerned to comply with the instructions strictly, issued by Govt *vide* Memo dated 5/8/2009 The DMs concerned have complied with the instructions issued by Government *vide* Memo dated 5/8/2009

In the meantime, Haryana Rice Millers & Dealers Association filed CWP NO 5515 of 2010 in the Hon'ble Punjab & Haryana High Court at Chandigarh and the Hon'ble High Court has granted Interim Stay till the next date of hearing and the next date is fixed for 23/8/2010 (copy placed at Annexure-V)

***Vide* Memo No.2(2)2007-Comp-I/1122 dated 8th June, 2010 (copy placed at Annexure-VI), Financial Commissioner & Principal Secy. to Govt. of Haryana, Food & Supplies Department has informed that the recovery of pending transportation charges up to 8 KM. for the year 2004-05 to 2007-08 from the Rice Millers was deferred till 31/3/2010 by the Govt. of Haryana. The amount of transportation charges was to be recovered from milling charges of Rice Millers for the year 2009-10. The Hon'ble High Court of Punjab & Haryana have granted Interim Stay in the matter. Accordingly it has been decided to release milling charges for the year 2009-10, after settling all issues relating to KMS 2009-10, without recovery of transportation charges for the year 2004-05 to 2007-08 .**

In the light of the "Interim Stay" granted by the Hon'ble Punjab and Haryana High Court and Govt instructions issued *vide* Memo

dated 8th June, 2010 received from the Financial Commissioner & Principal Secretary to Govt of Haryana, Food & Supplies Department the Corporation has issued the instructions to the DMs concerned vide letter No. Acctt (W) / 10/3849-57 dated 14/6/10 (**copy placed at Annexure 7**) to take necessary action in the matter in the light of the instructions contained in Memo dated 8th June, 2010.

During the course of oral examination of the departmental representatives, the Committee was apprised with the latest position of non-recovery of transportation charges.

The Committee was not satisfied with the reply furnished by the department.

Since the matter is pending in the Court, so State Government has directed the agencies not to recover the charges till the decision of Court.

The Committee recommends that the decision of the Court be furnished for the information of the Committee.

Haryana State Roads and Bridges Development Corporation Limited

3.3 Excess payment of interest

Failure of the Company to act prudently resulted in excess payment of interest of Rs. 6.78 crore.

8. Housing and Urban Development Corporation Limited (HUDCO), New Delhi sanctioned three loans aggregating Rs. 468.27 crore (Rs. 173.66 crore on 27 April 2000, Rs. 144.08 crore on 10 October 2001 and Rs. 150.53 crore on 15 October 2001) at fixed interest rates prevalent on the dates of disbursement as per each scheme for improvement/upgradation of State highways and district roads by the Company. The Company drew Rs. 262.98 crore at interest rates ranging between 12.75 and 10.25 *per cent* per annum during December 2000 to April 2003.

For providing relief to the existing loanees due to declining interest rates, HUDCO offered (March 2004) to reset the interest rates of already availed loans at fixed higher rate of interest on payment of one time resetting charges of one *per cent* of the outstanding principal amount. Despite substantial reduction (March 2004) in rate of interest (8 25/8.75 *per cent*) the Company did not evaluate the savings in getting the loan reset. Had the Company reset the outstanding loans of Rs. 290.99 crore (as on 31 March 2004) by making payment of Rs. 2.91 crore as resetting charges, the Company could have saved a net of Rs. 6.78 crore on account of difference in interest during April 2004 to June 2007.

Failure of the Company to act (March 2004) prudently by opting for reduced rate of interest had thus resulted in excess payment of interest of Rs. 6.78 crore up to June 2007.

The Management stated (June 2007) that it evaluated (July 2005) the proposal when the offered rate of interest was 8.75 *per cent* per annum and same was not found profitable option. The reply is not tenable as the Company should have evaluated this option in March 2004 when the scheme was offered by HUDCO.

The matter was referred to the Government in February 2007; the reply had not been received (September 2007).

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

Regarding resetting of interest rate in the case of Loans taken from HUDCO It is stated that amount pointed out by audit as excess payment of interest of Rs. 6.78 crores is not based upon

facts and calculations HSRDC has availed the loans from HUDCO in different scheme for improvement of State Highway as following fixed rates of interest basis —

Sr No	Scheme No	Amount O/s as on 31 12 2008	Rate of interest per Annual
1	16648	48 54	12 75
		35 46	10 25
	Total	84.00	
2	16982	22 02	10 75
		42.49	8 25
	Total	64.51	
3	17035	27 60	10.75
		62 66	8.25
	Total	90.26	

There are loan agreements duly signed by the corporation with HUDCO having agreed the above rates of interest All the amount of installments and interest are being paid in time as per agreed schedule

The HUDCO *vide* their operational circular dated 19-11-2003 had brought out the revised financial pattern for resetting of loans with the condition that conversion charges @ 1% will be charged of outstanding amount over and above resetting of loans. Accordingly the corporation moved the case to Govt *vide* UO No 1 dated 6.1 04 for resetting of interest

The Finance Department *vide* UO dated 13-2-04 advised to supply the details of project wise / year wise loans received and deposited with PWD (B&R) and relises / short falls if any and accordingly detailed reply was submitted to Govt *vide* Memo No. 81 dated 16 3 04 There after four reminders *vide* dated 16.3.04, 2 3 04, 30.4 04 were issued to Govt to communicate for clarification but the Corporation did not receive any clarification from the Govt. The Govt *vide* its letter dated 27 3 05 asked for a self contained proposal The corporation evaluated the proposal of HUDCO for resetting of interest rates on dated 31 12 2005

