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**HARYANA VIDHAN SABHA
COMMITTEE ON
PUBLIC UNDERTAKINGS
2020-2021
(FOURTEENTH VIDHAN SABHA)**

SIXTY SEVENTH REPORT

**ON THE
REPORTS
OF THE**

**COMPTROLLER & AUDITOR GENERAL OF INDIA
ON PUBLIC SECTOR UNDERTAKINGS
(SOCIAL, GENERAL AND ECONOMIC SECTORS)
FOR THE YEARS ENDED 31ST MARCH, 2015, 2016 AND 2017**



(Presented to the Haryana Vidhan Sabha on ^{18th} March, 2021)
**HARYANA VIDHAN SABHA SECRETARIAT, CHANDIGARH
2021**

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**COMPOSITION OF THE COMMITTEE
THE COMMITTEE ON PUBLIC UNDERTAKINGS
2020-2021**

CHAIRPERSON

1. Shri Aseem Goel, MLA

Members

- | | |
|--------------------------------------|--------|
| *2. Shri Abhay Singh Chautala, M L A | Member |
| 3. Shri Dura Ram, M.L A | Member |
| 4. Shri Mohan Lal Badoli, M L.A. | Member |
| 5. Shri Rajesh Nagar, M.L.A. | Member |
| 6. Shri Chiranjeev Rao, M.L.A. | Member |
| 7. Shri Kuldeep Vats, M.L.A. | Member |
| 8. Shri Neeraj Sharma, M.L.A | Member |
| 9. Shri Devender Singh Babli, M L A. | Member |

SECRETARIAT

1. Shri R K. Nandal, Secretary
2. Shri Naren Dutt, Joint Secretary

* Shri Abhay Singh Chautala, M.L.A. who was elected as a member to the Haryana Legislative Assembly from 46- Ellenabad Assembly Constituency, has resigned his seat in the Haryana Legislative Assembly vide his letter dated 27th January, 2021 which was accepted by the Hon'ble Speaker on dated 27th January, 2021.

INTRODUCTION

I, the Chairperson of the Committee on Public Undertakings having been authorized by the Committee in this behalf of the Comptroller and Audit General of India as Public Sector Undertakings (Social, General and Economic Sectors) for the year ending 31st March, 2015 relating to Haryana Agro industries Corporation Limited and Haryana Warehousing Corporation Limited, (Review) and for the year ending 31st March, 2016 relating to Uttar Haryana Bijli Vitran Nigam Limited (Review), Haryana Mass Rapid Corporation Limited, Haryana Financial Corporation Limited, Haryana Agro Industries Corporation Limited, Haryana State Electronics Development Corporation Limited, Haryana Agro Industries Corporation Limited, Haryana Land Reclamation Development Corporation Limited and Haryana State Industrial and Infrastructure Development Corporation Limited and for the year ending 31st March, 2017 relating to Haryana State Industrial and Infrastructure Development Corporation Limited (review), Haryana Power Generation Corporation Limited, Uttar Haryana Bijli Vitran Nigam Limited and Dakshin Haryana Bijli Vitran Nigam Limited.

The Committee examined the reports of the Comptroller and Audit General of India as Public Sector undertakings (Social, General and Economic Sectors) for the year ended 31st March, 2015, 2016 and 2017 and also conduct the oral examination of the representatives of the Government/Public Sector Undertakings/ Boards where necessary. A brief record of the Proceedings of the various meetings has been kept in the Haryana Vidhan Sabha Secretariat.

The Committee thankful to the Accountant General (Audit), Haryana and his staff for their valuable assistance and guidance during the deliberations. The Committee are thankful to the Additional Chief Secretary to Government, Haryana, Finance Department including his representatives of the Departments/ Corporations/Boards concerned who appeared before the Committee from time to time. The Committee are also highly thankful and appreciates the working of the Secretary, Joint Secretary, Dealing Officer and the Staff of the Haryana Vidhan Sabha Secretariat for their unstinted, whole-hearted co-operation and assistance given in preparing this report.

Chandigarh.
The 04th March, 2021.

SHRI ASEEM GOEL
CHAIRPERSON.

REPORT

- 1 The Committee on Public Undertakings for the year 2020-2021 was nominated on 03rd June, 2020 by the Hon'ble Speaker in pursuance of motion moved and passed by the Haryana Vidhan Sabha in its sitting held on 03rd March, 2020, authorizing him to nominate the Chairperson/Members of the Committee on Public Undertakings for the year 2020-21 till the dissolution of the Assembly.
2. The Committee held total 41 meetings during the year at Chandigarh and other places upto 04th March, 2021 till the finalization of the Report.

REPORT

REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA ON PUBLIC SECTOR UNDERTAKINGS (SOCIAL GENERAL AND ECONOMIC SECTORS) FOR THE YEAR ENDED 31ST MARCH, 2015).

(Review)

2.2 Haryana Agro Industries Corporation Limited and Haryana State Warehousing Corporation.

Custom Milled Rice

1. 2.2.7.2 *Non recovery of dues from Millers*

Gol while conveying (April 2014) the provisional rates of CMR for the years 2013-14 to State Government imposed a value cut ²⁰ at the rate of one per cent of the cost of the rice delivered to FCI. The value of cut imposed was Rs. 22.54 per quintal which was to be recovered from the millers.

We noticed that as a result of value cut imposed by the Gol, the net amount was recoverable from the millers after adjusting the dues on account of milling charges and drriage payable to them. It was noticed that one FSC (Kurukshetra) of HAIC and two district offices (Kurukshetra and Ambala) of HSWC could not recover Rs. 1.55 crore (HAIC: Rs. 0.84 crore and HSWC: Rs. 0.71 crore) from 14 millers despite the completion of KMS 2013-14 by September 2014. We further observed that above 14 milers were given paddy for milling by these PAs for KMS 2014-15 without recovering the earlier dues of Rs. 1.55 crore pertaining to KMS 2013-14.

During exit conference HAIC stated that it had recovered the entire amount of Rs. 0.84 crore on this account. However, documents of effecting of recovery were awaited (November 2015). HSWC stated that efforts are being made for recovery of Rs. 0.71 crore.

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

HSWC-

The details of Rs. 195.84 lakh on account of non-recovery of value cut as against Rs. 155.00 lakh as pointed out by the audit was obtained from the office of the A.G.

Out of Rs. 195.84 lakh an amount of Rs. 1,11,38,787/- pertains to the Haryana State warehousing Corporation.

Against the total amount of Rs. 1,11,38,787/- pertaining to the HSWC as pointed out by the Audit, an amount of Rs. 79,40,652/- has been recovered thus

²⁰ If due to some reasons, Gol relaxed the specifications of the rice to be procured under central pool it may impose a value cut in the value of CMR commensurate with the specifications relaxed, which was to be recovered from the millers.

leaving thereby a balance unrecovered amount of Rs. 31,98,135/-. For recovery of amount of Rs. 37,95,113/- (including interest amounting to Rs. 5,96,978/-) the recovery suits are filed in the Court, details of the Court cases are available.

The explanation of the concerned staff has been called upon and the replies received from the concerned officials are under process.

As the action against the staff has been initiated and further steps required as per para has been taken, hence the para may please be dropped

Additional Reply:

In addition to the submissions already made in the reply to the para, Corporation further informed the audit that there were no instructions in the guidelines which bar the allotment of paddy to the millers from whom the holding charges/Value cut was recoverable. Paddy was allotted to one miller during the KMS 2014-15 and the Corporation was able to make recovery of Rs 9.86 lakh.

HAIC:

HAIC, Kurukshetra has recovered the entire amount of value cut from the dues of the millers during the relevant financial year. A copy of the statement showing the amount recovered from the dues of the millers has been attached as Annexure-I-B

Additional Reply:

A total amount of Rs. 84,44,769/- pointed out by the Audit pertains to the HAIC. This amount includes Rs. 32,07,310/- of value cut and Rs. 52,32,459/- of other recoveries. Out of which amount of value cut Rs. 32,07,310/- and Rs. 44,18,019/- of other recoveries has been recovered and only Rs. 8,19,440/- remained unrecoverable from the rice millers, the recovery suit are filed against the rice millers for recovery.

The details of amount recoverable/recovered and balance is as below.-

| Sr No | Name of rice mill | Amount of recovery point out by CAG including other recoveries | Amount of actual value cut | Amt recovered from rice miller of value cut | Other recovery from rice miller | Other recovery pending | Remarks |
|-------|---------------------|--|----------------------------|---|---------------------------------|------------------------|--|
| 1 | Deepak Enterprises | 286476 | 286476 | 286476 | Nil | Nil | Recovered in 2014-15 |
| 2 | Shyam Overseas | 1521479 | 475200 | 475200 | 643143 | 403136 | Rs 403136/- recovery suit has been filed against the rice miller |
| 3 | Shiv Baba Rice Mill | 1138251 | 569520 | 569520 | 568731 | Nil | Recovered in 2013-14 |

| | | | | | | | |
|---|------------------------|---------|---------|---------|---------|--------|----------------------------------|
| 4 | Shiva Enterprises | 2969187 | 483600 | 483600 | 2485587 | - | Recovered in 2014-15 |
| 5 | Champa Rice Land | 1408892 | 984880 | 984880 | 424012 | - | Recovery in 2014-15 |
| 6 | Ashoka Trading Company | 798850 | 86000 | 86000 | 298546 | 416304 | Rs. 416304/- recovery is pending |
| 7 | Ashoka Rice Mill | 321634 | 321634 | 321634 | - | - | Recovered in 2015-16 |
| | Total | 8444769 | 3207310 | 3207310 | 4418019 | 819440 | |

Recovery suit has been filed and Arbitrator appointed against M/s Shyam Overseas, Kurukshetra. The Arbitrator had pronounced the award on 05.07.2019 in favour of HAIC for lump sum amount of Rs. 2 66/ Crore against the total claim of Rs. 4.17/- Crore. HAIC has filed the objection petition for modification of Arbitration award in the District Court, Kurukshetra. Regarding recovery of Rs. 4,16,304/- against M/s Ashoka Trading Company, Kurukshetra the matter, is being taken up with the District Manager, HAIC Kurukshetra and asked the present status of recovery.

It is further intimated that there was no such instructions in the guidelines which debar the rice miller for allotment of paddy from whom the holding charges/value cut was recoverable. Paddy was allotted to 5 rice millers during the KMS 2014-15 and due to which Corporation was able to make the recovery of Rs. 49 .86 lakhs.

During the course of oral examination, the Committee found that objection petition filed by HAIC for modification of Arbitration award is still pending before the Hon'ble District Court Kurukshetra. Hence, the Committee recommended that this para be kept pending till the final outcome of the Court Case. The Committee also recommended that the corporation should pursue the cases in the court for its best interest and intimated the results to the Committee.

2.2.8 Reimbursement of Statutory and other charges from FCI

For each Kharif Marketing Season (KMS), Gol fixes rates of CMR which *inter-alia* includes Minimum Support Price (MSP) of paddy and rates of incidentals. The incidentals reimbursed by the Gol include Statutory charges (Market fee, *Arhtias* commission and RD cess) and other charges (driage, custody and maintenance charges, interest charges, gunny cost and depreciation). These charges are reimbursable subject to certain conditions as mentioned in the CMR rates communicated by the Gol. The PAs should ensure that only those charges be incurred which are reimbursable by the Gol and necessary conditions for reimbursement should be complied with.

Deficiencies noticed in this regard are discussed below:

2. 2.2.8.2 Non reimbursement of holding charges

- (i) PAs avail Cash Credit Limit (CCL) from the banks for procurement operations. FCI releases the payment to PAs after receipt of rice from the millers. The guidelines issued by the FSD provides that in case a miller

failed to deliver the rice to FCI as per the schedule mentioned in the agreement, he was liable to pay holding charges to the PAs for the delayed period in the form of interest calculated at prevalent CCL rate. However, in case delivery is delayed due to inability of FCI to provide the space to the millers, such charges are not recoverable from millers. We noticed that while finalising rates of incidentals for CMR, the GoI was allowing interest charges to PAs up to date of delivery of rice to FCI although PAs were recovering the holding charges²⁴ from the millers for the intervening period of scheduled date of delivery and actual date of delivery to meet their operational losses. We observed that when GoI allowed (January 2014) extension in delivery period of KMS 2012-13 from September 2013 to January 2014, it was agreed at no cost to itself i.e. the interest charges would not be payable to PAs beyond 30 September 2013. Thus, interest cost suffered by PAs due to delay in delivery of rice by millers was to be recovered from the millers.

During KMS 2010-11 to 2013-14, audit observed that millers presented 'No Space Certificates' (NSCs) from FCI. The NSCs supplied by the millers did not bear any reference number, date etc. of FCI and were on the letter pads of Millers. The PAs thus did not verify these certificates from FCI. Thus, millers did not deliver rice on due date to FCI ostensibly due to non availability of space in FCI godowns and the funds of PAs were blocked and they did not recover holding charges in shape of interest amounting to Rs. 8.64 crore from the millers for the period of NSCs. Both PAs stated that there was no provision to get the NSCs verified from the FCI. The reply was not acceptable as the NSCs were on the letter pad of the millers without any reference number etc. of FCI and were therefore not verifiable.

Further, while calculating the holding charges recoverable from millers for KMS 2012-13, we observed that out of five selected revenue districts of HSWC, two revenue districts²⁵ gave cumulative extension in the delivery schedule²⁶ by the period of 'No Space Certificate' issued by FCI. This undue favour to the millers resulted in short recovery of holding charges by Rs. 0.13 crore in district office Kaithal. Detailed information in respect of other revenue districts was awaited (November 2015). HSWC assured for re-examination and recovery, if any, from millers.

- (ii) During KMS 2012-13, Ambala District office of Corporation entered into an agreement (October 2012) with M/s Ankit Traders rice mill, Mustafabad for milling of 4,176.73 MT of paddy. The miller was required to deliver 2,798.41 MT of rice to FCI up to the extended period of 30 September 2013. The miller supplied 620 MT of rice till 26 February

²⁴ It refers to interest charged by PAs from the millers for intervening period of scheduled delivery date and actual delivery date

²⁵ Kaithal and Kurukshetra

²⁶ October and November 2012-20 per cent, December 2012-25 per cent, January 2013- 25 per cent, February 2013-15 per cent and March 2013-15 per cent

2013. The proprietor of the firm expired in February 2013. The legal heir undertook (July 2013) to supply the balance rice but the Corporation did not obtain the PDCs from him. The firm supplied the entire quantity of rice to FCI but could not adhere to the delivery schedule as prescribed in the agreement and as such holding charges of Rs. 0.20 crore were recoverable from them. The Corporation released (September 2013) the guarantee of Rs. seven lakh instead of adjusting it against the recoverable amount. Thus, in the absence of any PDCs/ other security, recovery of holding charges of Rs. 0.20 crore could not be made.

HSWC admitted the facts and stated that legal action has been initiated against the guarantor of the rice miller and charge sheeted the concerned District Manager. However, the fact remains that the recovery is yet to be made.

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

- (i) All the CMR for KMS of 2012-13 was delivered before 30.09.2013 by all the Millers excepting the following Millers:-**

| District Office | Name of the Miller | Present Status | Remarks |
|-----------------|-----------------------------|--------------------|--|
| Kurukshetra | Jayanti Rice Mills | Court case pending | The miller did not deliver the CMR even in the extended period |
| Kaithal | Gupta Rice Mills Kaithal | Court case pending | He delivered the CMR in the extended period |
| | Ganpati Rice Mills, Kaithal | Court case pending | He delivered the CMR in the extended period |

It has been observed by the audit in the para itself that:

"We noticed that while finalizing the rate of incidentals for CMR, the Govt. of India was allowing interest charges to the PAs up to the date of delivery of rice to the FCI although the PAs were recovering that holding charges from the millers for intervening period of scheduled date of delivery and actual date of delivery to meet out their operational losses. We observed that when GOI allowed (January, 2014) extension in delivery period of KMS 2012-13 from Sept, 2013 to January, 2014, it was agreed at no cost to itself i.e. interest charges would be payable to the PAs beyond 30.9.2013, thus interest cost suffered by the PAs due to delay in delivery of rice by millers was to be recovered from the millers".

As stated above in the reply to the para that the whole of the CMR for KMS 2012-13 (excepting three millers) was delivered by all the millers before 30.09.2013 and who had not delivered up to that dead line, the cases of recovery have been initiated against those millers which are pending in the Courts.

Moreover, the audit has admitted that holding charges have been recovered from the millers by the PAs to cope up the operational cost.

Additional Reply:

The Corporation submitted that out of the three millers as enlisted in the reply, the arbitrator had pronounced award in favour of the Corporation in the case of Jayanti Rice Mills and in favour of the remaining two millers. The Corporation had filed an appeal in the District Court against the award pronounced in favour of the Corporation being less than the claim made by the Corporation and challenged the award pronounced in favour of millers.

It is submitted that out of the loss of Rs. 8.64 crore as pointed out by the Audit, an amount of **Rs.3.76** crore relates to the Haryana State Warehousing Corporation. This loss has been worked out by the audit on account of rebate allowed by the Corporation in respect of the No-Space certificates issued by the FCI. Here it would be worth mentioning that as per the guidelines issued by the FSD, Clause XII which reads as under :

"While finalizing the Accounts of the mills who have undertaken custom milling of procuring agencies, holding charges for the period in which Food Corporation of India could not offer storage space to rice millers for delivery of CMR, may not be deducted."

Even the agreement entered in to with the millers also provides for consideration of the No space certificates issued by the FCI".

The rebate of No space certificates has been allowed to the millers in the wake of the above instructions

The audit has calculated the amount of holding charges despite production of the NSCs. It is stated that the benefit of No Space certificates have been provided by the District Managers as per terms and conditions mentioned in the agreement entered between Haryana State Warehousing Corporation and the millers. However, receipt of No-Space Certificates through our concerned Manager further corroborate that the same were as per facts within the knowledge of the Manager.

As regards No Space Certificates it is submitted that certificates have the signature of the FCI officials with their stamps, which clearly reflect that the concerned official of FCI are duly satisfied with the No Space Certificates provided by them. The delivery of CMR has been made by the six millers as enlisted in the para up to 30.06.2013.

Additional Reply:

The issue was discussed in detail and it was decided that the necessary instructions may be issued by the nodal agency in the field Offices to take proper care while giving the benefits of NSCs to the millers in future.

As regard the non- recovery of Rs. 13 00 lac on account of Holding charges, it is submitted that the certificates of No Space have been examined and it has been observed that these are duly signed by the Manager(Depot), FCI which are stamped. The rebate of the NSCs has been allowed to the millers in the wake of the above mentioned instructions.

District Manager, HSWC Kurukshetra vide his letter No.1482 dated 18.12.2019 and 1514 dated 23.12.2019 (copies enclosed) has intimated that recovery suits amounting to Rs.96,28,725/-have been filed against 18 millers of Thol, Ismailabad and Ladwa at lower Courts Pehowa and Kurukshetra. The details of court cases and status of the cases is indicated against each of the case

- (a) The explanation of concerned staff of District Office, Kurukshetra/ Kaithal was called upon in the matter The concerned staff of Kaithal has submitted their replies and the Competent Authority has ordered to file the explanation.
- (b) It has been ordered by the Competent Authority to charge sheet Shri Yashpal Singh, District Manager Under Rule-8 for releasing FDRs to the millers before finalization of milling account of the miller.
- (c) The replies of the staff of District Office, Kurukshetra are under process.

As the action against the staff has been initiated and further steps required as per para has been taken.

Additional Reply:

The audit was informed that as per version of the then District Manager, HSWC, Kurukshetra, during KMS 2012-13 the Miller Association approached worthy Chairman District Level Committee Kurukshetra that a uniform method may be adopted by all the State Procuring agencies to calculate the holding charges for which a meeting was convened under the worthy Chairman, District Level Committee Kurukshetra Deputy Commissioner, DFSC, representatives of the procuring agencies during 2013 for calculation of holding charges for KMS 2012-13 by giving benefit of No space certificates issued by the FCI to the Rice millers. It was decided in the meeting that the method /process adopted by the Nodal agency-DFSC Kurukshetra may be followed by the other State procuring agencies Accordingly, the calculation of holding charges was done as per the method being adopted by DFSC.

Audit also desired that the proceedings of the DMC or any order of the Competent Authority as claimed by the then DM, Kurukshetra, may be produced to the Audit party for further verification.

- (ii) The observation made by the audit is admitted. It is submitted that the legal heir of the Proprietor of the Firm did not give the Corporation the posted cheques of adequate amount towards the guarantee money. However, these were taken from the Guarantor of the proprietor. The District Manager, HSWC, Ambala City who released the security amount of Rs 7.00 lakh to the Miller without adjusting it against the recoverable amount was charge sheeted under Rule-7 vide Memo bearing Endst No. HSWC/Admn/EA-1/2014/35030 dated 09.09.2014 which has now been withdrawn.

The post dated cheques given by the Guarantor to the Corporation were submitted to the Bank for encashment but the same bounced. In this regard, legal action has already been initiated against him by filing a complaint in a local Court under N.I Act 138/42, the decision of which has gone in favour of the Guarantor and has been challenged in Punjab & Haryana High Court. Next date of hearing has been fixed for 20.07.2020. Recovery suit has also been filed against the miller in the Hon'ble Lower Court at Jagadhari for Rs. 3102836/-. Last date of hearing had been fixed for 12.05.2020 but the next date of hearing has yet not been fixed by the Court due to Covid-19/ lockdown. It is hoped that the Corporation would succeed in recovering the due amount from him.

HAIC- Additional Reply:

All the CMR for KMS 2012-13 jhad been delivered before 30 09.2013 by all the millers except the two rice millers and out of the two one miller has completed the delivery of CMR upto 31.01.2014. Only 1058 MT CMR remained pending against M/s Dalip Rice Mill, Narwana District Jind against whom case of recovery has been filed in Arbitration and decided in favor of HAIC and also execution of award is pending in the District Court, Jind.

1. The Calculation of with holding charges recovered from the rice millers for the crop years KMS 2012-3 is given in the table below :

| Total paddy purchase KMS 2012-13 (In MT) | Rice Due @ Rs 67% (In MT) | Qty delivered upto 30 09 2013 (In MT) | Qty delivered 01 10.2013 to 31 01 2014 (In MT) | Balance Qty (In MT) | Holding Charges recovered from millers (Rs. In Lakhs) |
|--|---------------------------------|---|---|--|---|
| 598248 | 400826 | 398686 | 1082 | 1058 recovery suit filed against the miller M/s Dalip Rice Mill, Jind) | 178 75 |

- (i) The Committee recommended that this para be kept pending as the matter is sub judice before the Hon'ble District Courts Pehowa and Kurukshetra.
- (ii) The Committee recommended that this part is also kept pending as the matter is sub judice before the Hon'ble Punjab and Haryana High Court and the recovery suit against the miller is also still pending in the Hon'ble Court at Jagadhri.

The Committee further desired that the latest status of all pending court cases should be given to the Committee from time to time.

3. 2.2.8.5 Loss of interest due to delay in submission of guarantee fee claim to FCI

The PAs availed cash credit limit from the State Bank of India for procurement of paddy, guaranteed by the State Government which charged guarantee fee at the rate of 1/8 *per cent* of the cash credit availed. As per GoI instructions, guarantee fee was payable on actual basis, subject to a maximum of 1/8 *per cent* of the MSP on the quantity of rice delivered to FCI. The claims were to be raised immediately after closure of crop year/ financial year.

We observed that:-

- 1) HAIC paid a guarantee fee of Rs 0 62 crore for paddy for 2004-05 to 2009-10 to State Government in April 2010. However, it belatedly lodged the claim in April 2013 and the same was released by FCI in December 2013. Similarly for KMS 2010-11 and 2011-12, the Company paid (February 2012) guarantee fee of Rs 0 23 crore but raised the claim in August 2014. Thus, due to delayed submission of bills the Company suffered an interest loss of Rs. 0.24 crore (₹18.66 lakh³³ for 2004-05 to 2009-10 and Rs. 4 90 lakh³⁴ for 2010-11 & 2011-12).
- 2) HSWC deposited (March 2013) guarantee fee of Rs. 0.56 crore for paddy for KMS 2010-11 and 2011-12 but claims of Rs. 0.43 crore was lodged with FCI in December 2014 resulting in loss of interest of Rs. 8.11 lakh³⁵.

Both PAs stated that delay was due to non issuing of the sale certificate by FCI to their district offices in time and informed that District Managers have been advised to obtain certificates from FCI immediately after the close of season.

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

HAIC-

Amount of guarantee fee for the period 2004-05 to 2011-12 has already been claimed from the FCI. The main reason of delay in claiming the guarantee fee from FCI is that the guarantee fee is reimbursed by the FCI only after the receipt of the sale certificate from their district office. The claim of guarantee fee has been lodged with FCI immediately after the receipt of the sale certificate from the district offices of the FCI. District Managers have been directed to obtain certificates from FCI immediately after the closure of the season.

Additional Reply:

All amount of guarantee fee for the period of 2004-05 to 2011-12 has already been claimed and received from the FCI by HAIC as per table given below :-

³³ Worked out on Rs 62 13 lakh at the rate of 10 30 per cent for 3.5 months.

³⁴ On Rs 22 69 lakh at the rate of 11.79 per cent per annum for 22 months.

³⁵ On Rs. 42.93 lakh at the rate of 10.79 per cent per annum for 21 months.

| Crop year | Guarantee fee paid (in Rs) | Guarantee fee received (in Rs) |
|-------------------|--------------------------------|------------------------------------|
| 2003-04 | 14437500 | 4466849 |
| 2004-05 | 6759897 | 531750 |
| 2005-06 | - | 4073000 |
| 2006-07 | - | 945875 |
| 2007-08 | - | 1984875 |
| 2008-09 | - | 5453810 |
| 2009-10 (2004-10) | 20177520 | 7198750 |
| 2010-11 | - | 4520125 |
| 2011-12 | 6865625 | 2345500 |
| 2012-13 | - | 10073250 |
| 2013-14 | - | - |
| 2014-15 | - | 6646758 |
| Total | 48240542 | 48240542 |

The main reason of delay in claiming the guarantee from FCI was that the guarantee fee is reimbursed by the FCI only after the receipt of sale certificate from their District Office. The claim of guarantee fee has been lodged with FCI immediately after the receipt of the sale certificate from the District Office of the FCI.

HSWC-

The Audit has worked out the amount of Rs.0.56 crore of claim of guarantee fee to be lodged with the Food Corporation of India on the basis of CCL availed by the Corporation against the purchase of paddy during KMS 2010-11 and 2011-12. It would, however be submitted that the claim of guarantee fee is made with the FCI on the basis of MSP of Paddy, which has been worked out to be Rs.50.69 lakh as per details given below :

| Year | Amount of CCL availed | Guarantee fee paid to the State Govt | Cost of paddy purchased | Guarantee fee recoverable from FCI |
|---------|--------------------------|--|----------------------------|--|
| 2010-11 | Rs 167 80 Cr | Rs 20,97,500 | Rs 1,49,28,68,483 | Rs 18,66,210 |
| 2011-12 | Rs. 283 03 Cr | Rs 35,37,875 | Rs 2,56,26,48,441 | Rs 32,03,310 |
| Total | Rs. 450.83 Cr | Rs. 56,35,375 | Rs 4,05,56,16,924 | Rs. 50,69,520 |

Against the recoverable amount of Rs. 50.69 lakh, the claim for Rs. 50.69 lakh have been made.

Here it would be pertinent to mention that Since FCI vide their letter No.FIN/HR/Gen. Corres./2016-17/1212 dated 30.04.2016 had withheld the payment of guarantee fee on the grounds that CAG has pointed out that as the State Govt, is not incurring any expenditure on account of guarantee fee although State Govt, agencies are depositing the same with the State Govt, as such the claim has been withheld by FCI.

The Corporation had taken up the matter with State Govt vide this office letter No. HSWC/Accts/Acctt.-4/G.Fee/2016/37236 dated 16.11.2016. to intervene in the matter to avoid any loss to the Corporation or to refund the guarantee fee deposited by the Corporation. The last reminder issued to the State Govt, on 03.07.2020.

Additional Reply:

Audit explained that a similar para was framed in Punjab also. Upon this, FCI pointed out that claim under guarantee fee is not being allowed by the Government of India since RMS 2009-10. Accordingly it was requested by Audit to the representative of FSD to sort out this issue at their own level with the State Govt.

During the course of oral examination, the Committee observed that FCI was not making reimbursement of guarantee fee on the plea that State Government has not incurred any expenditure on this account. Therefore, the Committee recommended that the matter may be taken up with Finance Department to verify whether the State Government had incurred any expenditure on account of guarantee fee to lodge its claims with the FCI and informed to the Committee accordingly. Hence, the para be kept pending.

REPORT

REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA ON PUBLIC SECTOR UNDERTAKINGS (SOCIAL, GENERAL AND ECONOMIC SECTORS) FOR THE YEAR ENDED 31st MARCH, 2016).

(Review)

2 Performance Audit relating to Government Companies

**Tariff, Billing and Collection of Revenue by Uttar Haryana Bijli
Vitran Nigam Limited**

4. 2.6.1.2 Tariff concession in contravention of the Electricity Act, 2003

Section 65 of the Electricity Act, 2003 provides that if the State Government decides to grant subsidy to any class of consumer in the tariff determined by the State Commission, the State Government shall compensate the Company by grant of subsidy. It further stipulates that no such direction of the State Government shall be operative if the payment is not made in accordance with these provisions and the tariff fixed by the State Commission shall be applicable.

On 17 June 2005, the State Government announced a discount of 10 paise per unit in the domestic tariff of electricity supplied to a household where the connection is in the name of a woman and property is also owned by woman. The HERC in its tariff order of 9 November 2005 for the year 2005-06 refused preference to woman consumers in tariff. In the same month, the Company approached the Finance Department (FD) to claim the subsidy payable on this account. The FD however refused (17 November 2005) to provide any financial assistance and advised the Company to meet the shortfall from its own resources. Despite refusal of FD and HERC, the Company however continues to allow concession to woman consumers during 2005-06 to 2014-15 (up to February 2015) in contravention of the provision of Electricity Act, 2003 and tariff orders. The amount involved in such connections was Rs. 5.57 crore during 2005 to February 2015.

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

Hon'ble Chief Minister Haryana announced in the Vidhan Sabha on 16.05.2005 that in case of property owned by a woman & domestic electric connection being in the name of that woman, a rebate of 10 paise per unit in tariff shall be given. The announcement was conveyed to the Nigam by FC & PS on 17.06.2005. The matter has consistently been taken up with Finance Department, Haryana for releasing the subsidy on account of this rebate but the FD vide letter dated 17.11.2005, 14.12.2015 and 17.07.2018 advised that the short fall shall be met out through efficiency gains by the licensee/power utilities from its own resources and State Govt. will not provide any type of financial

assistance The said rebate stands withdrawn from 01.07.2017 vide S/C no 49/2017.

During the course of oral examination, the Additional Chief Secretary, Power Department assured the Committee that amount involved will be adjusted in near future. Therefore, the Committee recommended that the department take action at its own level for adjustment entry of this amount under intimation to the Committee.

5. 2.6.1.5 Loss due to supply of power to agriculture consumers

The supply to Agriculture Pumpset (AP) consumers is divided into two categories i.e. metered and flat rate (un-metered) consumers. The State Government reimburses the deficit on account of power supply to AP consumers in the form of subsidy. Audit observed the following:

- i) HERC approved supplying of 15,233.50 MUs of power to AP consumers during the years 2011-12 to 2014-15 The subsidy ranged between Rs. 5.04 and Rs. 6.53 per unit. The Company, however, supplied 15,952.82 MUs of power to AP consumers during this period. Resultantly, subsidy of Rs. 425.97 crore due to excess supply of 719.32 MUs of power was not claimable. The Management informed (July 2016) that the subsidy on account of excess supply of power to agriculture consumers is claimable in the true-up petition The reply is not tenable as in its true-up petitions of 2011-14, the Company itself has not claimed the extra subsidy

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

- i) The observation of the audit that the utility did not claim true up of subsidy is not correct. The UHBVN in its MYT filing for control period FY 2014-15 to FY 2016-17 and the ARR for FY 2014-15 filed with the HERC on 20.12.2013 vide memo no. Ch -70/GM/RA/N/F-25A/ol-49 claimed the true up of subsidy for the FY 2011-12 and FY 2012-13 and this fact has also been acknowledged by the HERC in their order for the relevant period. The true up for RE Subsidy was also demanded in the true up petition for FY 2013-14 filed with the HERC vide memo no. Ch-20/GM/RA/N/F-25A/ol.-54 dated 01.12.2014. The true up petitions are filed with the HERC in accordance with the extant regulations and all the heads of income and expenditure are proposed to be trued up

During the oral examination, the ACS, Power stated that the subsidy on account of supply of excess power to Agriculture Pumpset consumers is claimable in true-up petitions. The Committee, therefore, recommended that the amount claimed in true-up petitions and allowed by the HERC during 2011-12 to 2015-2016 be intimated to the Committee.

Haryana Mass Rapid Transport Corporation Limited

6. 3.10 Execution and operation of metro link

HUDA entered into a concession contract assuming 80 per cent of liabilities of concessionaire in the event of termination of the contract and default of the concessionaire without full visibility as to the costing of the project and the extent of its potential liabilities. HUDA and its successor HMRTC failed to enforce the terms of the concession contract which resulted in non-recovery of interest of Rs. 1.57 crore for delayed payment of connectivity charges and charging of excess passenger fares amounting to Rs.11.84 crore by the concessionaire.

The Haryana Mass Rapid Transport Corporation Limited (HMRTC) was incorporated in March 2012 with the objective, inter-alia, of taking over the existing urban mass transport projects owned by State Government agencies alongwith the assets and liabilities related to these projects and operating them. Accordingly in February 2015, the Haryana Urban Development Authority (HUDA) transferred two Public Private Partnership (PPP) projects²³ for development of metro links to HMRTC and the work relating to these projects is being looked after by the Corporation since then. Of the two projects, the metro link from Sikanderpur Station to National Highway (NH)-8 in Gurugram was completed and operationalised in November 2013

Audit test checked the records (May and June 2016) relating to the completed project and the audit findings are enumerated in the succeeding paragraphs.

Entering into Concession Contract

A private company²⁴ proposed (September 2007) to develop and operate a metro link between Sikanderpur and NH-8 Gurugram that would mitigate congestion and pollution which was likely to occur due to increase in traffic on occupation of areas of Gurugram that it had developed. In December 2007, the company submitted a feasibility study which it had got conducted through RITES Ltd. The feasibility study envisaged a metro link of 3.2 kms length at a capital cost of Rs.403 crore which would become financially viable within a time period of 30 years with a financial internal rate of return of 15.1 per cent per annum on equity.

In order to see whether any other party was interested in the project, HUDA invited Expressions of Interest (EoI) twice in December 2008 and February 2009 for development of the metro rail link on Built-Operate-Transfer basis for 99 years. The EoI provided that the bidder could either design and implement the project as per the feasibility study or submit technical proposals for alternative route. The entire cost would be borne by the bidder and the State Government/ HUDA would not provide any financial support in form of equity or

²³ Metro Link from Sikanderpur to NH-8 Gurugram and from Sikanderpur to Sector 56, Gurugram

²⁴ DLF Commercial Developers Limited which was developing Cyber city through which this metro link was proposed

grant or any subsidy during operation and maintenance nor provide exemption from payment of taxes and duties. The EoI also provided for recovery of connectivity charges of Rs.765 crore²⁵ in instalments up to the 35th year of operation and lease rent for the use of HUDA land. The basis of award of work was highest share in the revenue generated out of advertisement and property development by the bidder.

Response to the EoI was received (March 2009) only from one consortia, namely, Rapid Metro Rail Gurgaon Ltd (RMGL²⁶) which proposed an alternative metro route of length of 5.1 kms at an estimated project cost of Rs 900 crore. The bidder quoted sharing one per cent of income from the advertisement and property development which after negotiation was increased to five to 10 per cent²⁷. The concession contract was signed between HUDA and RMGL on 9 December 2009. RMGL informed HUDA (June 2010) that they had arranged loans from banks of Rs 761.60 crore for construction of the metro link and the balance will be funded by the consortia partners.

Audit observed that HUDA had not stipulated in the EoI nor did it subsequently seek at any stage the detailed costing for the alternative metro route length of 5.1 kms though it got the technical aspects of the project verified from the Delhi Metro Rail Corporation (DMRC). After completion of the project, the concessionaire reported the project cost as Rs.1,088 crore. In the absence of any prior estimates of cost or financial viability, the reasonableness of this project cost could not be assessed.

Audit further observed that a clause was inserted in the concession contract which stipulated that HUDA would take over the complete system including project assets alongwith 80 per cent of the liabilities in case of default on the part of the concessionaire to run the project in accordance with the concession contract. This constituted an assurance to lenders of the consortia that HUDA/ HMRTC would bear the major portion of the liabilities in the event of termination of the contract and the failure of RMGL to meet its liabilities. It may be added that RMGL has been continuously incurring losses which had accumulated to Rs 334.54 crore²⁸ as on March 2016. Government stated (December 2016) that as no grant/ equity of HUDA was involved, it was not necessary to get the cost of the project worked out by HUDA. They added that the clause to take over the assets and liabilities of the project in case of default on the part of the concessionaire to run the project was inserted as per model concession agreement (Public Private Partnership in Urban Rail Systems) of Planning Commission, Government of India. The fact remained that it would

²⁵ Rs Five crore on signing of concession agreement and Rs 40 crore per year from the beginning of 17th year till 35th year i.e., for 19 years

²⁶ A consortium of ITNL Enso Rail Systems Limited, IL&FS Transportation Networks Limited and DLF Metro Limited

²⁷ From the beginning to 16th year – five per cent, from 17th to 21st year – six per cent, from 22nd to 26th year – seven per cent, from 27th to 31st year – eight per cent, from 32nd to 36th year – nine per cent and from 37th year till end of concession period – 10 per cent.

²⁸ Loss up to 2011-12 Rs 3.60 crore, for 2012-13 Rs 4.03 crore, for 2013-14 Rs 63.67 crore, for 2014-15 Rs.135.33 crore and for 2015-16 Rs.127.91 crore

have been prudent for HUDA to seek and examine the detailed project cost so as to gain assurance as to the reasonableness of the overall cost as well as its potential liability in the event of termination of the contract due to default on the part of the concessionaire. It would also have provided an objective basis for determining the length of the concession period as also the quantum and recovery period of connectivity charges

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

1. Entering into Concession contract

It is intimated that the project of connecting Sikanderpur Station to NH-8 was the first metro project in PPP Mode throughout the country. For the ibid project, M/s DLF Limited submitted a proposal to the Ministry of Urban Development (MoUD), Government of India for construction of Metro Link from Sikanderpur to Mall of India, Sector - 24, Gurugram.

It is also submitted that as per National Urban Transport Policy published in year 2006

"Public operations have tended to be high cost & most State Transport corporations have run up heavy losses. The Central Government would encourage the State Governments to involve the private Sector, in providing public transport services. Due to following facts participation of private sector is preferred:-

- Very high Capital Cost
- High per unit operating cost if capacity utilization is low
- Inflexible
- Long Gestation period
- Relatively complex technology requiring highly specialized manpower of O&M
- Private sector participation will lead to saving of public financial resources for activities that only public agencies can best perform"

The proposal submitted by DLF was discussed at the level of Secretary, MoUD, Govt, of India in a meeting held- on 07.04.2008, wherein the following decisions were taken:-

- (i) Government of Haryana could either invite Expression of Interest (Eoi) with suitable earnest money and with suitable conditions like no capital grant etc. from the Government, fare at par with Delhi Metro Rail Corporation etc. (conditions similar to the one which will be applicable to DLF Metro) to check if any other private party would be interested other than DLF Metro; or in view of the facts that this is the first such proposal in the country, no other party has expressed any interest or submitted any competing proposal despite this being in news for a long time. The relevance of completing the project before Commonwealth Games 2010 and most importantly no funding required from the Government,

negotiate with DLF Metro, Government of Haryana would firm up its views and convey to MoUD within two weeks' time

- (ii) Providing connectivity on the proposed Metro link from Sikanderpur to Mall of India for future extension to Udyog Vihar and Sector 21, Dwarka on one side and Sector -56, Gurugram on other side might be essential and as such a provisions would be required to be kept for such extension in future. Keeping in view the above details/decisions, it was thought prudent to call for the bids for implementation of the project. As it was an open bid, every developer interested in development of Metro projects was free to bid, hence, no favour has been shown to a particular developer

The cost of the project was to be estimated by the private party as the entire cost of the project was to be borne by private party without any grant/equity/financial support in any manner from Government of Haryana.