HUDCO has also written to the corporation for resetting @ 8.75 % p a at fixed rate of interest for all above mentioned loans vide their No HSRDC/2006/19719 dated 01.02.2006 with a condition that 1 % shall be charged as resetting charges of the loan amount outstanding which is approximately worked out to Rs 238.78 lacs

The proposal of HUDCO for resetting all the loans with fixed rate of interest @ 8.75 % p a. was examined in detail by the Corporation and it was observed that resetting of loan was not a profitable option for the Corporation. Detailed calculations of the resetting with the existing rate and the proposed rate of interest are enclosed which shows that there was a loss of Rs 63.93 lacs in case the Corporation opting for resetting.

During the course of oral examination of the departmental representatives, this para was discussed in detail. The Committee was not satisfied with the reply furnished by the department.

The Committee recommends that calculation be made afresh according to interest rate prevailing from time to time. The Committee also desired that detailed reply be furnished for the information of the Committee.

Haryana Financial Corporation

3.15 Disbursement of loan against fake documents of collateral security

Acceptance of fake collateral security on the basis of forged search report furnished by the advocate in connivance with the Branch Manager, Bhiwani had put the recovery of Rs. 1.71 crore at stake.

9. The Corporation sanctioned (September 1996) and disbursed (November 1996 to April 1997) loan of Rs. 28 lakh to Priya Cotton Factory (unit) for setting up cotton ginning unit at Charkhi Dadri, Bhiwani. Due to persistent default the Corporation took over (October 1999) the unit under Section 29 of the State Financial Corporations (SFCs) Act, 1951 and found that stock worth Rs. 21.47 lakh was missing. An FIR was lodged (August 2000) with the police, Charkhi Dadri after a period of 10 months from taking over the possession of the unit. The Corporation sold (May 2002) primary security for Rs. 5.95 lakh and for the balance recovery of Rs. 55.04 lakh it took (October 2002) deemed possession of the collateral security which could not be sold (June 2007) and the outstanding dues accumulated (June 2007) to Rs. 1.71 crore (Principal: Rs. 27.42 lakh and interest: Rs. 1.44 crore). In this regard Audit noticed (December 2006) the following deficiencies:

As per terms of sanction order the unit was to furnish collateral security in the form of urban property having clear and marketable title. The Company accepted (November 1996) collateral security of land at Mohindergarh road in Municipal Limit Charkhi Dadri at a value of Rs. 19.87 lakh. Subsequently, the unit offered (January 1997) to substitute this security with another land in village Samaspur, Charkhi Dadri valuing Rs. 21.08 lakh as assessed by the assessor on the panel of the Corporation as it had already given originally offered land to another unit. The Corporation allowed (February 1997) the change in collateral security, though it was not an urban property, and accepted the revised security based on search report of an advocate and verified by the Branch Manager of the Corporation. Thus the Corporation accepted the original collateral security which was defective and the revised security which was not conforming to the sanction conditions.

The collateral security could not be sold till date (June 2007) due to defective title of the land, as the mortgagor had not owned part of the land measuring three bigha and alienated the remaining properties. No action could be taken against the advocate who verified the title of the land as the search report of collateral security issued by the advocate was not

available in the concerned file Further, no action was taken against the officials responsible for missing documents

Thus, acceptance of collateral security in rural area with defective title on the basis of forged search report furnished by the advocate in connivance with the Branch Manager, Bhiwani had put the recovery of Rs. 1.71 crore (Principal Rs. 27 42lakh and interest Rs 1.44 crore) as of June 2007 at stake

The Management while admitting (June 2007) the facts stated that in order to fix the responsibility of four officials for missing documents, an enquiry by a senior officer had been ordered and notice for recovery under Section 32 (G) of the SFCs Act issued (October 2006). Outcome of the enquiry and recovery is awaited (June 2007)

The matter was referred to Govt in May, 2007 the reply had not been received (September, 2007)

In their written reply, the State Government/Company stated as under:-

The primary security which was accepted at Rs 42.43 lacs included stocks and pre-operative expenses to the extent of Rs 24.49 lacs. Against accepted value of land, building & machinery of Rs 17.94 lacs (land Rs 2.45 lacs, Building Rs 6.35 lacs & machinery Rs 9 14 lacs) in the year 1996-97 the same were assessed at Rs 16 68 lacs (Land Rs 7.08 lacs, building Rs.6.00 lacs & machinery Rs 3 60 lacs) in the year 2002. However, the Corporation could sell the property at Rs 5 95 lacs after making 23 attempts.

Against the FIR lodged with the Police Station, Charkhi Dadri vide Corporation's letter dated 22.8.2000 for missing stock raw material/finished goods, office of Superintendent of Police, Bhiwani vide its letter dated 12.10.2000 had informed the Corporation that the same was investigated through the local Police and from investigations, it was found that no criminal offence made out

The case was referred to the then standing counsel of the Corporation who advised to follow-up with the Police for registration of FIR. As a result, DO letter from the Managing Director was issued to the concerned SP on 22.5.2001, 24.10 2001 & 14.2 2003 for registering the FIRs in all pending cases Further, the Addl Director General of Police, Headquarters, Haryana has also issued instructions to all IGs on 13.1 2006 to give priority to Corporation's cases involving alienation of mortgaged properties. In DO letters referred to Police Authorities, list containing such cases including this case was attached. The matter was followed-up with the Police Authorities

for registration of FIR and they have reiterated that no criminal case is made out against borrower/guarantors as already informed vide their letter dated 12.10.2000.