Further, GoH had paid Rs. 111 crores as connectivity charges to DMRC for extending Metro line from Delhi to Gurugram (Total length 14.47 KM out of which 7.05 KM falls in Haryana). The Metro projects are high cost projects and have long gestation period. The amount of Rs. 765 crores towards connectivity charges was therefore, decided to be recovered in installments from RMGL for 5.1 KM. The present value (2009) of Rs. 765 crore was calculated to be Rs. 103 crore which was found to be appropriate. The land provided for construction of viaduct, stations and depot was also given on lease hold basis. Hence, efforts were made to safeguard the interest of Government of Haryana. Since, the entire cost of the project was to be borne by private party, it was for the private party to study the cost benefit analysis of the project to see the impacts of these changes on financial viability of the project. The technical details of the project were got vetted from DMRC which is an expert agency in the field of metro construction, operation & maintenance. DMRC found the project in order.

The Metro projects are capital intensive and can be made viable only through Viability Gap Funding in the form of grant in aid and property development rights. Operation and maintenance of Metro cannot be financed only through revenue earnings from passenger fares. The projects are conceived and implemented based on certain assumptions which may go wrong at the time of implementation. Hence, it is necessary that some kind of assurance is available to the concessionaire about its liabilities in case of failure of the project. The Clause of taking over of project and pay 80% of the debt due, as termination payment to the lenders is based on the Model Concession Agreement (Public Private Partnership in Urban Rail Systems) of Planning Commission, Govt, of India. The similar clause has also been incorporated in the agreement executed all over in India in following projects:

- Hyderabad Metro (Awarded in 2008)
- Mumbai Line -I (Awarded in 2006)
- Mumbai Line - II (Final Bids were due in Jan 2009)
- Gurugram Metro.

Concessionaire represented GoH that it is incurring losses in operating Metro and sought relief from GoH, but no relief has been granted so far. While approving the project, MoUD, GoI and GoH had entered into a tripartite MoU with DMRC, which safeguard the interest of GoI and GoH. Clause 5.2 of the tripartite agreement states that "in case the private party fails to provide and/or run the system satisfactorily, then in that case, the DMRCL will take over the system". In case of takeover, HUDA will have the liability of 80% of debt due as termination payment. The concession period of 30 years was allowed in the project of Delhi Airport Express Line (Audit in 2007) wherein the cost of Civil work amounting to Rs. 2500 crore was incurred by DMRC. The party was required to bear the cost of signalling, operation & maintenance cost only. Hence, a period of 30 years was allowed to the private party for Operation & Maintenance only. In the case of other projects listed above, the entire cost of the project was borne by private party with Grant/ equity from government and hence the concession period was 99 years. Even the Model Concession Agreement (Public Private Partnership in Urban Rail Systems) of Planning Commission, Govt. of India also suggest that for such projects the concession period may be 99 years. In Gurugram Metro rail project no concession in form of equity/grant was provided by GoH and a negligible portion of property development was allowed. Therefore, the concession period of 99 years was in line with best business trade practices and Model Concession Agreement

During the oral examination, the Committee noted that the Corporation had erred in calculation of its actual project cost and therefore, recommended that the Corporation should seek and examine the detailed project cost so as to gain assurance for reasonableness of the overall cost and its potential liability in the event of termination of the contract. Hence, the Para be kept pending.

2. Delay in payment of connectivity charges

The concession contract provided that RMGL was to pay a connectivity charge of Rs. five crore to HUDA within 60 days of signing of the contract i.e., by 8 February 2010. The contract stipulated that it was the obligation of the concessionaire to obtain all approvals, clearances and sanctions of appropriate agencies including permission for setting up a metro system under the applicable laws.

RMGL did not deposit the connectivity charges as stipulated in the concession contract and requested for extension of time on the plea that necessary approvals were awaited from the Union Ministry of Urban Development (MoUD). In May 2010, HUDA asked RMGL to obtain the requisite approval from MoUD within 30 days and deposit the connectivity charges within seven days of receipt of approval from MoUD. Subsequently in February 2011, HUDA asked RMGL to remit the connectivity charge of Rs. five crore as construction had commenced on the ground since July 2010 and Rs 105 crore had been spent till 31 December 2010. This was followed by reminders issued in May, June and August 2011. The concessionaire received the approval from

MoUD in December 2011 and deposited the connectivity charges on 19 December 2011. HUDA asked (December 2011) RMGL to pay interest @ 18 per cent compounded annually for delayed payment of connectivity charges from 1 July 2010 to 18 December 2011. This was denied by RMGL on the ground that HUDA had itself agreed to payment of connectivity charges within seven days of sanctioning of the project by MoUD. In August 2012, HUDA informed RMGL that no interest was chargeable on the delayed payment.

Audit observed that there was no consistency in the approach of HUDA in implementing the terms of the concession contract as it initially agreed to link deposit of connectivity charges to receipt of approval of MoUD and thereafter issued repeated notices for immediate deposit of the charge, alongwith interest, since work had actually commenced on the ground. HUDA could not however enforce the demand in light of its initial agreement to deviate from the express terms of the concession contract and allow extension of time. The deviation from the terms of the concession contract resulted in non-recovery of interest of Rs.1 57 crore calculated at the rate of 18 per cent per annum on Rs. five crore for 21 months²⁹ for delayed payment of connectivity charges.

Government stated (December 2016) that such approvals take time and are beyond the control of the concessionaire. The concessionaire had been allowed two cure periods of six months and there was no question of charging interest on the delay period. The reply was not convincing as the concession contract provided for payment of connectivity charges within 60 days upon signing of the contract and it was not linked with approval from MoUD. Further, the work had commenced on the ground and HUDA had itself repeatedly sought payment of the connectivity charges

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

Delay in payment of connectivity charges

Concession agreement for Metro link from Sikanderpur station to NH-8 Gurugram was signed between HUDA (on behalf of GoH) & Rapid MetroRail Gurgaon Limited (RMGL) on 09.12.2009. As per Clause 8.2 (i) of the concession agreement, RMGL was required to deposit the connectivity charges of Rs.5 crore within 60 days of signing of Concession Contract. Before the expiry of the period of above said 60 days, vide letter dated 02.02.2010, RMGL had requested for grant of extension on the plea that necessary approval for the project from Ministry of Urban Development, Govt. of India had not been received. On receipt on the application the matter was examined and the case was put for the approval of State Government. Hon'ble CM, Haryana accorded the approval on 27.02.2010 with the condition that the company would obtain necessary approval from MoUD within 30 days and deposit the connectivity charges within 7 days of receipt of approval from the MoUD.

On April 20, 2010 RMGL had again requested for extension as they were unable to get the above said approval from MoUD. The matter was again

²⁹ March 2010 to November 2011

examined and put up for decision by the Government. Hon'ble CM, Haryana on 04.05.2010, ordered that extension be granted for depositing of Rs. 5 crore and M/s RMGL may be directed to pay the amount within 7 days from the date of sanction of MoUD. RMGL deposited the connectivity charges on 19.12.2011 i.e. within 7 days of getting its project approved by MoUD. HUDA had taken up the matter with RMGL demanding interest @ 18% on 5 crore and on delayed payment. In reply, RMGL vide letter dated 28.12.2011 requested that extension to deposit the connectivity charges within 7 days of obtaining the approval from MoUD was given to it vide letter dated 18.05.2010 and it had deposited the connectivity charges within 7 days of obtaining the approval from MoUD. The submission of RMGL that payment was made in time as per the time allowed by HUDA was found to be reasonable. Therefore, Hon'ble CM, Haryana approved the request of RMGL for non-payment of interest on the connectivity charges. No undue benefit extended to concessionaire as the connectivity charges were payable upon approval of the project by MoUD. The delay in giving approval to RMGL is on the part of MoUD. This aspect was appreciated in the right spirit by the Government and rightly the charging of interest was waived off.

During the oral examination, the Committee noted that due to delay in payment of connectivity charges, the Government has suffered loss and therefore, recommended that the correspondence should be made more prudently in future as there is loss to State revenue.

3. Fixation of fare on higher side

The concession contract stipulated that the passenger fares shall not be more than the Delhi Metro fares for the corresponding zone slab and shall be revised as and when Delhi Metro fares were revised. Further, as per the Delhi Metro Railways (Operation & Maintenance) Act, the concessionaire could fix the initial fare which shall remain applicable till the time a Fare Fixation Committee constituted as per the Act was constituted to revise the fares.

RMGL commenced passenger service on 14 November 2013 and fixed an initial fare of Rs.12 per trip. It revised the fare to Rs. 20 per trip from 1 August 2014 though no fare had been increased by DMRC. In October 2014, HMRTC issued notice to RMGL seeking reasons as to why it had increased the fares in violation of the terms of the concession contract. RMGL contested the notice stating that Rs.12 was a promotional fare since the system was not fully operational and later on full fare of Rs.20 was applied as initial fare when the complete system was made operational. HMRTC obtained legal opinion from the State Advocate General who opined (April 2015) that the fare of Rs.12 fixed by RMGL was a fare fixed on initial opening in terms of Delhi Metro Railways (O&M) Act and it cannot be said to be a promotional fare.

In October 2015, HUDA/ HMRTC informed RMGL that it could not fix fare higher than Delhi metro fare and directed the concessionaire to restore the fare from Rs. 20 to Rs.12 per trip. RMGL was also directed to deposit the amount of excess fare charged by it from 1 August 2014 onwards with HMRTC. However, despite lapse of more than two years since issue of the notices,

RMGL had neither reduced its fare nor deposited the excess fare charged by it with HMRTC. The Corporation had not taken any further action to enforce the terms of the concession contract resulting in undue benefit to concessionaire at the cost of the public. The excess fare collected by RMGL worked out to Rs.11.84 crore³⁰ as on March 2016.

Government stated (December 2016) that MoUD has been requested to constitute Fare Fixation Committee (FFC) and the matter will be resolved as and when the FFC will give its final verdict.

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

Fixation of fare on higher side

RMGL started the commercial operation on 14.11.2013 and fixed an initial fare of Rs. 12/-per trip. The fixed fare was revised to Rs 20/- per trip from 01.08.2014. Clause 6.2 of the concession agreement deals with the policy of fare fixation which reads as under. "Passenger fare shall not be more than the Delhi Metro fares for the corresponding zone slab and shall be revised as and when Delhi Metro fares are revised"

RMGL in contravention of the provision of above mentioned Concession Agreement, revised the fares HMRTC issued notice to the company for violation of terms and conditions of the Concession Contract on 05.10.2015 vide which the concessionaire was directed to take the following actions:

- To restore the fare from Rs. 20/-to 12/- as initial fare of Rs. 12/- in this first place 5 by RMGL can't be said to be of Promotional fare,
- To deposit the amount of excess fare charged by RMGL from 01.08 2014 till date with HUDA as the excess fare was charged in violation of Article 6 of the Concession contract.

As per clause 9.3 of the concessional agreement, Metro Railways (Construction of Works) Act, 1978 and Delhi Metro a Railway (Operation & Maintenance) Act, 2002 and as amended from time to time I shall be applicable for the project. Reply to the above notice was given by RMGL on 30 10.2015. RMGL stated that the fares were fixed in terms of the Metro Railways (Operation & Maintenance) Act, 2002 and in line with the judicial precedent Section 33 of the Metro Railways (Operation & Maintenance) Act, 2002 provides that f Metro Railway Administration has the right to fix the fare on recommendation of Fare Fixation Committee (FFC) and the proviso specifically allows the Metro Railway Administration to fix fares on the initial opening of the metro railway, without the recommendations of the FFC. The matter was discussed in the meeting held on 20.11.2015 under the chairmanship of Chief Secretary to Govt. of Haryana wherein it was decided that: "The MoUD may be requested to constitute the fare fixation committee for the fixation of fare for

³⁰Calculated at differential fare of Rs 8 (i.e. Rs.20 less Rs 12) for 148 06 lakh commuters from August 2014 to March 2016.

Rapid Metro." Thereafter, as approved by Hon'ble Chief Minister, Haryana on 14.04.2016, HMRTC vide letter dated 18.05.2016 requested MoUD to constitute a Fare Fixation Committee for fare of Rapid Metro Rail Gurgaon corridor from Sikanderpur Metro Station to NH-8 under section 34 of the Metro Railway (Operation & Maintenance) Act, 2002. The matter was again taken up with MoUD vide this office letter dated 29.05.2017 and followed by reminder dated 16.06.2017. A meeting was held on 09.07.2017 u/c Sh. M.K. Sinha, Officer on Special Duty (UT) & Ex Officio Joint Secretary, MoUD, wherein it was decided to reconfirm whether GoH wants to go ahead with the constitution of Fare Fixation Committee or will resolve the matter amicably with RMGL.

Board of HMRTC in its 24th BM held on 18.08.2017 resolved that the earlier stand of GoH for setting up of Fare Fixation Committee for fixation of fare of Rapid Metro may be reiterated to the MoUD, Gol. Gol was informed vide letter dated 01.09.2017 and followed by the reminders dated 25.10.2017, 29.12.2017 and 02.04.2018.

Vide letter dated 26.06.2019 MoUD constituted the committee with the following

| | | |
|-------|--|----------|
| (i) | Justice (Retd). Dr. Bharat Bhushan Parsoon, Punjab & Haryana High Court | Chairman |
| (ii) | Shri. K. Sanjay Murthy, Additional Secretary (D), Ministry of Housing and Urban Affairs, Government of India | Member |
| (iii) | Shri Depinder Singh Dhesi, Chief Secretary, Government of Haryana | Member |

A reference was sent vide memo no HMRTC/2019/AO/817 dated 22.07.2019 to MoHUA with request to include the name of Smt. Keshni Anand Arora, IAS, present Chief Secretary, Haryana in the Committee. The required information of Smt. Keshni Anand Arora, IAS, in the prescribed performa duly signed by her was also sent. In compliance of the directions of Hon'ble Punjab and Haryana High Court passed in CWP No.24949 and 24951 of 2019 on 20.09.2019, 04.10.2019 and 15.10.2019, the Operation and Maintenance of metro links developed by RMGL/RMGSL has been taken over on 22.10.2019 (night) by HMRTC and handed over to DMRC for operation and maintenance as licensee of HMRTC.

Dr. Bharat Bhushan Parsoon, Former Judge High Court of Punjab & Haryana resigned on 10.09.2019. The matter was submitted to Hon'ble Chief Minister Haryana for kind consideration and approval of reconstitution of 1st Fare Fixation Committee for deciding the fares of Rapid Metro links developed by RMGL/RMGSL from Sikanderpur to NH-8 and Sikanderpur to Sector-56, Gurugram. The Hon'ble CM Haryana approved the proposal and accordingly a reference was sent to MoHUA vide memo no 1245-1246 dated 19.11.2019 for reconstitution of 1st Fare Fixation Committee.

Ministry of Housing and Urban Affairs (MoHUA), Government of India

vide letter dated 16.12.2019 requested that a panel of three names at the level of Additional Secretary to the Government of India or equivalent to be appointed as government of Haryana nominee member of the Fare Fixation Committee (FFC) for RMGL/RMGSL may be sent to MoHUA for taking further. v necessary action.

Ministry of Housing and Urban Affairs (MoHUA), Government of India was requested vide letter dated 15.01.2020 to reconstitute Fare Fixation Committee with nomination of Chairman & Gol nominee. A reminder was also issued vide letter dated 10 06.2020.

The status of the constitution of Fare Fixation Committee was put up in the 41st Board Meeting of HMRTC held on 24.02.2020 for the information and approval of Board. The Board noted and approved the same.

Matter will be resolved as and when the Fare Fixation Committee will give its final verdict which shall be binding on I RMGL/HMRTC

During the oral examination, the Committee noted that there was no control on RMGL in respect of enforcement of terms of concession contract since beginning. The Committee, therefore, recommended that the Corporation should take care of this aspect in future projects. The Committee also recommended that the Corporation should control on the raising fair. Hence, the Para be kept pending.

Haryana Financial Corporation

3.11.2.1 Recovery through OTS Schemes

7. Two One Time Settlement (OTS) Schemes 2011 namely "Compromise Settlement of Non-Performing Assets"³³ (NPAs) and "Compromise Settlement of Loss Assets"³⁴ (Loss) were introduced with the approval (December 2011) of State Government for settlement of loans of chronic defaulters. The minimum recoverable amount under OTS-NPA was to be ascertained by re-casting the loan account from the date of its becoming doubtful. While recasting, the amount realised from the sale of assets was to be adjusted in the sequence of miscellaneous expenses, principal and interest. The total settlement amount after recasting was to be decided keeping in view the net realisable value of the properties mortgaged. Under OTS-Loss, loan accounts were to be re-cast as in case of OTS- NPA but the settlement amount would be the principal outstanding plus miscellaneous expenditure after recasting

Table 3.4 below indicates the number of cases settled, outstanding amount thereagainst and amount settled and waived off during four years ended 31 March 2016 in the two OTS Schemes.

Table No. 3.4: Details of cases settled, outstanding amount there against and amount settled and waived off

(Rs in crore)

| Year | No. of Cases settled | Principal and misc. expenses outstanding at the time of OTS | Interest outstanding at the time of OTS | Total outstanding at the time of OTS | Amount at which account settled | Amount waived off | Percentage of waiver of total outstanding | Percentage of recovery out of principal outstanding before re-casting |
|--------------|----------------------|---|---|--------------------------------------|---------------------------------|-------------------|---|---|
| (1) | (2) | (3) | (4) | (5)=(3)+(4) | (6) | (7)=(5)-(6) | (8)=(7)/ (5)x 100 | (9)=(6)/ (3)x100 |
| 2012-13 | 136 | 48 50 | 1,346 97 | 1,395 47 | 18 77 | 1,376 70 | 98 66 | 38 70 |
| 2013-14 | 50 | 16.39 | 468.87 | 485.26 | 7 31 | 477.95 | 98 49 | 44 60 |
| 2014-15 | 34 | 7 83 | 340 26 | 348 09 | 6 27 | 341 82 | 98 20 | 80.08 |
| 2015-16 | 9 | 2.92 | 34 18 | 37 10 | 3.76 | 33 34 | 89 86 | 128 77 |
| Total | 229 | 75.64 | 2190.28 | 2,265.92 | 36.11 | 2,229.81 | 98.41 | 47.74 |

Source. Information received from Corporation

The Corporation settled 229 cases during 2012-16 waiving an amount of Rs. 2,229.81 crore. Percentage of amount waived off to total outstanding amount ranged between 89 per cent and 98 per cent of the total outstanding amount. The Corporation could recover only 47.74 per cent of the principal outstanding before re-casting of the loan accounts.

³³ Non-performing assets are those in which principal or interest is overdue for more than three months

³⁴ Loss assets are those borrowers/ loan cases whose accounts are classified as NPA and there are no securities available

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

The information given in the para is the matter of record. The validity of OTS Schemes has been extended from time to time.

Percentage of amount waived of to total outstanding is high because in the waiver amount, total interest as per agreement is included till the date of adjustment whereas, in other Financial Institutions, interest is not debited after taking over the possession of the unit or after the account becomes NPA.

From the table 3.4, it is very much clear that the total outstanding amount (Rs.2265.92 crore) is much more than the principal & misc. outstanding amount (Rs.75.64 crore) so, the amount of waiver as mentioned in the table is due to the interest which is debited till the settlement of loan.

Reduction in recovery percentage of principal is primarily due to appropriation of sale proceeds of unit towards the principal now whereas sale proceeds used to be credited in the interest outstanding in the past. However, total recovery is more than the amount disbursed

3.11.2.2 Recovery through Statutory modes

Sections 29 and 31 of the SFCs Act 1951 empower the Corporation to recover its outstanding dues through sale of assets taken over and through recovery as arrear of land revenue from the original borrower and the guarantor. The details regarding recovery effected during 2012-15 through Sections 29 and 31 are in table 3.5 below.

Recovery Performance under Section 29 and 31 during 2012-15

Table No 3.5: Details of recovery affected through Section 29 and 31

(Rs in crore)

| Recovery Performance under Section 29 and 31 during 2012-15 | 2012-13 | 2013-14 | 2014-15 |
|--|---------|---------|---------|
| Amount recovered under Section 29 cases | 3.16 | 0.31 | 1.49 |
| Amount recovered as arrear of land revenue under Section 31 | 5.02 | 6.15 | 5.02 |
| Total recovery through all modes | 39.36 | 29.29 | 13.08 |
| Percentage of recovery under Section 29 to total recovery | 8 | 1 | 11 |
| Percentage of recovery as arrear of land revenue to total recovery | 13 | 21 | 38 |

Source: Information obtained from Corporation

Out of the total recovery of Rs. 81.73 crore made during 2012-15, the Corporation recovered Rs. 21.16 crore (26 per cent) through sale of primary/collateral security. The Corporation did not take over any asset under Section 29 of the SFCs Act during 2012-16. Assets having assessed value of Rs. 27.20 crore were pending for sale as on March 2016 due primarily to non clearance of statutory charges and court cases.

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

The Corporation had already taken over units under physical possession wherever it was possible.

Assets could not be realized due to court cases or absence of any bidder.

As per section-29, only primary security can be taken over and during the period of audit there may be no such unit falling under this category. However, as on date, four units are under possession of the Corporation under section-29 but the properties could not be disposed of due to court cases

3.11.3 Audit findings

3.11.3.1 Deficiencies in implementation of OTS Schemes

During discussion on Para 3.2 of Audit Report for PSUs-Government of Haryana for the year ended 31 March 2012 - covering implementation of OTS Schemes, COPU had been informed (January 2016) that the Corporation had not forgone any principal amount and the settlement was made at the amount of the principal outstanding or value of security whichever was higher. As per the guidelines of OTS Schemes 2011 also, the Corporation should consider the value of mortgaged security while working out the settlement amount. However, Audit noticed that the Corporation either failed to link the settlement amount with the value of mortgaged security or failed to settle the account in accordance with the guidelines of the Scheme thereby incurring loss of Rs.10.43 crore in 15 cases as summarised in **Appendix 7**.

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

It is accepted that the Corporation has deviated from the Corporation constituted a Committee comprising Addl. Chief Secretary (Industries), Managing Director, HFC & HSIIDC, Director of Industries, Haryana and an Outside Expert for consideration of settlement cases involving deviation from the Policy. The cases as shown in Appendix-7 of CAG Report were properly approved in the above Committee and confirmed by Board of Directors.

Case wise detailed replies of 15 accounts in 8 cases is enclosed herewith. It is pertinent to mention here that these cases were 20-25 years old and no recovery was forthcoming despite the best efforts of the Corporation. The mortgaged property in the above cases could not be disposed off due to defective land title, unidentified/unpartitioned agricultural land, Court cases etc.

The Corporation has been amending its policy regarding acceptance of mortgaged properties in view of deficiencies in the past. As a consequence, NPA was reduced to 0.3% as on 31.03.2017 (in the loans disbursed from 01.04.2003 onwards).

Further, the above steps for settlement of loans were taken in the best commercial interest of the Corporation to effect maximum recovery as the Corporation is suffering from liquidity crunch and is in the process of winding up.

3.11.4 Non-Issuance of Recovery Certificates

Section 32G of SFCs Act, 1951, entitles the Corporation to seek attachment of the property of the borrower/ guarantor or recovery of dues as arrear of land revenue. During 2012-15, the Corporation recovered Rs.16.19

crore by issue of Recovery Certificates (RCs) through District administration. At the end of 2015-16, 26 RCs involving recovery of Rs.32.33 crore issued during 1991 to 2004 were pending for execution.

Audit noticed that the Corporation had written off Rs.1,598.47 crore³⁵ in 148 cases out of 343 cases test checked in audit. However, the Corporation did not exercise the option of resorting to Section 32G of the SFCs Act in 47 cases involving Rs.686.99 crore³⁶ for which reasons were not found on record.

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

In most of the cases Recovery Certificates are returned due to non-availability of borrower/guarantor or non-availability of property in their name. Accordingly, Recovery Certificates could not be executed. RCs are regularly been followed up by the Corporation through Branch Offices

The observation of audit is correct that Corporation has written off handsome amount in number of cases but right to recover the Corporation's dues have been retained by the Corporation. Action under section 32 (G) regarding issuance of Recovery Certificates have already been taken in such cases which are being followed up regularly.

3.11.5 Write off of dues

During 2014-15, the Corporation' had written off principal and miscellaneous expenses of Rs.38.29 crore and interest of Rs.1,989.42 crore against the disbursed amount of Rs.48.81 crore in 246 cases. The Corporation could recover only Rs.11.85 crore towards principal (24 per cent) up to the date of writing off the amount in these 246 cases.

Audit test checked 148 of the 246 cases as tabulated in table 3.6 below:

Table 3.6: Details of Written off 148 test checked cases

(Rs. in crore)

| Nature of case | Number of cases | Amount disbursed | Recovery of Principal and Miscellaneous Expenses up to date of write off | Written off Principal and Miscellaneous | Written off Interest |
|--|-----------------|------------------|--|---|----------------------|
| Court cases | 21 | 7.64 | 2.17 | 6.19 | 423.91 |
| Defective security | 60 | 11.66 | 1.58 | 10.96 | 391.86 |
| Security fraudulently sold by the borrower | 29 | 2.67 | 0.47 | 2.27 | 167.14 |
| Non availability of security | 31 | 10.69 | 2.17 | 8.88 | 453.19 |
| Under Liquidation | 7 | 2.77 | 0.88 | 2.10 | 131.99 |
| Total | 148 | 35.43 | 7.27 | 30.40 | 1,568.09 |

Audit observed that the main reasons for non-recovery of dues was security with defective title (60 cases), non-availability of security (31 cases),

³⁵ Principal and miscellaneous expenses Rs 30.40 crore and interest Rs 1,568.07 crore.

³⁶ Principal and miscellaneous expenses Rs 10.51 crore and interest Rs 676.48 crore.

security fraudulently sold by borrowers (29 cases) and other reasons i.e., unit under liquidation or court cases (28 cases). It was evident that the controls exercised by the Corporation in sanctioning loan and safeguarding the security was deficient which resulted in loss of principal of Rs.30.40 crore to the Corporation.

Conclusion

The Corporation suffered loss of Rs.10.43 crore in 15 accounts due to violation of the guidelines of One Time Settlement Schemes. The Corporation could not recover outstanding dues of Rs.38.29 crore due to non-availability of security, defective title of the security and had to write off this amount.

The matter was referred to the Government in April 2016; their replies are awaited (October 2016).

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

The Corporation has further recovered a sum of Rs.3.47 crore from 2016-17 to 2018-19 from written off portfolio.

Learning from experience, the Corporation had been taking effective steps to improve the quality of its sanctions by adopting some remedial measures. Some of such actions taken by the Corporation are as under:-

1. The Corporation took decision to stop accepting unpartitioned properties on 19.02.1997.
2. The Corporation stopped accepting titles based on Power of Attorney.
3. Decision to check original documents from O/o Sub-Registrar/MC through Law Officer of concerned Branch Office was also taken on 29.07.2003.
4. The Corporation had decided to finance unit set up in the approved Industrial Areas only.

The cases settled under these schemes were those where all other possible recovery actions such as issue of threat letter, recall of loan, taking over possession of unit, trying to put the unit on sale were taken.

Learning from past experience, Corporation had been amending its policy for acceptance of properties mortgaged to the Corporation.

The Committee of Public Undertaking (COPU) in its meeting held on 07.12.1998 had suggested that the Corporation should recast its settlement policy in order to make it more investor friendly so that difficult cases are sorted out. The Committee suggested that the settlement policy should be liberal enough to recover what is practically recoverable without linking up with a value of the primary or collateral security so that such old cases are disposed of keeping in view the interest of the Corporation as well as the loanee.

The Committee observed the following facts:-

- a) **As of 31st March,2019, out of total 889 cases involving total outstanding amount of Rs. 11,210.07 crore, 864 cases (97.19%) involving interest amount of Rs. 11,203.07 crore (99.94%) is outstanding for recovery.**
- b) **During the years 2011-12 to 2018-19, 727 loan cases were settled out of which in 342 cases, the accounts were overhauled and principal amount of Rs. 53 crore was waived off as per OTS scheme.**
- c) **During the last three years from 2016-17 to date, the Haryana Financial Corporation could recover a total amount of Rs. 9.54 crore whereas an amount of Rs. 21.92 Crore was incurred on salaries and establishment expenditure during these three years.**
- d) **Out of 18 property attachment cases during 2010-20, in 16 cases, no property could be disposed off during this period and in two cases, property was released as the party deposited the outstanding amount.**
- e) **During 1990-91 to 2017-18, Haryana Financial Corporation issued 201 RCs for recovery amount of Rs. 960.57 crore which increased to Rs- 5681.21 Crore as on 13th July, 2019 no recovery could be effected.**
- f) **567 Court cases by or against Haryana Financial Corporation for recovery of dues are still pending.**

The Committee, therefore, recommended that the efforts to be made to recover outstanding amounts from the loanees by pursuing the RCs and court cases expeditiously. The properties in hand may be disposed off at the earliest. and efforts be made to keep the expenditure on salary and establishment at minimum level.

Haryana Agro Industries Corporation Limited

3.13 Disallowance of carryover charges

8. Failure to comply with instructions of supply of wheat directly to Food Corporation of India resulted in the Company having to bear carryover charges of Rs. 2.29 crore.

The Company procures wheat from mandis for the central pool on behalf of Food Corporation of India (FCI). Government of India (GoI) fixes the Minimum Support Price (MSP), statutory charges and other incidental charges of wheat. On the basis of these rates, the Company claims reimbursement of cost of food grains and other charges from FCI upon delivery of the wheat.

GoI, while conveying (8 May 2013) the provisional rates of incidentals of wheat procured during Rabi Marketing Season 2013-14, stated that delivery of wheat shall be made immediately after its procurement unless FCI is unable to accept it. The carryover charges (comprising storage charges and interest on funds incurred by the Company) beyond 30 June 2013 were payable only if FCI refused to accept the wheat.

Audit observed (December 2014) that FCI directed Farmer Service Centre⁴⁹ (FSC) Karnal, of the Company to directly deliver 33,841 MT of wheat to their godowns by 30 June 2013. The Company could deliver only 18,518.50 MT wheat by 30 June 2013 leaving a short fall of 15,322.50 MT which was delivered between 28 November 2013 and 17 October 2014. Consequently, carryover charges of Rs. 2.41 crore⁵⁰ were deducted and had to be borne by the Company

The Company stated (September 2016) that balance quantity of wheat could not be delivered in time due to transportation problems and it would have had to incur extra transportation charges for about 35-40 kms for delivering the wheat. The reply of the Company is not convincing as had the Company carried out cost benefit analysis and delivered the balance quantity of wheat at allocated locations even after incurring extra expenditure of Rs.11.85 lakh⁵¹ on transportation cost for extra 35-40 kms, the denial of Rs.2.29 crore (Rs.2.41 crore - Rs.0.12 crore) on account of carryover charges could have been avoided.

The matter was referred to the Government (May 2016); their reply was awaited (October 2016).

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

The District Manager, HAIC, Kamal had made a request to Area Manager FCI, Karnal on 16.04.2013 (Annexure-1 copy attached) for providing

⁴⁹ Field office of the Company

⁵⁰ Though the short delivery of wheat was 15,322.50 MT, FCI deducted carryover charges of Rs 2.41 crore for 15,052 MT only.

⁵¹ Calculated for alternate route of extra 35-40 kms for delayed quantity of 15,052 MT of wheat at approved transport rates for all State procuring agencies.

of linkage plan for direct delivery of wheat from Mandis. The FCI did not provide any linkage plan in the month of April, 2013 and May, 2013. In the absence of any linkage plan, the District Manager, HAIC Karnal was left with no other option but to shift the wheat stocks of RMS 2013-14 from Mandis to the storage points available with HAIC.

The FCI had supplied the linkage plan on 04.06.2013, 07.06.2013 and 12.06.2013 (Annexure -2,3,4) after shifting of the wheat stocks from Mandi to HAIC Storage Points. The quantity allocated for direct delivery from the storage points of HAIC vide letters referred to above is not covered under the definition of direct delivery. The direct delivery to FCI mean lifting of wheat procured by the State Agencies from the Mandi concerned and not from the godowns/storage points of the State Agencies. The State Agencies have incurred transportation expenditure from the Mandi to Storage Point and the Agencies will have to incur additional expenditure of transportation in case the delivery of the wheat stocks from the storage points are treated as direct delivery. The complete details of allocation issued by the FCI in the month of June, 2013 is given below:-

| Sr No. | Date of linkage plan | Name of Mandi | Name of Godown/Plinth of HAIC | Quantity allocated for direct delivery (in WIT) | Name of Receiving Centre of FCI | Quantity delivered by HAIC (in WIT) |
|--------|----------------------------|---------------|----------------------------------|---|---------------------------------|-------------------------------------|
| 1 | 04.06.2013 | Jundla | Bhatla Plinth, Jundla, | 6000.00 | FCI Cap Hemda | 6000.00 |
| 2 | 04.06.2013 | Jundla | Bhatla Plinth, Jundla | 1000.00 | Mulkhraj godown | 1000.00 |
| | Total(A) | | | 7000.00 | | 7000.00 |
| 1 | 07.06.2013 | Jundla | Agro Jundla Bhatla Plinth | 4467.00 | PEG Mulkhraj | 4514.10 |
| 2 | 07.06.2013 | Jundla | Agro Indri Pakka Plinth | 2779.00 | PEG Pakhana | 442.40 |
| 3 | 07.06.2013 | Nilokheri | Agro Nilokheri Pakka Plinth | 1845.00 | PEG Pakhana | - |
| 4 | 07.06.2013 | | Agro Bajda Sharwan Plinth, Kamal | 1843.00 | B G Panipat | 928.50 |
| 5 | 07.06.2013 | | Agro Bajda Sharwan Plinth, Kamal | 6440.00 | Cap Panipat | |
| 6 | 07.06.2013 | | Agro Bajda Sharwan Plinth, Kamal | 2447.00 | FCI Cap Gharaunda | 2447.00 |
| | Total(B) | | | 19821.00 | | 8332.00 |
| 1 | 12.06.2013 | | Agro Bajda Sharwan Plinth, Kamal | 7020.00 | FCI Cap Gharaunda | 3186.50 |
| | Total^o | | | 7020.00 | | 3186.50 |
| | Grand Total (A,B,C) | | | 33841.00 | | 18518.50 |

From the above, it is clear that the District Manager, HAIC had made all efforts to deliver the quantity of 18518.50 MT against the allocation of 33841 MT wheat in the month of June, 2013. It is to be noted that the linkage plan was

required to be supplied in the month of April and May, 2013 for direct delivery. The District Manager, HAIC Karnal had informed Area Manager, FCI, Karnal vide letter dated 24.06.2013 in regard to unloading problem in the FCI godown at Gharaunda but the Area Manager of FCI did not make adequate arrangements and this resulted in less delivery in the said godown.

The District Manager, HAIC Karnal had made a request to the Area Manager, FCI Karnal vide letter dated 25.06.2013 (Annexure-6) for change of linkage due to damaged condition of the Road from Taraori to PEG godowns Pakhana due to work of sewerage line and construction of flyover on the Railway Line at Nilokheri but the FCI did not provide any other linkage plan.

From the letter of allocation of FCI and position explained above, it is clear that FCI had demanded the delivery from the storage point. Moreover, the wheat stocks were not lying in the mandi yard in June 2013. The FCI has deducted the amount arbitrarily. A copy of the letter dated 18.02.2015 issued by the Dy. General Manager (R), FCI Panchkula is attached for ready reference wherein it reiterated the instructions in regard to direct delivery.

During the oral examination, the Committee recommended that the Corporation should prepare a database regarding pendency of payment with FCI so that all pending amount get cleared from FCI. Further, the Corporation and FCI should resolve such issue by conducting joint meetings.

Haryana State Electronics Development Corporation Limited, Haryana Agro Industries Corporation Limited, Haryana Land Reclamation Development Corporation Limited and Haryana State Industrial and Infrastructure Development Corporation Limited

3.14 Excess payment of Employees' contribution

9. The Companies incurred an extra expenditure of Rs.1.29 Crore due to contribution to Employees' Provident Fund, in excess of the limits prescribed under the Employees' Provident Funds Scheme, 1952.

The Employees' Provident Funds (EPF) Scheme, 1952 provides that the contribution payable by an employer shall be 12 per cent of the basic wages, dearness allowance and retaining allowance payable to each employee. Para 26 (A) (2) of the Scheme provided that where the monthly pay of an employee exceeds Rs.6,500⁵², the contribution payable by the employer shall be limited to the amounts payable on a monthly pay of Rs. 6,500 Para 29(2) of the Scheme further provides that in respect of any employee to whom the Scheme applies, the contribution payable by him may, if he so desires, be an amount exceeding 12 per cent of his basic wages, dearness allowance and retaining allowance subject to the condition that employer shall not be under obligation to pay contribution over and above his contribution payable under the Scheme.

The issue of excess payment of employers' contribution by two Companies⁵³ was earlier reported in the Audit Reports (Commercial) for the years 2002-03 and 2003-04 which was discussed by the Committee on Public Undertakings (COPU) in December 2006. COPU decided that the Haryana Bureau of Public Enterprises will formulate a uniform policy to be followed by all public sector enterprises. Subsequently, the State Government decided (May 2014) that where the actual monthly salary of the employees covered under EPF Act/ Scheme is more than the prescribed limit of Rs.6,500, the State PSU should contribute as employers' share an amount equal to contribution made by the employee to EPF subject to minimum of Rs.780 per month (i.e.12 per cent of Rs.6,500) and maximum of 10 per cent of the actual monthly salary (Basic Pay plus Grade Pay plus Dearness Allowance) of the employee.

Audit observed (May 2015, February, March and June 2016) that during June 2014 to March 2016, these companies continued to contribute their share @ 12 per cent despite specific instructions issued by State Government (May 2014) to limit the maximum contribution to 10 per cent of actual monthly salary. The Companies did not apprise their Board of Directors of the deviation from Government instructions. Thus, the Companies incurred an extra expenditure of Rs.1.29 crore⁵⁴ due to excess contribution towards employer's share.

⁵² Increased to Rs 15,000 w.e.f. September 2014.

⁵³ Haryana State Electronics Development Corporation Limited (HARTRON) and Haryana State Industrial and Infrastructure Development Corporation Limited (HSIIDC).

⁵⁴ Haryana State Electronics Development Corporation Limited (HARTRON) and Haryana State Industrial and Infrastructure Development Corporation Limited (HSIIDC).

In respect of HSIIDC, Government stated (July 2016) that it was contributing employer's share at the rate of 12 per cent as per decision taken by its BoDs in the meeting held on 19 January 2004 and Employees' Provident Funds Act, 1952. The reply is not tenable as BoDs had decided in the said meeting to maintain status quo till a decision is taken by the State Bureau of Public Enterprises/ State Government. Since the matter had since been decided by the State Government in May 2014, the Company should have changed the percentage of contribution.

In respect of HARTRON, Government stated (August 2016) that it was bifurcated (1982) from HSIIDC and it adopted (December 1982) rules and regulations prevailing in HSIIDC at that time. Reply was not convincing as it should have followed the directions issued in May 2014 which were applicable to all public sector enterprises.