The party was sanctioned term loan of Rs. 15.17 lacs and WCTL Rs. 12.83 lacs (total Rs 28.00 lacs) under the powers delegated to the Managing Director on 16-9-1996. In compliance with stipulation No 7 of sanction letter, the party offered Urban property viz Land measuring 3 Kanal 13 Bigha situated at Mohindergarh Road, Charkhi Dadari. The value of above property was assessed by the approved valuer of the Corporation and was accepted by the Branch Manager, Bhiwani at Rs. 19,87,500/- against the requirement of Rs. 17,38,000/- After availing a loan of Rs. 4,84,000/-, the party requested the Corporation that they have subsequently leased out the above land vide lease deed dated 29.11.1996 for 99 years to M/s. Kajla Enterprises, Charkhi Dadari (another loanee of the Corporation) for setting up a unit of menthol manufacturing. The party was, therefore, advised either to shift the factory of M/s. Kajla Enterprises or give another collateral security. As such the party offered another security viz.(i) 2/3 share of agricultural land measuring 14 Bigha 18 Biswas and (ii) Agricultural land measuring 14 Bigha 17 Biswa situated at Revenue State, Bir Samspur, Tehsil Charkhi Dadari, Distt. Bhiwani. The value of these securities was assessed by the approved valuer of Corporation and was accepted by the then B.M. at Rs. 21.08 lacs against the value of the originally accepted urban property at Rs. 19,87,500/- and stipulated requirement of Rs.17.38 lacs. The value of rural properties was on higher side than the value of urban property as such change in collateral security was approved by the competent authorities on 10-02-1997.

The collateral security in this case could not be sold because it was found that the title of collateral security is defective. As per the practice prevailing in 1996, the title was examined on the basis of title search report from an advocate and the title documents submitted to the Corporation by the party. The same procedure had been followed in this case too. However, later after coming to know that the party has submitted forged documents, Corporation has lodged criminal complaint against the party u/s 42 of SFC's Act on 12.07.2006 and the case is pending in the Court. The next date of hearing is fixed for 12 11 2010 for evidence.

As a remedial measure, to avoid such instances in future, the Corporation has introduced the procedure for title examination including verification/counter checking of the documents being submitted by the party from the Revenue/ Municipal records by Law Officer of the Corporation. Circular in this regard was issued on 29.7 2003

As regards faulty search report from the advocate and action against the advocate, in the absence of title documents and search report of the advocate being missing charge of any kind of forgery by the advocate can not be established and action can not be taken against him.

In order to fix the responsibility for missing documents, as per report submitted by the enquiry officer on 01.10 2007, the charge sheet was issued to the concerned official on 13.12.2007. A regular enquiry was also conducted and the report was submitted on 29.4.2009. In the meantime State Vigilance Bureau, Panchkula has initiated an enquiry in this case on 05.05 2009 and called the original loan files and concerned officials a number of times. As requested by them, list of ex-employees/advocate who dealt the case have been supplied to the State Vigilance Bureau as known to the Corporation.

RC was issued to Collector, Bhiwani in October 2006 U/S 32(G) of SFCs Act for recovery of shortfall amount of Rs.68.53 lacs in TL A/c and Rs 65.95 lacs in WC A/c. Summons were issued by the collector to the party on 29.12 2006 to appear before him on 8.1 2007. The party, however, did not appear on 8.1 2007. D.O. letters dated 09.04.2007 and 20.08 2007 were issued by the MD to Collector, Bhiwani to expedite the recovery by apprehending the defaulters and attaching their personal properties. The case was regularly followed up with the revenue authorities and in one of the recent visits to the tehsildar, he has informed that summons are being issued in the case to the borrowers/guarantors.

During the course of oral examination, it was informed by the departmental representatives that the case is referred to the State Vigilance Bureau, Panchkula. The department also informed the Committee that further action in this case will be taken on receiving of the report of State Vigilance Bureau.

The Committee recommends that the decision in this case be informed to the Committee.

3.16 Non recovery of loan

Failure of the Corporation to obtain 100 *per cent* collateral security on the pattern of banks coupled with acceptance of collateral security at highly inflated value and not taking over physical possession of the unit had put the recovery of Rs. 8.79 crore at stake.

10 The Corporation sanctioned (January 1995) a term loan of Rs 1.23 crore to Sindhu Hatcheries (P) Limited (unit) for setting up a poultry farm with the condition that the unit would furnish a collateral security of Rs. 61.50 lakh (50 *per cent* of term loan) before disbursement, besides personal guarantee of the directors. The Corporation accepted (August 1995) the collateral security of agricultural land measuring 44 Kanals in village Kitlana, Bhiwani including collateral security of another loanee. The security was assessed (August 1995) at Rs. 1.12 crore by an empanelled valuer of the Corporation and verified (January 1996) by the Branch Manager at a value of Rs 93.17 lakh (Rs. 62.62 lakh *pro rata* for the unit). The Corporation released (May 1995 to March 1998) Rs. 1.22 crore to the unit. Due to persistent default, the Corporation took over deemed possession of the primary and collateral security in February 1999 and June 2000 respectively. The collateral security was sold (June 2006) for Rs 15 lakh (adjusted Rs. 6.45 lakh against the unit). The outstanding recovery as of July 2007 was Rs 8.79 crore (Principal : Rs. 1.22 crore and Interest : Rs. 7.57 crore). In this regard Audit noticed the following deficiencies.