Replies of Government in respect of the remaining enterprises were awaited (October 2016).

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

It is intimated that the Corporation (HARTRON) was bifurcated from the Electronics wing of the Haryana State Industrial Development Corporation Limited (HSIDC) and some employees who were working in the HSIDC were also transferred to the newly incorporated Corporation i.e. HARTRON and all the Rules and Regulations which were prevailing in the HSIDC were adopted in the case of employees of HARTRON including the deduction of EPF contribution. In HSIDC, Employer's Contribution @ 12% of salary (Basic Pay +GP +DA) was being deposited without any ceiling and similar treatment was given to the employees of HARTRON. Further, this practice is continuing even prior to the inception of the Corporation and no objection/query has been raised by the Regional Provident Fund Authorities at any point of time, as it is discretion of the employer.

Earlier also, similar observations were raised by the A.G. Audit in the previous years and a meeting was held under the Chairmanship of F.C. Finance cum Chairman HBPE, Haryana, Commissioner, Cooperation, Commissioner, Industries, Member Secretary, HBPE, MD/HSIIDC, Commissioner, Finance and L.R. Haryana to consider the issue regarding the rate of contribution towards CPF in the State Public Enterprises.

In the said meeting opinion of the L.R. Haryana was considered, wherein it was mentioned that:

"In case of those employees whose salary has already exceeded Rs. 6500/- per month and Employer's contribution is made on the actual salary drawn by such employees, it is legally not feasible at this stage, to restrict Employer's, contribution on a maximum -salary of Rs. 6500/- per month. However, there is no illegality in making any such provision in case of future employment." However, after due deliberation the Committee had recommended as under:-

1. Status quo may continue in respect of the existing employees of State Public Enterprises.
2. As regards the future employees, the State Government in the Finance Department/HBPE would further examine the issue/ scheme introduced/being introduced by the Govt. of India from 1.1.2004 on CPF/ Pension.

Haryana Bureau of Public Enterprises (HBPE) in the letter dated 19.5.2014 has considered and decided as under.-

"In case of employees covered under the EPF Act/ Scheme whose actual salary is upto the prescribed limit (i.e. Rs.6500/- at present), the State Public Enterprises should contribute to EPF as employer's share at the specified rate (i.e. 12% at present) of the actual salary (Basic Pay + GP + DA). In case of other employees, the State Public Enterprises should contribute to EPF as employer's share an amount equal to the contribution made by the employee to EPF subject to minimum of Rs.780/- (i.e. 12 percent of Rs.6500/-) per month and maximum of 10% of the actual salary (Basic Pay +GP+DA) of the employee.

As per Para 29 of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, the contributions payable by the employer under the Scheme shall be at the rate of 10 percent of the basic wages, dearness allowance (including the cash value of any food concessions) and retaining allowance (if any) payable to each employee to whom the scheme applies:

Provided that the above rate of contribution shall be (twelve per cent) in respect of any establishment or class of establishments which the Central Government may specify in the Official Gazette from time to time under the first proviso to sub-section (1) of section 6 of the Act.

Employees Provident Fund (EPF) Scheme, 1952 is applicable to the employees of State Public Enterprises i.e. Boards, Corporations, Companies and Cooperative Institutions who have been appointed prior to 1.1.2006. As per para 26 of the Scheme, every employee other than an excluded employee as defined under the Scheme, is required to become a member of the EPF. As per para 26 (6) of the Scheme, excluded employees on the joint request of the employer and such employees, may be allowed to become member of the EPF and may also be allowed to contribute on more than the prescribed salary limit and they would be entitled to the benefits subject to the conditions of the Fund.

However, the Corporation is implementing this decision in respect of the employees appointed after 1.1.2006 by depositing Employer's Contribution @ 12% on the maximum limit of Rs. 15,000/- in case of employees appointed on contract basis (no regular recruitment has been made after 1.1.2006). Moreover, most of the Boards/Corporations in the State are adopting such practice. In addition, the employees of the Boards/ Corporations are not entitled to any pension or medical facilities after the retirement and this is only benefits which they are drawing.

It is submitted that the matter was placed before the Board in its 151st Board Meeting and Board after consideration of the matter has decided as under:-

"151.13: Consideration of Excess payment at 12% towards Employer's Contribution Fund.

The Board of Directors decided that HARTRON may continue in line with HSIIDC on the same pattern till any decision is taken in this regard."

It is further submitted that the matter was again placed before the Board in its 157th Board Meeting and Board after consideration of the matter has decided as under:-

157.8 Taking up any other item with the permission of the Board,

a) Excess payment of Employer's contribution.

The Board was apprised about the details in the matter and the decision taken by Board in various meetings.

The Board deliberated on the issue and resolved the following: -

"RESOLVED THAT the Board of Directors hereby approve the EPF contribution @ 10% w.e.f. 1.4.2019 with respect to regular employees.

FURTHER RESOLVED THAT Sh Jagan Nath, AGM (P&A) & (F&A) be and is hereby authorised to do all such acts, deeds and things as may be necessary to give effect to this Resolution."

The Corporation has already implemented the decision of the Board and start deducting EPF contribution @ 10% w.e.f. 1.4.2019.

With reference to the observation of the audit, it is stated that in the first place, the contribution made by the Company over and above the prescribed salary ceiling are not in contravention of the provisions of the Employees Provident Funds Scheme, 1952, as there is no bar on providing contributions over and above the prescribed salary ceilings. In fact, all labour legislation including the present one always envisage more and more attractive terms for the employees. The provisions of these Acts are bare minimum and the employer can not go below that. Any employer paying contributions more than the minimum is considered to be a model employer and the State expects every employer to reach that objective. The contents of the audit para are also not correct that the employer contribution is restricted to the limit prescribed in the Employees Provident Fund Act, 1952. The employers are contributing on actual wages as it is evident from the decision of the Hon'ble Supreme Court of India in SLP Nos. 33032-33033 of 2015.

The State Govt.(in May, 2014) had also decided that the maximum contribution will be @ of 10% of the actual monthly salary (Basic pay plus Grade Pay Plus Dearness allowance). The rate of contribution in the EPF Act is 12% of the wages of the employee. However, in the case of HAIC, the Board of

Directors of Haryana Agro Industries Corporation Limited (HAIC) in its meeting held on 22.03.1993 had already approved the removal of restriction for the contribution of employer's share towards provident fund and authorized the Managing Director to contribute the employer's share per month over and above the ceiling of EPF Act, 1952. The Board of Directors of the Company is the Supreme Authority under the Provisions of the Companies Act. Moreover, Regional Provident Fund Commissioner, Chandigarh, vide letter No. PN-2856/EB-11/1898 dated 10.06.1993, had also accorded the approval to contribute employer's share on the actual salary of the employee. Therefore, it is clear that the employer can limit his share to the cap to Rs. 6500/- or Rs. 15,000/- as the case may be or contribute according to the higher actual salary and there is no bar to contribute over and above the minimum ceiling prescribed in the Act.

Contribution by the employer to the Provident Funds are in lieu of pensionary benefits. In case of the Govt. employees, where pension is available, it is computed on the last pay drawn irrespective of any ceiling. The Company which is a Haryana Govt. Undertaking obviously cannot deprive its employees, contributions to the Provident Fund on the last pay. Moreover the contributions have a direct bearing on the Profit and Loss Account of the Company" and any amount not paid as contribution is liable to taxation to the extent of 35% approximately. In this way, the figure of extra expenditure of Rs. 15.45 lakh would automatically be reduced to Rs. 9.98 lakh. The amount of benefits is considered very negligible, keeping in view the output received as a result of satisfaction of the employee of their future security. Further, the other Corporation and Boards and other Companies are also contributing employer's share on total salary of the employees and there is no violation of the Act. Moreover, the HAIC as well as other State Govt undertakings are meeting their expenses from their own resources and the State Government is not contributing towards their expenditures and the payment of expenditure towards excess contribution is duly approved by the Board of Directors, which is the Supreme Authority under the provisions of the Companies Act.

In this contest it is submitted that HLRDC has already furnished the reply of the said audit para vide their Letter No. 2178-79 dated 12.08.2016 to the Principal Accountant General (Audit) Haryana, Chandigarh.

The point wise reply of the tentative audit para in the report of the Comptroller and Auditor General of India on Public Sector Undertakings (Social, General and Economic Sectors) for the year ended 31 March 2016 is as under:-

- A. As per Govt. instruction issued vide Letter No. 30.03.2009/Accounts/HBPE (FD) dated 19.05.2014., HLRDC is following the guidelines of the Govt. instruction issued vide above referred letter. Further it is also to be made clear that no appointment after 31.12.2005 was made in the corporation.
- B. HLRDC is contributing EPF employer shares strictly in accordance with covered under EPF Act scheme before 01.01.2006 and those

employees who joined after 01.01.2006, in that case employer share's subject to the maximum limit Rs. 6500/- (now Rs. 15000/- w.e.f. 01.09.2014) at present P.M (now it is Rs. 1800/- w.e.f. 01.09.2014) and maximum 12% of actual salary (Basic + GP + DA) of the employees

- C The Committee on Public Undertaking had decided in Dec.,2006 to form a uniform policy by Haryana Bureau of Public Enterprises, but so far no any concretes decision form Bureau of Public Enterprises have been received
- D. HLRDC is following the decision of Govt. (May,2014) for deduction the EPF for the employees joined New Pension Scheme after 01.01.2006 and deducting the EPF as per instruction contained in point no. 4 of said letter.
- E. As above, the limit increased from Rs. 6500 to 15000/- is also followed by HLRDC.
- F In the meeting held on 14.01.2004, HBPE at point no. 11 decision taken by the committee, HLRDC deducted the CPF @ 12 % on actual salary being drawn by old employees and in case of employee joined after 01.01.2006 the maximum salary limit Rs. 6500/- now which has been increased Rs. 15000/- P M is followed by the corporation.
- G. Board of the Director of the corporation has already delegated power to the Managing Director to take any further decision in such matter in accordance with Govt rules read with EPF Act as corporation is registered under the companies Act and is bound to make compliance of employee Provident Fund and Miscellaneous Act Hence no approval of BOD was sought being compliance statutory requirements.

Thus the corporation has not incurred any extra expenditure of Rs. 15.31 Lac, rather made strict compliance of Govt. instructions issued in this regard read with provision of PF, Act.

On this connection, it is submitted that the employees of the Corporation, who joined on or after 01.01.2006, are the members of NPS and employees, who joined prior to 01.01.2006, are the members of CPF. At present PF contribution is being deducted @ 12% of the pay (BP+GP+DA) as employees share, and equal contribution is being deposited, by the Corporation as employer's share without any cap; The similar observations were raised by the AG Audit in the previous years also and accordingly, a meeting, particularly on the said issue was held under the Chairmanship of Financial Commissioner and Secretary to Government of Haryana on 14.01.2004, Finance Department-cum-Chairman HBPE Haryana, to consider the issue regarding the rate of contribution towards CPF in the State Public Enterprises. Following were, also present in the meeting -

| | |
|--------------------------|---|
| Shri P.K.Chaudhary, IAS | The then Commissioner & Secretary to Govt. of Haryana, Cooperation Department. |
| Shri S.C. Chaudhary, IAS | The then Commissioner & Secretary to Govt of Haryana, Industries Department. |
| Shri Sanjay Kothari, IAS | The then member Secretary, HBPE. |
| Dr. Harbhash Singh, IAS | The then MD/HSI IDC. |
| Mrs. Anuradha Gupta, IAS | The then Commissioner & Secretary to Govt of Haryana, Special Secretary, Finance Department |
| Shri. R S Madan | The then L.R. Haryana. |

In the said meeting opinion of the L.R. Haryana was considered, wherein it was mentioned that " In case of those employees whose salary has already exceeded Rs. 6500/- per month and Employer's contribution is made on the actual salary drawn by such employees, it is legally not feasible at this stage, to restrict Employer's contribution on a maximum salary of Rs. 6500/- per month. However, there is no illegality in making such provision in case of future employment"

After due deliberation the committee had recommended as under:-

1. Status quo may continue in respect of the existing employees of State Public Enterprises.
2. As regards the future employees, the State Govt in the Finance Department/HBPE would further examine the issue/scheme introduced/being introduced by the Govt. of India from 01.01.2004 on CPF/pension.

The matter was placed before the BOD in its 274th meeting held on 19.01.2004 and the Board resolved that meanwhile status quo be maintained till a decision is taken by HBPE/State Government in the matter.

The State Government/Finance Department vide letter dated 19.05.2014 has considered the issue and decided as under:-

In case of employees covered under the EPF Act/ Scheme whose actual salary is up to the prescribed limit (i.e. Rs. 6500/- at present), the State Public Enterprises should contribute to EPF as employer's share at the specified rate, (i.e. 12% at present) of the actual salary (Basic Pay+GP+DA) In case of other employees, the State Public Enterprises should contribute to EPF as employer's share an amount equal to the contribution made by the employee to EPF subject to minimum of Rs. 780/- (i.e. 12 percent of Rs 65,00) per month and maximum of 10% of the actual salary (Basic Pay+GP+DA) of the employee.

The letter dated 19.05.2014 has not been received in this office and the Corporation was not-aware: about this. In this regard, it is pointed out that as; per section 6 of EPF and MP Act 1952, the contribution: which shall be paid by the employer to the fund shall be 12% of the Basic wages, However, it is further pointed out that an clarification on the State Government letter dated 19.05.2014 was sought-by the Chief Administrator Housing, Board-Haryana from EPF organization (Ministry of Labour & Employment Government of India) Karnal and as per the advice rendered by them, an equal contribution @ of 12% is to be .deposited by the employer However, a. clarification on this issue is also being sought from Regional Provident Fund Commissioner, Chandigarh and accordingly, the matter will processed and placed before the BOD for appropriate decision.

The Corporation presently is depositing employer's share @ 12% with the EPF Authorities of the eligible employee's of the Corporation as per earlier decision taken in the meeting held on 19.01.2004 and Provident Fund Act, 1952.

During the oral examination, the Committee recommended that the Corporation shall take up the matter with Finance Department and Haryana Bureau of Public Enterprises for implementation of Provident Fund rules uniformly in all PSUs and shall inform the Committee accordingly.

REPORT

REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA ON PUBLIC SECTOR UNDERTAKINGS (SOCIAL, GENERAL AND ECONOMICS SECTORS) FOR THE YEAR ENDED 31st MARCH, 2017).

(Review)

2 Performance Audit relating to Government Companies

Haryana State Industrial and Infrastructure Development Corporation Limited

Acquisition of land, Development of Industrial Estates and their management.

10 2.6.(i) *Non- utilization of land after its acquisition*

The lack of planning and unresolved issues in development of land resulted in non-utilization of 7542.76 acres land valuing Rs 4,488.86 crore acquired during January 2006 to April 2013 as detailed below:

| Sr. No. | Purpose of acquisition of | Area (acres) | Value in crore) | Remarks/ Reasons for non- utilization |
|---------|---|--------------|-----------------|--|
| 1 | Development of Phase-V in Industrial Model Township Manesar | 668 | 368 55 | The Company acquired (March 2006) land under section (u/s) 17 (emergency clause) of the LA Act. However, the land was not in contiguity and remaining 216 17 acres land required for Integrated development was acquired in January 2017 Thus, the purpose of acquiring land under emergency clause was not achieved |

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

1. The State of Haryana informed the N.C.R. Planning Board that developed industrial plots were available in the N.C.R. to accommodate some of the shifting units from Delhi. However, additional land would have to be; acquired and developed for accommodating other categories of Industrial Units and Entrepreneurs shifting out of Delhi State, in view of the order of the Hon'ble Supreme Court. Moreover, there has been an ever expanding demand for Industrial infrastructure in Gurgaon District due to its locational advantage.
2. That keeping the above situation in view, the Department of Industries of the State Government issued Notification dated 17.9.2004 and 27.10.2004, under Sections 4 and 6 read with clause (C) of Sub Section 2 of Section 17 of the Land Acquisition Act, with respect to and measuring 956 acres 6 kanals 18 marlas, for public purpose namely of setting up of Chaudhary Devi Lal Industrial Model Township, Phase-V, Manesar, to be planned and developed as an integrated complex for industrial, institutional,

commercial, recreational and other public utilities in village Nawada Fatehpur, Naurangpur, Manesar, Lakhnoula, Naharpur Kasan and Sikohpur, Tehsil and District Gurgaon.

3. That as a subsequent development the Hon'ble Supreme Court was pleased to extend the period for shifting of the un-authorized industrial units from Delhi and the emergent situation for entrepreneurs existing in the N.C.T. Delhi, did not remain so pressing. Keeping these developments in view the State Govt. also delayed the announcement of award. The Land Acquisition Collector, Gurgaon announced the Award of the subject land on 9.3.2006 and took over the possession of the land vide rapat No. 654, dated 9.3.2006, thus completing the acquisition proceedings. A large number of land owners accepted the compensation and some made reference under Section 18 and 30 of the Act.
4. That aggrieved by acquisition of their land a number of land owners approached Punjab and Haryana High Court by filing C.W.Ps for release of their land from acquisition. A bunch of 84 connected writ petitions were disposed of by the Hon'ble High Court vide order dated 16.4.2009. The Hon'ble High Court while disposing of the said bunch of writ petitions, divided the entire bunch of writ petitions into 5 categories i.e from (a) to (e) as under:-
 - (a) Writ petitions which were filed after the award (19) - Dismissed;
 - (b) Writ petitions filed by the petitioners after receiving compensation (12 Dismissed);
 - (c) Writ petitions filed by the petitioners where land had been released (7) - Dismissed;
 - (d) Writ petitions where the property had been purchased after the initiation of the process of acquisition (10-Dismised);
 - (e) The writ petitions other than those which were dismissed or partly dismissed - allowed
5. That the Hon'ble Court has allowed the C.W.Ps except those writ petitions covered in the above mentioned 4 categories (a) to (d) and out of these, 7 C.W.Ps were decided vide order dated 11.9.2013. However, the acquisition was upheld by this Hon'ble Court in respect of about 665 acres of land, though the acquisition proceedings were quashed by the Hon'ble High Court in respect of the remaining land. Land measuring 9 acres 2 kanals 14 marlas of village Lakhnoula and Naharpur Kasan, tehsil and district Gurgaon, on which about 55 houses and shops had been constructed and of which physical possession had not been taken, was released by government by issuing Notification dated 6.4.2007 in this regard

under Section 48 of the Land Acquisition Act. This land was not released in favour of any developer but in favour of actual owners and the said fact has not been contested by any of the parties. That aggrieved by the order dated 16.4.2009 of the Hon'ble single Bench of this High Court, the State Government decided to prefer L.P.As against the said order. The whole exercise involved filing of a total of 63 L.P.As. In one set of L.P. As listed before one D.B., the Hon'ble Court partly allowed the L.P.As vide order dated 28.1.2011, upholding Section 4 Notification dated 17.9.2004, issued by the State and granted liberty to the Government to proceed in accordance with law from the stage of issuance of Section 4 Notification dated 17.9.2004. However, the other set of L.P.As listed before the other D.B. were dismissed vide order dated 13.1.2011, on the ground of inordinate delay in filing L.P.As. As a result there were 2 different sets of orders from the 2 D.Bs, dealing with the same acquisition proceedings. As contradiction arose with the dismissal of one set of L.P.As and similar L.P.As having been allowed by another Division Bench of this Hon'ble High Court, the State Government challenged the order dated 13.1.2011 of Hon'ble High Court by filing a S.L.Ps. in Hon'ble Supreme Court of India. However, the Hon'ble Supreme Court of India was pleased to dismiss the S.L.Ps vide its order dated 16.8.2011.

6. That in compliance of the order dated 28.1.2011 of the Hon'ble High Court, the State Government invited objections under Section 5-A of the Act from land owners and issued notifications under section 6 issued on dated 25.11.2011 and 13.3.2012 for acquisition of land measuring 21 acres 6 kanal 6 marla and 25 acres 3 kanal 7 marla respectively. However, it was observed that 6 acres 2 kanal and 16 marla was common in both the notifications, therefore, after rectifying this anomaly, the award for remaining area measuring 40 acres 6 kanal 17 marla was announced on 15.10.2013.
7. That further in compliance of order dated 11.09.2013 of the Hon'ble High Court, the State Government invite objection under section 5A of the act from the land owner and issued notification under section 6 for acquisition of land measuring 15 Acre 4 kanal 6 Maria on 21.08.2014. The award of the said land was announced on 21.09.2016.
8. That in pursuance to the order dated 16.4.2009 of the Hon'ble High Court and subsequent orders of the High Court in the LP.As and other C.W.Ps it was noted that land measuring 665 acres of which possession had been taken, was not contiguous and there remained certain intervening un-acquired land parcels, in respect of which the acquisition Notification had been quashed by the

Hon'ble Single Bench. Left with no option, but to integrate these intervening patches the State Government issued fresh Notification dated 24.12.2013, under Section 4 of the Act, for acquisition of land measuring 239 acres 3 kanal 6 marla, of village Lakhnola, Naharpur Kasan, Manesar, Tehsil Manesar and village Kankrola, Tehsil and District Gurgaon, for integrated planning and development of the acquired land of Phase-V, Industrial Model Township, Manesar, to be used for industrial, residential, commercial, institutional, recreational and public utilities by H.S.I.I.D.C. It is stated here that some additional land (beyond 956 acres) has also been notified for optimum utilization of the acquired land.

9. That in all 74 objections under Section 5-A, were filed and 23 acres 2 kanal land was released on account of existing structures. Thereafter, 216 acres 1 kanal 6 marla land was notified under section 6 on 23.12.2014. However, it was observed that out of 216 Acre 1 Kanal 6 Maria land notified under Section 6, the acquisition proceedings for 40 Acre 1 Kanal 5 marla land are already stand completed under the award dated 09.03.2006.
10. Accordingly, the DRO-cum-Land acquisition collector, Gurgaon has announced the award for land measuring 110A-3K-18.8M on 20.01.2017 except for the land under status quo/ stay orders and area which was already covered under award announced on 09.03.2006. Thereafter, the Hon'ble Court decided the cases related to 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 vide its order dated 05.09.2017 with the following directions.-

"The State shall be at liberty to either initiate fresh proceedings for acquisition of land or negotiate with the landowners for purchasing/ retaining the land in accordance with law, in case the land in question is required for completion of any project or otherwise. The petitioners shall maintain status quo regarding the land in question for a period of six months to enable the State to take decision. All other issues raised in the writ petitions are left open as this Court has not expressed any opinion thereon. The writ petitions are disposed of accordingly."

In reference to above said orders, HSIIDC had already filed SLP in the Hon'ble Supreme Court against the order dated 05.09.2017.

In view of the above the said land is not in-contiguity, the area is still under litigation from 2006 to till date.

| | | | | |
|----|-------------------------------|------|----------|--|
| 2. | Setting up of SEZ at Gurugram | 1590 | 1,619.28 | The land was acquired in January 2006. After abandonment of SEZ project, the State Government decided (May 2013) to utilize 1100 acres of land for Global City Project in joint venture with Delhi Mumbai Industrial Corridor Development Corporation. Further developments were awaited (March 2017). |
|----|-------------------------------|------|----------|--|

Reply

Haryana State Industrial Infrastructure Development Corporation (HSIIDC) is a nodal agency for the DMIC Projects in Haryana. Under DMIC, the Global City at Gurugram has been identified, as an Early Bird Project, which is being developed as a joint venture with DMICDC. In this regard, AECOM has been engaged as consultant through DMICDC for undertaking the task of planning & development of this area as a Global City Project.

The layout plan submitted by AECOM has already been approved in-principle by MD/HSIIDC in March, 2017.

The further development in the project relates to HOD (BDC)-cum-CEO/Global City Project. BDC submitted reply in para 2.6(iii).

| | | | | |
|----|---|--------|--------|---|
| 3. | For Institutional purpose at Sector 39, Rai | 385.90 | 110.31 | The land earmarked for institutional purpose in the Master plan of the town was acquired in June 2008. The layout plan was finalized by February 2013. The land is yet to be developed (March 2017) |
|----|---|--------|--------|---|

Reply

Recently not cleared from litigation. Efforts are being made to take over physical possession. Layout plan is under revision in IPD.

| | | | | |
|---|---|---------|----------|---|
| 7 | For development of Industrial Model Township Kharkhoda, (Sonapat) | 3201.17 | 1,577.69 | The Company acquired this land in March/April 2013 as the same was earmarked for Industries in the Master plan of the town. In June 2014, it was decided to develop the land under Public Private Partnership mode and a Memorandum of Understanding was signed in January 2016. No further progress has been made (March 2017) |
|---|---|---------|----------|---|

Reply

Estimates for development works prepared. Environmental clearance has been received in September-2020. It has been decided to take up development of Infrastructure in Phases. DNIT for Ph-I has been prepared and tenders will be invited shortly. A contract for construction of Master roads stand awarded and work will start in October, 2020 only.

2.6 iii) The Company acquired 26,794.66 acres of land up to 31 March 2017, out of which 24,760.75 acres (92.41 per cent) fall within National Capital Region

(NCR)⁵. Of the land acquired in NCR, as much as 7542.76 acres has not been taken up for development so far. Further, out of 43.71 lakh sqm of unsold plots, 10.46 lakh sqm plots (24 per cent) were lying unsold in vicinity of Delhi as on March 2017.

Thus, inadequate planning coupled with implementation issues resulted in poor implementation of industrial policy which failed to give boost to MSMEs.

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

1. The State of Haryana informed the N.C.R. Planning Board that developed industrial plots were available in the N.C R. to accommodate some of the shifting units from Delhi. However, additional land would have to be acquired and developed for accommodating other categories of Industrial Units and Entrepreneurs shifting out of Delhi State, in view of the order of the Hon'ble Supreme Court. Moreover, there has been an ever expanding demand for Industrial infrastructure in Gurgaon District due to its locational advantage.
2. That keeping the above situation in view, the Department of Industries of the State Government issued Notification dated 17.9.2004 and 27.10.2004, under Sections 4 and 6 read with clause (C) of Sub Section 2 of Section 17 of the Land Acquisition Act, with respect to land measuring 956 acres 6 kanals 18 marlas, for public purpose namely of setting up of Chaudhary Devi Lal Industrial Model Township, Phase-V, Manesar, to be planned and developed as an integrated complex for industrial, institutional, commercial, recreational and other public utilities in village Nawada Fatehpur, Naurangpur, Manesar, Lakhnoula, Naharpur Kasan and Sikohpur, Tehsil and District Gurgaon
3. That as a subsequent development, the Hon'ble Supreme Court was pleased to extend the period for shifting of the un-authorized industrial units from Delhi and the emergent situation for entrepreneurs existing in the N.C.T Delhi, did not remain so pressing. Keeping these developments in view, the State Govt, also delayed the announcement of award. The Land Acquisition Collector, Gurgaon announced the Award of the subject land on 9.3.2006 and took over the possession of the land vide rapat No. 654, dated 9.3.2006, thus completing the acquisition proceedings. A large number of land owners accepted the compensation and some made reference under Section 18 and 30 of the Act.
4. That aggrieved by acquisition of their land a number of land owners approached Punjab and Haryana High Court by filing C.W.Ps for release of their land from acquisition. A bunch of 84 connected writ petitions were disposed of by the Hon'ble High Court vide order dated 16.4.2009. The Hon'ble High Court while disposing of the said bunch of writ petitions, divided the entire bunch of writ petitions into 5 categories i.e. from (a) to

⁵Faridabad, Gurgaon, Mahendergarh, Bhiwani, Nuh, Rohtak, Sonapat, Rewari, Jhajjar, Pampat, Palwal, Jind and Karnal.

(e) as under:-

- (a) Writ petitions which were filed after the award (19) - Dismissed;
- (b) Writ petitions filed by the petitioners after receiving compensation (12 - Dismissed);
- (c) Writ petitions filed by the petitioners where land had been released (7) - Dismissed;
- (d) Writ petitions where the property had been purchased after the initiation of the process of acquisition ^10-Dismissed;
- (e) The writ petitions other than those which were dismissed or partly dismissed - allowed.

5. That the Hon'ble Court has allowed the C.W Ps except those writ petitions covered in the above mentioned 4 categories (a) to (d) and out of these, 7 C.W.Ps were decided vide order dated 11.9.2013. However, the acquisition was upheld by this Hon'ble Court in respect of about 665 acres of land, though the acquisition proceedings were quashed by the Hon'ble High Court in respect of the remaining land. Land measuring 9 acres 2 kanals 14 marlas of village Lakhnoola and Naharpur Kasan, tehsil and district Gurgaon, on which about 55 houses and shops had been constructed and of which physical possession had not been taken, was released by government by issuing Notification dated 6.4.2007 in this regard under Section 48 of the Land Acquisition Act. This land was not released in favour of any developer but in favour of actual owners and the said fact has not been contested by any of the parties. That aggrieved by the order dated 16.4.2009 of the Hon'ble single Bench of this High Court, the State Government decided to prefer L.P.As against the said order. The whole exercise involved filing of a total of 63 L.P.As. In one set of L.P.As listed before one Double Bench, the Hon'ble Court partly allowed the L.P.As vide order dated 28.1.2011, upholding Section 4 Notification dated 17.9.2004, issued by the State and granted liberty to the Government to proceed in accordance with law from the stage of issuance of Section 4 Notification dated 17.9.2004. However, the other set of L.P.As listed before the other Double Bench, were dismissed vide order dated 13.1.2011, on the ground of inordinate delay in filing L.P.As. As a result there were 2 different sets of orders from the 2 Double Bench, dealing with the same acquisition proceedings. As contradiction arose with the dismissal of one set of L.P.As and similar L.P.As having been allowed by another Division Bench of this Hon'ble High Court, the State Government challenged the order dated 13.1.2011 of Hon'ble High Court by filing a S.L.Ps. in Hon'ble Supreme Court of India. However, the Hon'ble Supreme Court of India was pleased to dismiss the S.L.Ps vide its order dated 16.8.2011.
6. That in compliance of the order dated 28.1.2011 of the Hon'ble High Court, the State Government invited objections under Section 5-A of the Act from land owners and issued notifications under section 6 issued on dated 25.11.2011 and 13.3.2012 for acquisition of land measuring 21

acres 6 kanal 6 marla and 25 acres 3 kanal 7 marla respectively. However, it was observed that 6 acres 2 kanal and 16 marla was common in both the notifications, therefore, after rectifying this anomaly, the award for remaining area measuring 40 acres 6 kanal 17 marla was announced on 15.10.2013.

7. That further in compliance of order dated 11.09.2013 of the Hon'ble High Court, the State Government invite objection under section 5A of the act from the land owner and issued notification under section 6 for acquisition of land measuring 15 Acre 4 kanal 6 Maria on 21.08.2014. The award of the said land was announced on 21.09.2016.
8. That in pursuance to the order dated 16.4.2009 of the Hon'ble High Court and subsequent orders of the High Court in the L.P.As and other C.W.Ps it was noted that land measuring 665 acres of which possession had been taken, was not contiguous and there remained certain intervening un-acquired land parcels, in respect of which the acquisition Notification had been quashed by the Hon'ble Single Bench. Left with no option, but to integrate these intervening patches the State Government issued fresh Notification dated 24.12.2013, under Section 4 of the Act, for acquisition of land measuring 239 acres 3 kanal 6 marla, of village Lakhnoula, Naharpur Kasan, Manesar, Tehsil Manesar and village Kankrola, Tehsil and District Gurgaon, for integrated planning and development of the acquired land of Phase-V, Industrial Model Township, Manesar, to be used for industrial, residential, commercial, institutional, recreational and public utilities by H.S.I.I.D.C. It is stated here that some additional land (beyond 956 acres) has also been notified for optimum utilization of the acquired land.
9. That in all 74 objections under Section 5-A, were filed and 23 acres 2 kanal land was released on account of existing structures. Thereafter, 216 acres 1 kanal 6 marla land was notified under section 6 on 23.12.2014. However, it was observed that out of 216 Acre 1 Kanal 6 Maria land notified under Section 6, the acquisition proceedings for 40 Acre 1 Kanal 5 marla land are already stand completed under the award dated 09.03.2006.
10. Accordingly, the DRO-cum-Land acquisition collector, Gurgaon has announced the award for land measuring 110A-3K-18.8M on 20.01.2017 except for the land under status quo/ stay orders and area which was already covered under award announced on 09.03.2006: Thereafter, the Hon'ble Court decided the cases related to 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 vide its order dated 05.09.2017 with the following directions:-

"The State shall be at liberty to either initiate fresh proceedings for acquisition of land or negotiate with the landowners for purchasing/ retaining the land in accordance with law, in case the land in question is

required for completion of any project or otherwise. The petitioners shall maintain status quo regarding the land in question for a period of six months to enable the State to take decision. All other issues raised in the writ petitions are left open as this Court has not expressed any opinion thereon. The writ petitions are disposed of accordingly."

In reference to above said orders, HSIIDC had already filed SLP in the Hon'ble Supreme Court against the order dated 05.09.2017.

In view of the above the said land is not in-contiguity, the area is still under litigation from 2006 to till date.

Status of Planning:-

It is pertinent to mention here that the layout plan of phase V, IMT Manesar was approved by MD/HSIIDC vide Drg. No. 815 dated 31.10.2013 (which includes 614 R&R plots category-wise).

Thereafter, two part layout plan of Phase -Y, IMT Manesar has also been approved by MD/HSIIDC.

1. The Part layout Plan of Phase V, IMT Manesar bearing drawing no. 1337 dated 17.08.2020 has been approved by MD/HSIIDC wherein the total 30 industrial plot different category has been carved out.
2. The part layout plan of Pocket Pocket-Y, at Phase-V, IMT Manesar bearing drawing no. 1347 dated 22.10.2020 has been approved by MD/HSIIDC wherein 23 industrial plots (different category wise) and 179 (R & R) plots has been carved.

Due to litigation the said area has not been developed yet.

For development of industrial Model Townshop Kharkhoda, (Sonepat) in respect of land 3201.17 acre_

Estimates for development works prepared. Enviromental clearance has been received in September-2020. It has been decided to take up development of infrastructure in Phases. DNIT for Ph-I has been prepared and tenders will be invited shortly. A contract for construction of Master roads stand awarded and work will start in October, 2020 only

Setting up of SEZ at Gurugram (1590 acres)

The SEZ project had initially been planned for development through joint venture with Reliance Ventures Ltd. (100% subsidy of Reliance Industries Ltd.) for which the A joint venture agreement was signed on 19.06.2006. A company under the name of Reliance Haryana SEZ Limited was also incorporated for the purpose.

In January 2012, Reliance expressed its inability to implement the SEZ project and offered to return the land back to HSIIDC which was taken back in August 2014.

The land parcel is being utilized for development of Global City over an area of 1000 acres under the Delhi Mumbai Industrial Corridor Project. The project is being developed as a joint venture between HSIIDC and NICDC (National Industrial Corridor Development Corporation Limited)- an SPV under the name of NICDC Haryana Global city Project Limited has been incorporated with 50:50 equity

(For Institutional purpose at Sector 39, Rai in respect of land 385.90 acre)

Recently got cleared from litigation. Efforts are being made to take over physical possession. Layout plan is under revision in IPD.

During the oral examination, the Committee noted that the huge land stock is lying with the Corporation which is awaiting for development purposes. Therefore, the Committee recommended that efforts be made for early development and allotment of this land for rapid industrialisation of the State.

2.7 Acquisition of Land

11. (i) *Extra expenditure due to delay in filing of appeal*

The Company acquired (9 March 2006)⁶ 955.92 acres of land under section 17 of the LA Act at a cost of Z 176.55 crore⁷ (land cost @ Z 12.50 lakh per acre) under emergency clause at Industrial Model Township Phase V, Manesar. The land holders approached the Hon'ble Punjab and Haryana High Court against this acquisition which quashed (16 April 2009) the acquisition order except in those cases where (a) compensation was accepted by the land owners or (b) the petitions were filed after the award (9 March 2006). The Company could acquire 611.67 acres of land. After quashing (April 2009) of acquisition proceedings by the High Court, the Company was to file appeal in all the cases within the time limit allowed by the Court but it filed appeal in 10 cases in which the Court allowed (28 January 2011) acquisition of another 56.33 acres land. This process was completed during October 2013 and September 2016 at the rate of Z 12.50 lakh per acre. The State Government/ Company were negligent in pursuing their remedy of appeal and failed to provide appropriate reasons for condoning the inordinate delay in filing the appeals. Further, there was also lack of co-ordination between the Government and the Company as they were filing appeal separately. There was delay of 337 to 415 days in filing appeal in another 19 cases⁸. As a result, the Court quashed (January and September 2011) the acquisition proceedings. The acquired land measuring 668 acres was not in contiguity and could not be taken up for development. The Company therefore decided (October 2013) to acquire the land acquisition proceedings of which had been quashed by the Court by initiating fresh procedure. It acquired (20 January 2017) 216.17 acres of land at

⁶Notification u/s 4 of the LA Act was issued on 17 September 2004.

⁷Cost of land — T 119 49 crore + Solatium @ 30 per cent - I 35 85 crore + interest @ 12 per cent - 7 21.21 crore = T 176.55 crore

⁸In 12 cases by the State Government and in seven cases by the Company

a cost of Rs. 818 10 crore⁹ (cost of land ranging between Z 1.50 crore to Rs. 1.90 crore per acre).

Thus, had the appeals been filed timely in all cases, the Company could have acquired the land at old rate of Rs. 12.50 lakh per acre and extra expenditure of Rs.742.92 crore¹⁰ on 216.17 acres land could have been avoided.

The Management stated that delay was inherent in Government working. The reply was not acceptable as there was lack of co-ordination between Company and State Government as both were filing the appeals separately and the very purpose of invoking emergency clause was defeated

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

- 1 At the outset, it is pointed out that 54 LPAs were filed on behalf of HSIIDC out of which 40 LPAs were allowed by the Hon'ble High Court vide order dated 28.01.2011

However, 7 LPAs which were filed simultaneously were listed before another Bench of the Hon'ble Punjab and Haryana High Court and the same were dismissed on account of delay.

It is relevant to mention here that although the 40 appeals filed by the Corporation were allowed but on the basis of the said order no action could be initiated by the Corporation and it was an acquisition matter and unless and until the appeals in the same cases were filed by the State Government, acquisition proceedings could not have been continued on the basis of the order dated 28.01.2011 which was passed in the appeals filed by the Corporation. Considering this situation and the opinion of the Ld.

Advocate General, Haryana, it was decided that the LPA would be filed by the State Government alone.

This implies that even if the 7 LPAs which has been dismissed by the Corporation have been allowed, the same would not have been of any use to the Corporation unless and until the State Government had also filed appeals in the same cases. Opinion of the Ld. Advocate General, Haryana is enclosed.

As far as filing of appeals by the State of Haryana is concerned, upon request of Department of Industries and Commerce, Haryana, Sh. Dhiraj Chawla, Advocate had been specifically engaged by the Corporation to draft the LPAs to be filed by the State Government and 62 Nos. of draft LPAs have been supplied to the Department of Industries for filing.

With regard to area measuring 216 acre for which extra expenditure is

⁹Cost of land — T 346 65 crore + Solatium @ 100 per cent - I 346.65 crore + Interest @ 12 per cent - 7 124.80 crore = T 818 10 crore.

¹⁰Calculated for the period September 2004 to January 2017 after allowing interest @ 12per cent per annum from the date of notification u/s 4 of LA Act issued in September, 2004.

said to have been incurred by the Corporation, it is clarified that out of the total area measuring 216 acre, some land beyond the land measuring 956 acres was also notified by the Corporation and about 40 acres of land was such as had already been notified vide Award dated 09.03.2006 and as such was not included in the Award. Therefore, only area measuring; 40 acres was notified as a result of dismissal of LPAs on account of delay but it is again reiterated that even if the LPAs had been filed timely the same would have been of no use unless and until the LPAs in the same cases had been filed by the State Government.