Before sanction of the term loan, the Advisory Committee of the Corporation was apprised that banks were taking collateral security equivalent to 100 *per cent* of term loan in poultry farming cases. The Corporation, however, sanctioned the loan with stipulation of 50 *per cent* collateral security thus exposing the Corporation to avoidable risk.

The collateral security was accepted at highly inflated value as it could be sold (June 2000) for Rs. 15 lakh against the accepted value of Rs. 93.17 lakh.

The Corporation had taken (February, 1999) only deemed possession of the unit instead of physical possession and thus failed to sell the unit despite putting to auction for 19 times.

Thus, failure of the Corporation to obtain 100 *per cent* collateral security on the pattern of banks, acceptance of collateral security at highly inflated value and failure in taking over physical possession of the unit jeopardized the recovery of Rs. 8.79 crore.

Management stated (July 2007) that the deemed possession of the unit was taken as physical possession was not possible because of live

stock (poultry birds) and the valuation of collateral security was taken on the basis of assessor's report and rate quoted by the tehsildar. The reply is not tenable as the Corporation failed to devise any methodology to dispose of primary security in such circumstances and to have fair assessment of the collateral security.

The matter was referred to the Government in May 2007; the reply had not been received (September 2007).

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

The case of *M/s Sindhu Hatchery (P) Ltd.* was received in the Corporation in Dec., 1994 and it was one of the first cases of this type. There was no policy regarding collateral security for poultry units, however the Screening Committee desired that 50% collateral security may be asked for. In order to frame future guidelines the Screening Committee also decided that the norms for financing poultry farms in the banks be checked. As far as this case was concerned the Screening Committee as well as later Advisory Committee had already taken a decision to impose a condition for obtaining 50% collateral security. Nowhere it was mentioned by the Advisory Committee/Screening Committee to link the sanction of this case as per the norms of the banks. The matter was thereafter placed before the Board of Directors with a condition to obtain 50% collateral security and the same was approved by the Board on 3.1.1995. The Corporation continued financing such units and a survey report was later placed before the Board of Directors on 26.11.1997 when the Board decided to obtain 100% collateral security in such type of units. Thus the observation that the Corporation failed to obtain 100% collateral security on the pattern of bank is not correct and the decision of the Corporation to obtain 50% collateral security was not only applicable in this case but it continued as such for subsequent cases till the policy was reviewed and fresh guidelines were framed in Nov., 1997.

For assessment of collateral security, Corporation has relied upon the certificate given by the Patwari and counter signed by the Tehsildar. At the same time the corporation also got it assessed from the officer of the corporation who further, discounted assessed value by 30% to arrive at the realistic market value of the security. It is worthwhile to mention here that when this loan case was sanctioned i.e. on 3.1.1995 the

prevailing guidelines regarding assessment of properties used to be that it would be got assessed from an assessor on the panel of the corporation. The Corporation revised guidelines in May, 1996 when it was desired that in addition to the assessment by the assessor on the panel of the Corporation the security may also be assessed by the officer of the Corporation with regard to evaluation. As a matter of fact the Corporation in this particular case has already taken the necessary precaution of getting it assessed from the Revenue Authorities *i.e* Tehsildar/Patwari and also assessment from an officer of the Corporation. At that point of time DC rates were not available nor it was given in any of the prevailing guidelines to obtain DC rates. The Corporation formulated detailed assessment guidelines for valuation of primary and collateral security in July, 2007 vide circular No. 2037 dated 23.7.2003. In this particular circular, it has been stated that the property shall be got assessed on the basis of prevailing DC rates. At present the corporation is following the procedure of assessment by an officer of the Corporation as per the DC rate which forms the basis of assessment. Thus the Corporation has strictly followed the prevailing guidelines for assessment of collateral security and has taken adequate precaution to get it doubly assured from Tehsildar/patwari.

The Corporation has formulated and has established detailed procedure for sale of units taken under possession U/S 29. All types of units are being sold by the Corporation under the guidelines including the units such as poultry farms. The Corporation has been successful in number of cases in disposing of the poultry farm/Hatchery units in various districts of Haryana and it has not been a major problem at any point of time. However, in some of the cases the Corporation did feel bottleneck in sale because of presence of live stock in the unit. With a view to devise methodology to take care of disposal of units where live stock is also available, the Board of Directors of the Corporation formulated a policy according to which after taking over possession of sick poultry farm units, the live stock as per the inventory may be disposed of immediately in the first attempt by the Committee of concerned adjoining Branch Manager and GM, DIC and the land & building may be disposed of subsequently as per the prevailing policy of the Corporation for sale of sick units (circular No.1914 dated 26.3.2002). In the present case of M/s Sindhu Hatchery (P) Ltd., the Corporation

had already made four attempts prior to the formulation of these guidelines and because of the presence of live stock in majority of such cases, the Corporation has taken deemed possession. In this case the Corporation did make one attempt for sale of the property at site but no bid was received. Thus to state that the Corporation failed to devise any methodology to dispose of the primary security in such circumstances is not factually correct. The policy is in existence duly approved by the Board of Directors.

To recover the outstanding amount, the Corporation decided to issue Recovery Certificate. The RCs were issued to the collectors Hisar, Jind, & Bhiwani U/S 3 of Haryana Public Moneys (Recovery of Dues) Act 24 of 1979 for the recovery of Rs 585.50 lacs in September 2005. Subsequently, on the advice of our legal counsel the Recovery Certificate issued earlier U/S 3 of Haryana Public Moneys (Recovery of Dues) Act 24 of 1979 were withdrawn and fresh RC U/S 32 (G) of SFCs Act were issued to the Collectors Hisar and Jind against the directors/guarantors and to Collector Delhi against legal heir Sh. S. P. Puri of one of the directors viz late Sh. O. P. Puri in June 2006.

DO letter has been issued by MD, HFC to the concerned collectors for the effective recovery of the Corporation's dues. Sh. S. P. Puri had earlier taken stay against arrest from Hon'ble Punjab & Haryana High Court and the case has been dismissed with cost of Rs 5,000/- on 12.11.2007. Sh. S. P. Puri's legal heir filed SLP in Supreme Court against arrest, which has been dismissed by Supreme Court on 09.04.2009 and the Collector Delhi (Saket) has been handed over the orders of the Supreme Court personally with the request to affect the recovery.

The RC is also pending with Collector Hisar for property at Bass Distt. Hisar. The personal property i.e. land measuring 54 K 04 M at Bass owned by Sh. Sushiv Kumar, Director, has been attached which is yet to be put to auction.

RC with Collector Jind has been returned as no bidder attended auction of attached land measuring 2 K 13 M situated at Bohatwala Distt. Jind owned by director, Sh. Balwant Singh in spite of six attempts.

During the course of oral examination this para was discussed at length. The departmental representatives informed the Committee

that the matter is under process and meetings will be fixed with the concerned Deputy Commissioner so that it may be reviewed at district level.

The Committee recommends that it is a serious matter and the department should take serious steps to recover the amount at the earliest.

The Committee also recommends that the action taken in the matter be informed to the Committee within three months.

ANNEXURE - I**(para 3.1)****HARYANA AGRO INDUSTRIES CORPORATION LIMITED****From**

**Financial Commissioner & Principal Secretary
to Govt Haryana, Food & Supplies Department**

To

- 1 Managing Director,
HAFED, Panchkula
- 2 Managing Director,
CONFED, Chandigarh
3. Managing Director,
Haryana Agro Industries Corporation,
Chandigarh
4. Managing Director,
Haryana Warehousing Corporation,
Panchkula.
- 5 Director,
Food & Supplies, Haryana,
Chandigarh

**Memo No. SO-Comp-08/698-RA,
Dated, Chd. the 30/6/08.**

**Subject : Recovery of cost of Transportation Charges - Finalization
of accounts.**

Reference on the subject cited as above

The matter regarding recovery of cost of transportation charges of paddy upto 8 kilometers from mandi/purchase centre to the mill was discussed in the meeting held under the chairmanship of Hon'ble Chief Minister, Haryana on 01-06-08. The following decisions have been taken by the Government .—

- (i) All the procurement agencies will get the storage point at or around the mill specifically notified and incorporate it very clearly in the individual agreements with the concerned millers.
- (ii) Affidavits will be taken from each rice miller along with post-dated cheques equal to the cost of recoverable amount on

account of transportation charges of paddy since the 2004-05 season upto 2007-08 season till a final decision is received from the Govt. of India

- (iii) The fixed deposit receipts of the millers pledged with the Food and Supplies Department and other procurement agencies as security will be returned to the millers only after the finalization of all accounts

All the agencies are requested to take action in regard to finalization of accounts of the rice millers as per the above decision.

Sd/-

Under Secretary, Food Supplies,
for Financial Commissioner & Principal Secretary to
Govt. Haryana, Food & Supplies Department

ANNEXURE - II**(para 3.1)**

Proceeding of the meeting held under the Chairmanship of the Hon'ble Chief Minister with the representatives of Haryana Pradesh Rice Millers Association on 6-8-2008.

A meeting was held under the Chairmanship of the Hon'ble Chief Minister with the representatives of Haryana Pradesh Rice Millers Association on 6-8-2008 PSCM, FCFS, APSCM (Sh K K Khendelwal), DFS, MDs of Confed, HWC, HAIC, Director, Agr were also present The following issues were discussed —

Issue No. 1 Payment of Levy Rice .—The President, Haryana Pradesh Rice Millers Association stated that payment of levy rice be made @ 1262/- per quintal considering payment of first bonus of Rs 50/- paid per quintal of levy paddy He further stated that bonus was also paid by millers on the paddy purchased below the MSP and levy rice has been delivered as per the Govt of India specifications. The FCFS informed that the instructions of the Govt of India have to be followed meticulously for levy paddy/levy rice. No payment of bonus is payable on private purchase of paddy if it has been bought below the MSP as per Govt of India instructions The Govt of India has announced the amount of bonds @ Rs 100/- per quintal of common variety paddy purchased at or above the MSP and this amount is to be transferred to the farmers in its entirety by the millers through the concerned kaccha arthia Only then would they be entitled for payment of (leviable) rice @ Rs 1337/- Hon'ble C M agreed with this view As regards payment of leviable rice on the common variety paddy purchased @ Rs. 775/- and above per quintal this demand of the rice millers association was accepted Specific instructions will issued by the Department to all the DFSCs and agencies

Issue No. 2 Transportation Charges.—The FCFS and his officials pointed out that the transportation of paddy from the mandi/purchase centre to mill upto 8 K.M. has been included in the "milling charges" since 2004-05 by the Government of India The State Government cannot unilaterally change these guidelines/policy or go around them.