During the oral examination, the Committee was not satisfied with the reply of the Government/Corporation and recommended that a Committee of Principal Secretary, Industries & Commerce Department Haryana shall investigate the matter and accountability for the lapses be made and inform to the Committee accordingly.

2.7 (iii) Unfruitful expenditure due to acquisitions in pockets

The Company got notified (5 October, 2005) 885.02 acres land at Kundli u/s 4 of the LA Act. Subsequently, 824.63 acres land was notified (4 October, 2006) u/s 6 of LA Act. In the meanwhile, the Director Town and Country Planning had already granted licenses for major portion of land to the private colonizer in the area notified for acquisition. The Company agreed (September 2008) to release 653.84 acres of land developed/ being developed by the colonizer and acquired (17 October, 2008) 168.07 acres land valuing Rs. 45.38 crore which was scattered and unsuitable for contiguous development.

Audit observed that no development activity had been taken up even after lapse of more than eight years. Of this, 95.91 acres land valuing Rs. 25.39 crore had also been encroached (March 2017). Thus, due to acquisition of land in pockets, the Company incurred unfruitful expenditure of Rs. 45.38 crore and suffered interest loss of Rs. 33.24 crore.

During exit conference the Management stated that the efforts would be made to utilize this land.

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

1. The land measuring about 167 acre was acquired vide award dated 17.10.2008 for development of sector 59-60 (residential), Kundli and the same has already been planned. A copy of the approved layout plan bearing Drg. No. HSIIDC/IPD/834 dated 12.12.2013 is placed at CP-11.

| Status | Remarks |
|---|---|
| <p>The status of possession of 168 acres acquired land vide award dated 17.10.2008 is as under, Nangal Kalan</p> <ul style="list-style-type: none"> > Award no. 12 dated 17 10.2008 (area 106A-IK-TOM) > Possession vide rapat no 98 (area 95A-2K-6M) > Balance land of 10A-7K-5M under stay with regard to the possession at the time of the award | <p>The CWP 17896 of 2008 was decided 27 10.2016. The case is pending at the Hon'ble</p> |

| | |
|--|----------------|
| Aterna > Award no. 13 dated 17.10.2008 (area 42A-3K-2M) > Possession vide rapat no 98 (area 37A-6K-15M). > Balance land of 4A-4K-7M under stay with regard to the possession at the time of the award. Sirsa > Award no 14 dated 17 10.2008 (area 18A-7K-2M) > Possession vide rapat no 39 (area10A-5K-15M). > Balance land of 8A-1K-7M under stay regard to the possession at the time of the award. | Supreme Court. |
|--|----------------|

2. The status of possession has been provided by AGM(IA), IE Kundli vide his office letter no. HSIIDC:IA:K:7192 dated 05.11.2020 (CP-13) and the same is as under;
3. As per above detail, about 22 acre land is under stay granted by the Hon'ble Courts at the time of award and the development of the same can be undertaken after adjudication.
4. As regard, the status of construction and development of sector road acquired by HSIIDC, AGM(IA), IE Kundli vide his office letter no. HSIIDC: IA: K:7192 dated 05.11.2020 (CP-13) has informed that the total land measuring 58A-3K-7M was transferred to HUDA/HSVP for construction and development sector road in compliance of decision of the BOD of HSIIDC in 306th meeting held on 18.06.2009. Further, HSVP has already constructed the road at site.
- 5 As is evident from above, to boost the development of this sector HSIIDC has already transferred the land to HSVP for construction and development of sector road

During the oral examination, the Committee was not satisfied with the reply of the Corporation and recommended that a detailed report on acquisition of only 167.07 acres land against the requirement of 824.63 acres land be submitted to the Committee.

2.7 iv) Extra expenditure due to incorrect release of land

The Company got notified (22 June 2006) 476.73 acres land u/s 4 of the LA Act at Rai, Sonapat. After receiving representation from the landowners, 132.63 acres land was released and 344.83 acres land was acquired (28 November 2008) @ ₹ 55 72 lakh per acre. Thereafter, while finalising the layout, the Company found (October 2012) that some more land is required and again acquired on 16 February 2016, 10.64 acres land (1.47 acres land related to four persons released earlier and 9.17 acres land of Rasta and Dhanas (common land) pertains to Panchayat left out inadvertently) @ ₹ 167 76 lakh per acre. Audit observed that due to release of land earlier/ left out inadvertently at the initial stage, the Company had to incur extra expenditure off ₹ 7 96 crore¹³.

¹³ Rs 17.86 crore less ₹ 9.90 crore (after loading interest @ 9.25 per cent p a. on ₹ 55 72 lakh per acre for 87 months from December 2008 to February 2016).

The Management stated that the expenditure incurred on acquisition would be loaded on the saleable area and be recovered from the allottees. The reply is not acceptable as this would burden the allottees with higher cost.

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

Matter pertains to Sector-38, Phase-II, Industrial Estate, Rai, Distt-Sonepat. It is submitted that land measuring 10 Acre 6Kanal -7Marla was notified U/s 4 on 10.10.2013. Out of the said notified land, land measuring 9A-2K-01M was left out inadvertently at the time of main acquisition of land measuring approx 344 acres in November 2008. The said land measuring 9A-2K-01M was in form of revenue rastas and dhanas. Balance 1A-4K-6M land (out of 10A-6K-7M) which was earlier notified U/s 4 during the main acquisition but the same was excluded at the time of section-6 notification. Generally layout plan of any Industrial Area is prepared after completion of acquisition proceedings. In this case, after preparation of the layout plan, it was observed that the above said land measuring 1A-4K-6M (including 6 Kanal land forming part of revenue rasta) is required for construction of road and for integrated planning of the area. Therefore, vide this office letter dated 31.07.2013, a proposal for notification of land measuring 10A-6K-7M was forwarded to DI&C Haryana for notification. Accordingly, land measuring 10A-6K-7M was notified U/s-4 on 10.10.2013 subsequently notified U/s-6 on 21.07.2014 and award was announced on 16.02.2016.

In view of the above, the land in question measuring the 10A-6K-7M was essentially required for integrated planning and Infrastructure Development. Allotment of a number of cq^ed out Industrial plots were affected due to non-acquisition of the said land. Furthermore after acquisition of said land, corporation has been able to allot most of the Industrial plots through auction and got high allotment rate through auction and these plots could not be allotted earlier due to non-acquisition of the said land. In view of the above, the Audit para may kindly be dropped as no financial loss has been caused to the company.

During the oral examination, the Committee was not satisfied with the reply of the Corporation and recommended that the matter should be investigated under intimation to the Committee as to why the land was left out.

Haryana Power Generation Corporation Limited

3.2 *Infructuous expenditure on overhauling of Unit-I of Panipat Thermal Power Station*

12. The Company had incurred expenditure of Rs. 2.07 crore on overhauling of Unit-I of Panipat Thermal Power Station without analysing its financial feasibility and overlooking its own decision to phase out Units I to IV.

Units I to IV of Panipat Thermal Power Station (PTPS) were the oldest coal based power generating plants in the State and had outlived their useful life of 25 years. Their auxiliary power and oil consumption was much higher as compared to targets set by Haryana Electricity Regulatory Commission (HERC). HERC in tariff order for the year 2014-15 had also observed (May 2014) that these Units had outlived their life and were the least efficient generating units. The average cost of power purchase for DISCOMs from PTPS (Units I to IV) was Rs. 10 per kWh against maximum tariff of Rs. 6.95 and Rs. 7.45 per kWh⁵ charged by the DISCOMs during 2013-14 and 2014-15 respectively. Consequently, the Board of Directors in their 96th meeting (August 2014) decided to phase out existing Units I to IV at PTPS, Panipat and set up a supercritical unit of 800 MW. The proposal was approved by State Government in November 2014.

Meanwhile, a problem of low vacuum in turbine occurred in Unit-I of PTPS in September 2014 and it was noticed that there were cracks in the bottom of the low pressure casing of turbine.

Audit observed (January 2016) that the Company issued (January 2015) a work order to Bharat Heavy Electricals Limited for overhauling/ repair⁶ of Unit-I for Rs. 2.07 crore overlooking the fact that the State Government had already approved (November 2014) Company's proposal to phase out Units I to IV. The quantum of backing down⁷ of these units were 83.19 and 81.41 **per cent** in 2013-14 and 2014-15 respectively. After overhauling, Unit-I was synchronised on 16 May 2015 on 35 MW load against its rated capacity of 117.8 MW and thereafter due to backing down it was closed on 17 May 2015. Units I to IV were finally phased out on 9 December 2015. Thus, the Company incurred expenditure of Rs. 2.07 crore and that too, without running the Unit I.

The Government stated (August 2017) that the repair was carried out to keep the plants in healthy condition as fixed cost was being recovered from the DISCOMs. The reply is not tenable as fixed cost was being recovered by taking Units I to IV as a single composite unit and the Company could have continued operating Units II to IV without incurring expenditure on repair of Unit I. Therefore, the decision of the Management to get the plant repaired/ overhauled without cost benefit analysis, resulted in infructuous expenditure of Rs. 2.07 crore.

⁵ Independent Hoarding and Decorative Lighting category.

⁶ Metal stitching of cracks in LP turbine and overhauling of LP turbine

⁷ Quantum of backing down means shutting down of units due to no demand from DISCOMs.

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

Point wise reply to the observation of GAG is as under: -

- The decision for setting up of supercritical unit of 800MW at PTPS might have taken by the Govt. in Nov-2014 but the final notification for retiring of these 110MW Unit- 1 to 4 w.e.f. 09.12.2015 was received vide MD/HPGCL memo no. 4/Ch-25/CMD-1338 dated 04.01.2016.
- During the year 2014-15, these units were taken into service during peak season as per requirement of DISCOM. The running hours of 110MW Unit-1& 4 during 2014-15 is given as under-

| Sr No | Month | Unit-1 | Unit-2 | Unit-3 | Unit-4 |
|-------|----------------|--------|--------|--------|--------|
| 1 | June-2014 | 83 01 | 57 25 | 14 40 | 143 18 |
| 2 | July-2014 | 68 35 | 41.42 | 68.44 | 49 56 |
| 3 | August-2014 | 220.15 | 203 10 | 198.10 | 236 10 |
| 4 | September-2014 | 375.15 | 337 00 | 271 47 | 335 31 |
| 5 | October-2014 | 67 47 | 72 11 | 68.12 | 71 35 |
| 6 | November-2014 | 511 05 | 569.05 | 446.55 | 683 12 |
| 7 | January-2015 | 36 22 | 46 55 | 36 10 | — |

- It was not possible to run the Unit-2 to 4 instead of Unit-1 because the merit or running schedule of the machine was given by the DISCOM and HPGCL had to ensure the healthiness/readiness of all the Units for which the fixed cost was charges from DISCOM. Moreover during the peak season, all the four units i.e. Unit-1 to 4 were kept into service simultaneously (at the same time) as per the schedule given by DISCOM. It is specifically submitted that most of the time, Unit 1 to 4 were run simultaneously as evident from the details of running of Unit 1 to 4 during the year 2014-15.
- The yearly 35% load factor for the unit 1 to 4 for the year 2014-15 was fixed by HERC and it is true that the yearly load factor of Unit 1 to 4 in 2014-15 remained 10% to 14% due to the fact that these units were run only as per the schedule given by DISCOM on the basis of power demand
- It is true that the fixed cost was being recovered by taking Unit-I to IV as a single composite unit but at the same time, it was never envisaged at the time when the works of repair of LP rotor of Unit-1 were got done, that the Unit shall be faced out in near future. The normative PLF for the year 2015-16 was 35% set by HERC for Unit 1 to 4 to recover the fixed cost but it could have increased in the coming years and higher target could have been set by HERC based on load demand. So, it become absolutely necessary to keep the unit ready for generation as the forced outage of other units cannot be ruled out in future being very old units.
- Overhauling of the Unit-1 was due in March, 2014 in which all the major works on the Turbine and Boiler were to be carried out (copy of the Mtc. Schedule attached as but keeping in view that proposal for phasing out

of these units was under consideration, overhauling of the machine was not carried out as per the schedule i.e. in March, 2014.

- However, during September, 2014 problem of low vacuum was developed in the condenser and it was not possible to run the machine in such low vacuum and as per above table, the Unit-1 was kept running upto Jan, 2015 even after the problem of leakage in the condenser. After detailed investigation and through checking of Turbine, it was found that cracks in the LP bottom casing had developed and there was continuous heavy leakage of water from the LP bottom casing which would cause a excessive damages to the men and machine on account of high heat in the condenser and it was not possible to run the machine further in such a critical problem for the safety of the men and machine which may have caused heavy damage as well as huge financial loss
- The leakage/ cracks in LP bottom casing were required to be attended on urgent basis due to following reasons:-
 - i) There was heavy drop in the vacuum of the condenser thus causing excessive heat loss.
 - ii) The starting ejector had to kept in the service due to which there was high noise in the air and increase in the heat rate, thus increasing the generation cost.
 - iii) to avoid any excessive damage to the men and machine on account of high heat in the condenser

In view of above it is quite evident that the attending of the problem of cracks in LP bottom was absolute necessary to avoid further damage to the machine and to avoid losses on account of higher variable cost due to higher heat rate attributed because of fall in condenser vacuum. Condenser vacuum is the biggest factor which affects the heat rate very drastically As a thumb rule, a fall in 0.001 kg/cm² of vacuum results in increase of 13-14 kcal/kwh in heat rate.

- Accordingly the memorandum was put up to PTSC, HPGCL comprising of M.D., Director/Technical, Director/Generation, Director/ Finance and Chief Engineer for according approval for award of work to BHEL for rectification of cracks in LP turbine bottom casing of Unit-I. It is pertinent to mention here that the Capital overhauling of the turbine was not carried out because HP and IP turbine were not opened during the shutdown and only the work on LP turbine had to be carried out on account of cracks developed on LP turbine top and bottom casing. For metal stitching works on LP turbine, bottom casing, LP rotor and its internals were to be taken out. Only the overhauling of LP turbine connected control valves was carried out because of the opening of the LP cylinder top and bottom casing for metal stitching.

- In view of above, it was not the overhauling works but it was mainly the repairing works in the LP turbine bottom casing due to developing of heavy cracks which were essential to attend for safe and reliable operation of the , machine. The same had to be attended as there was heavy noise and leakages of steam and water, heat loss in the system, drop in the condenser vacuum. In addition to this, there was safety hazardous involved on account of high heat and noise around the turbine area. For safe operation of the machine, the fault was attended in time.

After completion of works of metal stitching of LP casing, 110 MW Unit-1 PTPS, Panipat was rolled and synchronized on the 16.05.2015 in the presence/supervision of BHEL and only 35 WM load was achieved on the machine on that day due to following reasons.-

- a) Unit was synchronized with dry air filled in generator instead of hydrogen. As per the protocol/ guidelines of BHEL after O/H, the machine is to be synchronized with dry air filed in the generator and the Unit can be safely run upto 35MW. Thereafter, full load can only be achieved with hydrogen filled in the generator
- b) Unit was boxed up on 17.05.2015 and unit was kept ready after filing of hydrogen in the generator with a view that full load shall be taken on the next available opportunity when the demand for power will increase. However, after 18.05.2015, no schedule was given by DISCOM to run thus Unit-1 despite request to CE/Power-Purchase Cell, Shakti Bhawan, Panchkula.

In view of the above, it is quite dear that the entire process was carried out for resolving the problem of cracks in LP bottom casing and low vacuum on account of this. The same could not be deferred because of the critical fault in the LP turbine and condenser vacuum as explained above and the same should be kept in running condition to meet the power demand of state.

It is also placed on record that as per the Minutes of the Standing Linkage Committee (Long Term) for Power/Sponge/Cement Sectors held on 27th June 2014 under the Chairmanship of Additional Secretary, Ministry of coal (Govt. of India) to review the status of existing coal linkages/LOAs and other related matters, under Agenda Item No. 3 i.e. Policy on transfer of linkage in case of scrapping of old units by replacing with new plants, it had been recommended that old plant shall continue to operate till the COD (Commercial Operate Date) of new plant, HPGCL had proposed to commission one no. new supercritical unit of 800MW i.e. Unit-9 in place of Unit 1 to 4. As per above minutes, Unit 1 to 4 has to be kept in operation till the COD of proposed Unit-9 and it normally takes 4-5 years to commission a new unit As such it was as per guidelines that old units shall have to continue to operate till COD of new plant Hence, the expenditure of 2.07 crore was incurred on repair of LP turbine of Unit-I of PTPS.

During the oral examination, the Committee noted that the department shall submit complete details to the Committee with all relevant facts and figures. Further, if department had received any letter from any department of Central Government, the same be submitted to the Committee. The Committee further observed that there was procedural delay and the concerned officers had not seen ground realities in this case. The Committee, therefore, recommended that action against the defaulting officers/officials be taken under intimation to the Committee.

3.3 *Loss due to non-completion of dry fly ash system*

13. Due to non-completion of dry fly ash system, the Company suffered loss of Rs. 16.91 crore on account of non-disposal of dry fly ash and avoidable expenditure on extra water consumption for evacuation of ash in wet mode.

The Haryana Power Generation Corporation Limited (Company) awarded (August 1999) the work for construction of Ash Handling System for Unit-VI of Panipat Thermal Power Station (PTPS), to M/s Melco India Pvt. Ltd. (Firm 1). The Firm 1 completed (July 2001) the work of wet ash disposal system but could not complete the work of dry fly ash evacuation system due to change in capacity of Ash silo⁸ and location as suggested by Central Electricity Authority (CEA).

For completion of the balance work, the Company entered (May 2006) into a tripartite agreement, by bringing in another contractor, M/s Shree Cement Ltd. (Firm 2), who was to complete at its own cost by August 2007. The Company in return agreed to supply dry fly ash to Firm 2 free of cost up to September 2009 and thereafter up to May 2026 at the rates which would be charged from other firms lifting fly dry ash from PTPS, Panipat. Firm 1 was required to demonstrate the successful completion and running of complete ash handling system. The Company obtained Bank Guarantees (BGs) of Rs. 37.40 lakh and Rs 15 lakh for successful completion of work from Firm 1 and Firm 2 respectively. As the ash handling system was not completed within the stipulated period, the Company encashed (8 June 2011) BGs of both the firms. The matter regarding non-operation of dry fly ash evacuation system at full capacity was taken up with both the firms from time to time but the system was not rectified.

Audit observed that there was no provision in the agreement for termination of contract in the event of non-completion of work and penalty in the event of short-lifting of dry fly ash. The Company took no action to complete the unfinished work of dry fly ash evacuation system even after lapse of ten years (August 2007 to July 2017). Due to non-completion of system, there was less evacuation of 4.72 lakh MT dry fly ash valuing Rs. 14.51 crore during April 2012 to March 2017 which had to be perforce disposed off to ash pond in wet mode in the form of slurry⁹. The conversion of dry fly ash to wet mode required water

⁸Ash Silos are storage tanks for evacuation of ash

⁹A semi-liquid mixture of coal powder and water

on which the Company incurred expenditure of Rs 2.40 crore¹⁰. Meanwhile, Firm 2 which was to lift dry fly ash by payment of charges, continued to lift the slurry free of cost as the contract never provided for any rates for the same. The Firm 2 lifted 24.99 lakh MT slurry during 2011-17.

Thus due to non-completion of dry fly ash system, the Company suffered loss of Rs.16.91 crore on account of less evacuation of dry fly ash and extra water used for evacuation of ash in wet mode.

The Government stated (August 2017) that the Company was not in a position to cancel the tripartite agreement as this would have led the parties to deny the completion of pending works by taking excuse of such cancellation. It was also stated that there was no penal provision in the contract for short lifting of dry fly ash. The reply upholds the contention of Audit that the agreement was deficient of clauses for termination of the contract in the event of non-completion of work and imposition of penalty in case of short lifting of dry fly ash. However, Section 55 of Indian Contract Act 1872, provides option to the Company to terminate the contract in case the firms fail to perform their obligations provided in the contract. Thus, the Company did not safeguard its interests in the tripartite agreement by incorporating requisite exit clause.