The operation of the CMR are conducted by the state agencies purely in the capacity of being an agent of the GOI Their guidelines are supreme Each activity involved in the milling process has been accounted for by the Government of India on the recommendations of the Tariff Commission The State agencies and the millers get reimbursement of the actual expenses incurred by them only on the basis of clear guidelines of the Govt of India

For example, the definition of "milling charges" now includes handling and transportation of paddy upto 8 K.M., then actually milling it and then handling and transportation of resultant rice for which full "milling charges" @ Rs. 15/- per quintal will be reimbursed by the Govt. of India. In Haryana, handling and transportation of paddy has been done by the State agencies through their contractors. Hence, the millers are not entitled to this component of the "milling charges"

The officials further pointed out that despite this clarity, the State Govt. has been taking up the matter for exclusion of transportation of paddy from the "milling charges" on the grounds of practical consideration and economy. Moreover, if the state agencies follow the FCI pattern of first handling and transportation of paddy into their own godowns and then issuing paddy to the millers after prior receipt of corresponding rice then the costs of milling operations would increase heavily for the Govt of India. There will also be severe shortage as well as damage of paddy. However, the Govt of India is yet to agree to this contention of the State Govt. Hence the demand of the millers to give them full "milling charges" is not tenable. The Hon'ble C.M agreed

Issue No. 3 Release of security.—The miller's also demanded that their security be returned after delivery of CMR. The officials highlighted that payment of transportation cost of paddy is done by the State Government. Till the finalization of final accounts (including the issue of cost of paddy transportation) by the Government of India, the security amount of the millers will be withheld as a precautionary measure for future potential recoveries. Hence the demand of the millers is not justified. It was also decided in the meeting that all accounts of those rice millers which have been squared up by recovering the past dues on transportation cost of paddy etc. shall not be reopened now.

Issue No. 4 Bardana Depreciation.— It was decided that Government of India instruction will be followed.

Issue No. 5 Stitching Charges.—The stitching of rice bag is to be done by the millers as per the milling policy. The stitching of rice bag is part of the "milling charges". Hence there can be no question of giving any additional benefits to the millers

Issue No. 6 Storage of paddy.—The President, Rice Millers Association pointed out that procuring agencies should store the paddy at their own storage point and FCI's pattern should be adopted. FCFS replied in the meeting that the milling policy from this year onwards is proposed to be amended. The millers will be delivered paddy in the mandi itself. They will then handle and transport this paddy at their own cost and keep

it within the mill premises under joint custody As such they would be then be entitled to full "milling charges" since the state agencies would no more be transporting the paddy at their cost. The Hon'ble C M agreed to this suggestion The FCI pattern is neither practicable nor economical In any case the FCI has never fulfilled its target of paddy procurement in Haryana for a long time

Issue 7. Paddy procurement season.— Regarding the start of procurement season, it was decided that the matter will be taken up suitably with the Government of India

In the end the DFS informed that 174 rice millers have not delivered the due levy rice amounting to Rs 53 40 crore (40000 MT) for the year 2006-07 and 2007-08 The CMR is also pending against 39 rice millers amounting to Rs 25 50 crore (20000 MT) The President, Rice Millers Association agreed that all these defaulting rice millers who have not delivered CMR or levy rice or both may be black listed this year and dealt with strictly He also promised C M , Haryana that pending levy rice will be delivered by the defaulting rice millers soon He requested for grant of 15 day's time from the start of the season The request of the President, Rice Miller Association was acceded to by the Hon'ble C M., Haryana

The meeting ended with a vote of thanks to the Chair

ANNEXURE - III**(para 3.1)**

From

Financial Commissioner & Principal Secretary to Govt Haryana,
Food & Supplies Department

To

1. Managing Director,
HAFED, Panchkula
2. Managing Director,
CONFED, Chandigarh.
3. Managing Director,
Haryana Agro Industries Corporation,
Panchkula.
4. Managing Director,
Haryana Warehousing Corporation,
Panchkula

Memo No. 2(2)2007-Comp-1/25871/PSL
Dated Chandigarh, the 22-10-2008.

**Subject — Cost of Transportation Charges of Paddy upto 8 K.Ms.
Rice Millers issue relating to Rice Association Haryana.**

Kindly refer to the subject cited as above and State Govt. letter Memo No S O. Comp 1-2008/698-RA dated 30-6-2008 and this Department letter Memo No. 2(2)-2007-08-Comp -1-2008/22009, dated 2-9-2008

The matter regarding recovery of transportation charges of paddy upto 8 km from mandi/purchase centre to the mill has been under consideration of the State Govt. This matter is still pending with Government of India for a final decision and clarification. Meanwhile the following decisions have been taken by the State Government at the highest level for implementation with immediate effect —

1. Post dated cheques may be taken from the millers alongwith appropriate affidavits regarding the full recoverable amount of transportation cost of paddy by each agency and DFS

- 2 Security amount pending with the agencies may be immediately returned if the millers have delivered the Custom Milled Rice to the FCI and fulfilled all local formalities
- 3 The amount already recovered on account of transportation cost of paddy will be refunded to the millers against post dated cheques and an appropriate affidavit in this regard
- 4 The security amount of the Millers for this coming Kharif Marketing Season 2008-09 shall not be released under any circumstances till all the charges on account of transportation cost of paddy are fully recovered if the Govt. of India finally decides that it has to be borne by the millers only
- 5 The entire recovery of the outstanding cost of transportation of paddy upto 8 KMs shall be made from the concerned miller from his milling charges of the Kms 2008-09, if the Govt of India does not unequivocally clarify this issue till 31st march, 2009. Obviously if the Govt of India sticks to the present definition of Milling Charges then the entire cost of transportation of paddy shall be recovered from the bills of the Millers of Season 2008-09 before 31st March, 2009
- 6 The millers will also have to bear interest @CCL on the outstanding payments of transportation charges of paddy due against the Millers This interest will also be recovered from the millers if the Govt. of India decided not to pay transportation charges to the agencies

This issues with the concurrence of Finance Department vide their U O letter No 1/64/08-4FG-1 dated 22-10-2008 The Hon'ble Chief Minister has approved these decisions on 13-10-2008

It is requested that necessary action may be taken accordingly

Sd/-

Under Secretary Food Supplies,
for Financial Commissioner & Principal Secretary to
Govt Haryana Food & Supplies Department

ANNEXURE - IV

(para 3.1)

No. 2(2)2007/comp-1/16748

From

Financial Commissioner & Principal Secretary
to Govt Haryana, Food & Supplies Department

To

- 1 Managing Director,
HAFED, Panchkula
- 2 Managing Director,
CONFED, Chandigarh
- 3 Managing Director,
Haryana Agro Industries Corporation,
Panchkula
- 4 Managing Director,
Haryana Warehousing Corporation,
Panchkula

Dated Chandigarh the 5-8-2009

**Subject :—Cost of Transportation Charges of Paddy upto 8 K.Ms.,
Rice Millers issue relating to Rice Millers Association
Haryana.**

In continuation to this office letter No 2(2)-2007 Comp-I/25871, dated 22-10-2008.

The matter regarding recovery of transportation charges of paddy upto 8 K Ms from mandi/purchase centre to the mill has been under consideration of the State Govt. The matter is still pending with Government of India for a final decision and clarification. Meanwhile the following decisions have been taken by the State Government at the highest level for implementation with immediate effect —

- 1 Post dated cheques may be taken from the millers alongwith appropriate affidavits regarding the full recoverable amount of transportation cost of paddy by each agency and DFS

- 2 Security amount pending with the agencies may be immediately returned if the millers have delivered the Custom Milled Rice to the FCI and fulfilled all local formalities
- 3 The amount already recovered on account of transportation cost of paddy will be refunded to the millers against post dated cheques and an appropriate affidavit in this regard
- 4 The security amount of the Millers for this coming Kharif Marketing Season 2000-10 shall not be released under any circumstances till all the charges on account of transportation cost of paddy are fully recovered if the Govt of India finally decides that it has to be borne by the millers only
- 5 The entire recovery of the outstanding cost of transportation of paddy upto 8 K Ms shall be made from the concerned miller from his milling charges of the K Ms 2009-10, if the Govt of India does not unequivocally clarify this issue till 31st March, 2010. Obviously if the Govt of India sticks to the present definition of Milling Charges then the entire cost of transportation of paddy shall be recovered from the bills of the Millers of Season 2009-10 before 31st March, 2010.
- 6 The millers will also have to bear interest @CCL on the outstanding payments of transportation charges of paddy due against the Millers. This interest will also be recovered from the millers if the Govt of India decided not to pay transportation charges to the agencies

An affidavits may, be obtained from Haryana Pradesh Rice Millers & Dealers Association (Regd.) that in case any rice Miller closes his business in Paddy is not given to him for milling due to any reason, during the forthcoming Kharif Marketing Season 2009-10 then Haryana Pradesh Rice millers & Dealers association will be responsible for due recovery of balance amount of transportation charges upto Eight K Ms. from the Rice Miller

This issues with the concurrence of Finance Department vide their U O letter No 1/64/08-4 FG-1/1489 dated 4-8-2009. The Hon'be Chief Minister has approved these decisions on 21-2-2009

It is requested that necessary action may be taken accordingly.

Sd/-

Joint Secretary, Food & Supplies,
for Financial Commissioner & Principal Secretary to
Govt Haryana Food & Supplies Department

ANNEXURE - V**(para 3.1)**

W-17

D P 99059

Pending for 23-8-10

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

- 1 The State of Haryana through Financial Commissioner and Principal Secretary to Haryana Food & Supplies Department
2. The Director Food & Supplies Haryana 30 Bays Building, Chandigarh
3. The Managing Director of HAFED Sector - 5, Panchkula
- 4 The Managing Director, CONFED, Sector - 22, Chandigarh
- 5 The Managing Director,
Haryana Agro Industries Corporation,
Chandigarh
- 6 The Managing Director, Haryana Warehousing Corporation,
Sector - 2, Panchkula

Subject Civil Writ Petition No. 5515 of 2010**M/s Rice Millers & Dealers Association****Petitioner(s)*****Versus*****State of Haryana & Others****Respondents(s)**

Sir,

In the continuation of the Court order dated . . . I am directed 29-3-10 passed by the Hon'ble High Court in the above noted Civil Writ Petition, for immediate strict compliance

Given under my hand and the seal of This Court on 30th days of March, 2010.

**BY ORDER OF THE PUNJAB AND HARYANA HIGH COURT,
CHANDIGARH.**

Sd/-

**Superintendent (Writs)
for Assistant Registrar (Writs)**

No 489796

**IN THE HON'BLE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

Civil Writ petition No 5515 of 2010

Haryana Rice Millers & Dealers Association, 1364/6, Old Post Office Road,
Old Anaj Mandi Ambala City (Haryana)

Through Sh Satpal Gupta, It's Sr vice President.

.Petitioner

Versus

1. The State of Haryana through its Financial Commissiioner and Principal Secretary to Government Haryana, Food & Supplies Department
2. The Director, Food & Supplies, Haryana, 30 Bays Building, Chandigarh.
3. The Managing Director of HAFED, Sector - 5, Panchkula.
4. The Managing Director, CONFED, Sector - 22, Chandigarh.
5. The Managing Director, Haryana Agro Industires Corporation, Sector-22, Chandigarh.
- 6 The Managing Director, Haryana Warehousing Corporation, Sector - 2, Panchkula.

Respondents(s)

Civil Writ Petition under Article 226/227 of the Constitution of India
for issuance of :

- (i) A writ in the nature of Mandamus Directing Respondents not to recover any amount in the guise of Transportation charges with interest pertaining to completed custom Milling agreements

for Kharif Marketing season 2004-05, 2005-06, 2006-07 and 2007-08 or deduct the said amount from milling charges for Kharif Marketing Season 2009-10; and declare post dated cheques and the undertaking procured without any statutory or Legal Authority as void and unenforceable.

- (ii) A writ in the nature of certiorari for quashing orders and directions dated 5-8-2009, Annexure P-7, being arbitrary and issued without any legal or statutory authority, and violative of articles 19(1) (g) of the constitution of India; and
- (iii) any other writ, order or direction which this Hon'ble Court may deem fit and proper and
- (iv) Stay recovery by any means during pendency or writ petition.

**IN THE HIGH COURT FOR THE STATES PUNJAB AND HARYANA AT
CHANDIGARH**

Civil Writ petition No 5515 of 2010

No of 2006 District

Petitioner/
Appellants

Shri

Versus

Respondents

Shri

Office No

Courts Orders

Present Mr S. K Yadav, Advocate
for the petitioner

Notice of motion for 23-8-2010

Interim stay till the next date of
hearing

29-3-2010
above

Sd/-
(K Kannan)
Judge

TRUE COPY

Examiner Judicial Department
High Court of Punjab & Haryana,
Chandigarh

ANNEXURE - VI**(Para 3.1)**

No 2(2) 2007 - Comp-1/11122

From

The Financial Commissioner and Principal Secretary,
to Govt Haryana, Food and Supplies, Department,
Chandigarh

1. The Managing Director,
HAFED, Sector - 5, Panchkula
2. Managing Director,
HWC. Sector - 2, Chandigarh
3. Managing Director,
CONFED, Sector - 22, Chandigarh
4. Managing Director,
Haryana Agro Industries Corporation,
Bay No 15-20, Sector-4, Panchkula

Dated Chandigarh, the 8th June, 2010

**Subject : —Cost of Transportation Charges of paddy upto to 8 K.Ms.
2004-05 to 2007-08.**

In continuation to this office letter No 2(2) 2007 - Comp-1/16748-53 dated 5-8-2009 on the subject cited above

It is intimated that recovery of pending transportation charges up to 8 K.Ms for the year 2004-05 to 2007-08 from Rice Millers was deferred till 31st March, 2010 by the Government of Haryana and same has been conveyed to your office vide this office letter referred above. The amount of transportation charges was to be recovered from milling charges of rice millers for the year 2009-10. The Hon'ble High Court of Punjab and Haryana have granted interim stay in the matter.

Accordingly, it has been decided to release milling charges for the year 2009-10, after settling all issues relating to KMS 2009-10, without recovery of transportation charges for the year 2004-05 to 2007-08.

It is requested that necessary action may be taken accordingly.

Sd/-

Assistant Controller Food Accounts,
for Financial Commissioner & Principal Secretary,
to Govt Food and Supplies, Department

ANNEXURE - VII

(Para 3.1)

**HARYANA AGRO INDUSTRIES CORPORATION LTD.,
BAYS NO. 15-20, SECTOR - 4, PANCHKULA.**

No Actt (w)/10/3849-57

Dated 14-6-2010

The District Manager,
Farmers Service Centre,
Ambala, Yamuna Nagar, KKR Karnal, Kaithal,
Jind, Hissar, Fatehabad and Sirsa

**Subject : — Cost of Transportation Charges of paddy upto to 8
K.Ms. 2004-05 to 2007-08.**

Please find enclosed herewith a photo-copy of letter No 2(2)/
2007-comp-I/11122 dated, 8-6-2010 received from the Financial
Commissioner & Principal Secretary to Govt Haryana, Food & Supplies
Department, Chandigarh on the subject cited above

In this regard, you are directed to take necessary action on the
matter in the light of instructions contained in the above said letter.

Sd/-

Dy General Manager (W),
for Managing Director

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