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

The work of Erection & commissioning of Ash Handling System of Unit-6, PTPS, Panipat was awarded to M/s MIPL (Melco India Pvt. Ltd.) vide P.O. No. 452/Ch-28/TD/M-II/43A/ol-III dated 06.08.1999. M/s MIPL completed the work of wet ash disposal system but could not complete the work of dry fly ash evacuation system in time due to changes in silo capacity & location as suggested by CEA. Due to changes in the scope of work and increase in expenditure, M/s MIPL went in arbitration. Another firm M/s SCL submitted its willingness to complete the left over work at its own cost. To complete the work of dry fly ash evacuation system HPGCL entered in tripartite agreement with M/s Shree Cement Limited (SCL) and M/s Melco India Pvt. Ltd. (MIPL). The tripartite agreement was signed by CE/Thermal Design, SCL & MIPL. Thereafter amendment in the PO-452/CH-28/TD/M-II/43/Vol-III dated 06.08.1999 was made by CE/Thermal Design vide Endst. No. /Ch-2850/Ch-34/CE/TD/M-II/43/ARB/Loose-I dated 23.06.2006 with the approval of BOD, HPGCL. As per tripartite agreement, M/s SCL had to complete the leftover work at its own cost through MIPL and in return HPGCL agreed to supply the dry fly ash from Unit-6 for a period of 20 years to M/s SCL. M/s SCL had to lift all the dry fly ash evacuated from the ESP hoppers of Unit-6. After erection & commissioning of dry fly ash evacuation system M/s MIPL had to demonstrate the successful completion and running of complete dry fly ash evacuation system.

Dry fly ash evacuation system was not completed in stipulated period. So, HPGCL encashed the BG's of both the firms worth Rs. 37.40 Lakh and Rs. 15.00 lakh.

¹⁰ $4,71,726.46 \text{ MT (short lifted ash)} \times 5 \text{ (ratio of water required for evacuation of ash through wet mode)} \times 7.10 \text{ (rate of water per MT as worked out by Company)} = ₹ 2.40 \text{ crore.}$

The salient features of the tripartite agreement are as under:-

- a) MIPL will execute all works of dry fly ash collection & disposal system under Phase-I & II through SCL.
- b) MIPL will undertake to fruitfully utilize equipments supplied by it to HPGCL 1 which is partially erected and partially lying in PTPS stores for completion of works under Phase-I & II. All the equipments supplied by MIPL whether erected or lying in PTPS stores will be used by MIPL after re-conditioning/ retrofitting at the cost of SCL. The entire work of dry fly ash system upto disposal Silo near old gate of PTPS (2nd SILO) will be executed by MIPL at the cost of SCL.
- c) M/s MIPL will demonstrate the successful completion and running of complete dry fly ash collection and disposal system under phase I & II and the same will be certified from Chief Engineer/ O&M-II, PTPS, Panipat.

It would be pertinent to mention here that as per tripartite agreement and arbitrator decision, the scope and liability of payment had already been decided accordingly the work was to be carried out by M/s MIPL and payment thereof was to be made by M/s SCL falling which HPGCL could only encash the bank guarantee. In the light of above detailed circumstances, PTPS itself was not in position to cancel the tripartite agreement as this action would have led M/s MIPL & M/s SCL to deny the completion of pending works by taking excuse of such cancellation. Accordingly, to build up pressure on the contractors, remedial action for encashment of bank guarantee was taken and the firms were continuously pursued to carry out the remaining works to improve the system.

The matter regarding the termination of tripartite agreement was taken up by CE/ Projects, HPGCL, Panchkula with M/s SCL & MIPL. It was further requested by him to hold the meetings with SCL & MIPL at the plant level and thereafter the agenda may be sent to the corporate level for further necessary action. Accordingly, various meetings were held with M/s SCL & M/s MIPL to resolve the issue regarding the termination of tripartite agreement. The last meeting was held on 15.06.2016 at PTPS, Panipat. It was agreed by all the three parties of the tripartite agreement that M/s MIPL will demonstrate the successful completion of PG test of 03 days from ESP hoppers to intermediate Silo & M/s SCL will demonstrate the successful completion of PG test of 03 days from intermediate Silo to outer Silo. The details of the meeting ; held were sent to the corporate office for termination of the tripartite agreement. In reference of this high level committee has been constituted for taking further necessary action.

As per clause no. B14 Commercial of the tripartite agreement-"HPGCL will allow lifting of full quantity of fly ash generated from Unit 6 to SCL for a period of 20 years barring unforeseen forced shutdown periods and annual shutdown/ routine breakdown periods. "Further as per clause no. B15-"All the fly

ash generated from ESP hoppers of Unit-6 shall be lifted by SCL." IF SCL was not lifting 100% dry fly ash, it was not possible to give it to other procures because as per clause no 8-"Silo system will be operated and maintain by SCL at their cost."

In such condition when the O&M is being carried out by M/s SCL, it was not possible to give ash to some other firms. As per the agreement, SCL is bound to do the O&M of the plant for 20 years, so O&M could not be given to the other firm and hence lifting of dry fly ash from other firm was not possible. Since there was no clear cut provision in the tripartite agreement for levying the penalty, legal opinion was also taken in this matter and HPGCL has constituted high level committee for deciding the case as per legal opinion

Further, during the last three years, the running hour of Unit-6 are very less due to no demand resulting in non-operation of Unit-6 frequently. Due to frequent start up of the unit, the ash handling system has to run in wet mode for first 24-36 hours, after synchronization of Unit depending on the condition of the site. Moreover, it takes minimum 2-3 days by any firm for arranging the trucks of the transporters for disposal of dry fly ash. Both the above factors reduce the utilization of dry fly ash of the unit. The fly ash qty 4.72 Lacs MT shown in the Audit Para is the total un-lifted qty. of ash generated/ evacuated. The total un-lifted qty. can't be considered as loss of the company because it is not possible to lift 100% dry fly ash due to excessive backing down of Units. So, the loss valuing Rs. 14.51 crores on account of short lifting & the expenditure of Rs. 2.40 crores incurred on extra water consumption cannot be considered loss of revenue towards Unit-6

The total quantity of unlifted dry fly ash has been shown as 4.72 lacs MT for the period April, 2012 to March 2017. This amount of fly ash could have been lifted by the firm if the plant would have run continuously. The running hours of Unit-6 in 2014-15, 2015-16 and 2016-17 were 3428.14 hours, 809.21 hrs and 1146.25 hours respectively against the normal running hours of 8760 hours. It is further added that these running hours were not continuous, some time there was gap of months also. In such condition, it is never possible for any firm to keep the idle fleet of trucks always ready at site without any work. Whenever the unit is started after gap, it is not possible to engage the trucks immediately for lifting of ash. In view of the above, it is not possible to lift 100% dry fly ash generated even if there is a J regular contract with the penalty provision.

However to review the tripartite agreement, a high level committee has already been constituted by HPGCL. The high level committee in its last meeting dated 18.10.2019, directed that deficiencies the system may be reviewed when the unit is run for a considerable period. The Unit is under shutdown on account of backing down continuously from dated 04.01.2019 to till today except on date 18.06.2020, when it was put on bar for one day for testing purpose only with special permission

During the oral examination, the Committee recommended that Melco India Private Limited should be blacklisted and all facts and figures pertaining to Shree Cement Limited should be collected. The explanation should be called in respect of those officers who took this decision.

3.5 Avoidable expenditure due to non-observance of instructions of Operational Manual

14. The Company did not observe procedures prescribed in the Operational Manual while shutting down the Unit-I of RGTPP, Hisar and had to bear an avoidable expenditure of Rs. 13.18 crore.

The Rajiv Gandhi Thermal Power Plant (RGTPP), Khedar, Hisar of Haryana Power Generation Corporation Limited (HPGCL) with two units of 600 MW each was commissioned in 2010-11. State Load Dispatch Centre (SLDC), which manages the supply of power in the State, directs the power generators of the State, including RGTPP, to generate and supply power or to shut down the plant on the basis of demand of power in the State on real time basis.

The Operational Manual provided by the Original Equipment Manufacturer (OEM), i.e M/s Shanghai Electric Corporation, China stipulated to confirm that fuel system was good, oil pressure and its temperature were normal and oil guns should be inspected to ensure their usage at any time before shutting down the plant. The manual further provides that during the process of load reduction (below 210 MW) when supply of coal is reduced, the oil guns¹² should be casted into the furnace for its stable combustion. Meanwhile, the Company decided (December 2013) to minimise the application of oil gun during load reduction in order to reduce the variable cost.

On 1 July 2015, the SLDC conveyed 'no demand to RGTPP and the plant authorities commenced the load reduction. During the process of shut down of Unit, there was an explosion in the furnace and was damaged. Due to the accident, the Unit remained shut down for 54 days. The preliminary fact finding committee¹³ constituted to find out the reasons for damages brought out (July 2015) that when the load was reduced up to 190 MW and the furnace was in disturbed condition, the plant did not use the recommended oil support for stable combustion of fuel. Further, three coal mills continued to feed coal into the furnace whereas flame of one coal mill was extinguished which led to the partial combustion and accumulation of unburnt fuel leading to the explosion. These findings were corroborated (August 2015) by a Committee¹⁴ of Experts. The Company incurred fixed cost of Rs. 3.16 crore for shut down period and an avoidable expenditure of Rs. 10.02 crore for making the Unit operational.

The Management had issued (December 2015) charge sheets to four officers/officials for lapses in their duties but these were subsequently dropped

¹² Instruments to inject oil in boilers to maintain the flame.

¹³ Chief Engineer, Superintending Engineer, two Executive Engineers of HPGCL thermal power plants and two Ex- National Thermal Power Corporation Limited experts.

¹⁴ Director, Central Electricity Authority, New Delhi, Superintending Engineer (Technical), HPGCL, two Assistant General Managers from National Thermal Power Corporation Limited

(July 2016) on the basis of their responses which *inter-alia* stated that the manual procedures and superior instructions were followed whereas both the fact finding committee and the Committee of Experts concluded that manual procedure was not followed during shut down of the plant. HERC too disallowed (April 2017) this expenditure on the grounds that the required procedure was not followed and the incidence of fire was within the reasonable control of the Company and avoidable. Despite the conclusions of both Committees and HERC about the non-compliance with manual provisions/procedures leading to avoidable expenditure of Rs 13.18 crore, the Company did not fix responsibility for the lapse leading to additional financial burden.

The Government stated (May 2017) that earlier when the backing down of the Unit was not so frequent, oil guns were always being used for safe shutdown. However, due to excessive backing down of units, the focus was to reduce the cost of generation, therefore, instructions were issued to minimise the practice of taking oil guns into service. Further, oil guns are being taken in service while shutting down the Units to ensure furnace stability. Moreover, Standard Operating Procedures (SOPs)¹⁵ are now being developed by M/s PWC Ltd. for strict compliance in future. The reply is not acceptable as the Company resorted to minimising the use of oil guns without any technical study and in violation of manualised procedure and only after the explosion, it started using it for furnace stability as per the manual. Further, since HERC has also held that it was a controllable and an avoidable incidence, responsibility for the same needs to be fixed for the negligence leading to avoidable financial burden of Rs. 13.18 crore.

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

Haryana Power Generation Corporation Limited (HPGCL) commissioned two units of 600MW each at Rajiv Gandhi Thermal Power Plant (RGTPP), Khedar, Hisar in 2010-11. These units were got supplied, erected & commissioned from M/s Reliance Energy (R-Infra) under EPC contract. Boiler, Turbine & Generator of these units have been designed & supplied by M/s Shanghai Electric Company, Shanghai, China.

The State Load Dispatch Centre (SLDC) of Haryana, which manages the supply of power in the State directs the power generators of the State, including RGTPP, to generate and supply the power or to shut down the plant on the basis of demand of power in the State on real time basis. The scheduling of Power from a Thermal Generating Station is done or decided by the DISCOMS/SLDC on the basis of a merit order, under which the Thermal Generating Units whose variable cost is lowest gets the maximum possible schedule. The units having high variable cost, come further down in the merit order and get the schedule as per requirement of the DISCOMS.

¹⁵ A set of step by step instructions compiled by an organization to help workers' carryout complex routine operations. SOPs aim to achieve efficiency, quality output and uniformity of performance, while reducing miscommunications and failure to comply with industry regulations.

During last few years, the Thermal Generating Units of HPGCL including the 2x600MW RGTPP, Khedar are being subjected to excessive backing down by the DISCOMS, because of less demand of Power in the State and due to availability of numerous cheaper sources of power.

In view of the above, it is endeavor of every Thermal Power Plant to reduce its variable cost of generation by improving efficiency by adopting best O&M practices, reducing outages and minimizing the oil consumption by restricting the practice of cutting-in oil guns to the extent possible.

Earlier when backing down of the units was not so excessive and the completion for getting schedules was not so severe, oil guns were always being taken into services for safe shutdown of the unit. However, as explained above with availability of more power in the State, shutting down (backing down) of the Units on no demand has increased excessively and therefore the to JUS of the O&M engineers is to reduce the cost of generation. Due to excessive backing down of units and partial load operation, the start/stop. operations in a day have also increased and have become quire frequent.

The operation manual provided by M/s SEC is generic in nature and specific to units/ boiler supplied at RGTPP. There are many points in operation manual which are not applicable to RGTPP plant, for example it has been recommended to put plasma ignition in to service at load below 210MW while reducing the load but there is no plasma ignition at RGTPP boiler. Due to many ambiguities in operational manual the same cannot be followed at RGTPP. It was only reason that SOP's etc has been got finalised by M/s PWC and circulated for strict compliance. However, it is pertinent to mention that as far as observations of audit that "The operational manual provided by the original equipment manufacturer (OEM) i.e. M/s Shanghai Electric Corporation, China stipulated to confirm that the fuel system was good, oil ! pressures and its temperature were normal and oil guns should be inspected j to ensure their usage at any time before shutting down the plant". Is ! concerned, it is a routine practice at RGTPP, Khedar, Hisar to check fuel j system is good, oil pressure and temperature are normal and oil guns are inspected at regular practice to ensure their availability at any time, particularly at the time of shutting down of plant and same was followed at the time of; incident also. Clause no 3.3.2.2 of Operation Manual states that "when the speed of three coal feeders drops to 40%, manually adjust the speed of upper coal feeder to 25%. Cast oil guns into the adjacent layers; close the inlet gate of the coal feeder and hot air door". At the time of pressurization in the Boiler, Coal Feeders of coal mills A, B, & D were running at 46T/Hr, 34T/Hr & 20T/Hr respectively. Maximum capacity of coal mills is 75.3T/Hr. As is clear from above, two mills (i.e. Mill-A & Mill-B) were running with more than 40% feeder speed and Mill-D was running at feeder speed of more than 25%, as such no oil gun as need to be taken in service. This indicates that the procedure as specified in the operation manual was being followed meticulously.

With availability of more power, occurrence of manual tripping of units on no demand increased therefore, in order to reduce the cost of generation to

provide cheaper power, instruction were issued by corporate in Dec, 2013 vide memo no. 465/GMP-128 dated 04.12.2013 to minimize practice of taking oil guns into service while reducing the load for manual tripping of the unit and accordingly to taking oil gun in service while shutting down the unit was stopped in all HPGCL Power Plants. Therefore, oil gun was not taken into service on dated 01.07.2015 while shutting down of the unit. The decision for curtailing/reducing the oil guns was taken by corporation for betterment in order to reduce the cost of generation and to be more competitive with the other power generation companies. The thermal units have been shut down safely on various occasions earlier without oil support, without any disturbance in the boiler. One executive engineer was suspended & charge sheeted and three AEE's were charge sheeted by the corporation but as per details given above it is clear that no individual was responsible for the incident therefore executive engineer was reinstated and charge sheets were dropped.

In order to rule out such incident SOP specific to the plant has been developed by M/s PWc. The same has been circulated to all operational divisions and are being followed meticulously in letter and spirit.

During the oral examination, the Committee observed that the Department/Corporation shall constitute a Committee of higher level Officers of the department and get the matter reinvestigated and submit the report of that Committee within one month. Further, the Committee recommended that the Department/Corporation shall call explanation and take strict action against the Officer who dropped the charge sheets of XEN and JE.

**UTTAR HARYANA BIJLI VITRAN NIGAM LTD. AND
DAKSHIN BIJLI VITRAN NIGAM LTD.**

3.8 Implementation of Meter Pillar Box Scheme

15. DISCOMs introduced the Meter Pillar Box Scheme without obtaining approval from HERC and initiated the scheme for the entire State without waiting for outcome of pilot project. A Firm has been benefitted by DHBVNL as **65 per cent** of the total work orders awarded were issued to this one firm who ultimately executed only **19 per cent** of the work orders. The scheme could not be implemented effectively as only **34 per cent** of total material to be supplied was utilized in the project.

3.8.1 Introduction

In view of the increase in Aggregate Technical & Commercial (AT & C) losses from **24 per cent** (2011-12) to **28 per cent** (2012-13), the Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL) and Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL), the two power Distribution Companies (DISCOMs) in Haryana²⁷ introduced (April 2013) Meter Pillar Box Scheme (MPBS) in the State. The main objective of the scheme was reduction in AT&C losses and restricting the consumers from tapping energy directly to achieve increase in revenue generation. The scheme involved relocating of existing energy meters positioned inside consumers premises to outside their premises. Audit examined the records relating to MPBS to assess the effectiveness of its implementation. Under the Scheme, the DISCOMs issued 330 work orders (UHBVNL: 48 and DHBVNL: 282) in 16 Circle offices (UHBVNL: nine and DHBVNL: seven) amounting to Rs. 283.53 crore during April to November 2013 for implementation of MPBS. Of these, Audit examined 104 work orders (UHBVNL: 14 and DHBVNL: 90) in nine circle offices.

3.8.2 Audit findings

A) Assessment of offers for pilot project

- i) UHBVNL after inviting tenders,²⁸ awarded (11 April 2013) the work for pilot project of MPBS in six villages of Daryapur feeder in OP Circle, Jhajjar to M/s Arun Enterprises, Ghaziabad (LI) for ? 1.06 crore. Audit observed that the rates awarded were **23 percent** higher than the estimated rates of Rs. 0.86 crore. Audit noticed that the estimated cost of Rs. 0.86 crore itself was higher by **13 percent** as compared to the rates circulated by Planning, Design and Construction (PD&C) wing of UHBVNL.

UHBVNL stated (August 2017) that the estimates were prepared as per its laid down instructions by including overhead charges. The reply is not acceptable as PD&C wing circulated item-wise

²⁷UHBVNL and DHBVNL distribute electricity through nine operation circles each in north and south zone respectively of Haryana.

²⁸NIT number 27/P&D/2013-14/B-326.

rates for the purpose of preparation of estimates which were inclusive of overhead charges *i.e.* all taxes, freight, insurance and profit of supplier *etc.* Thus, the estimates prepared were on higher side.

- ii) The rates of pillar boxes of various sizes²⁹ supplied (March 2013) by M/s Arun Enterprises, Ghaziabad (Li) to UHBVNL were higher than the rates of pillar boxes supplied (February 2013) by the same contractor to DHBVNL by 34 **percent**.
- iii) The procurement manual of DISCOMs stipulates that if Li rate obtained is more than 10 **per cent** of the estimated rate, the tender enquiry should be dropped and re-tendering be done. Here, for the pilot project, the Li rates accepted were 23 **per cent** higher than the estimated rates. UHBVNL stated that re-tendering was not done as the work was allotted after due negotiation with Li bidder. The management reply is not acceptable as despite negotiation, rates were on the higher side **vis-a-vis** estimated rates. Audit also observed that subsequently these inflated rates accepted, of pilot project, were made applicable to the entire State.

Reply of UHBVN

- > It is correct that the Meter Pillar Box Scheme was introduced by the Haryana Discoms with the objective to bring down the AT&C losses of the Discoms as had already been adopted in the neighboring state of Punjab wherein outstanding results were observed as far as loss reduction was concerned.
- > Against overall AT& C loses of 24% and 28%, the losses on the rural domestic feeders were hovering around 60-70% and in some cases up to 90%, accordingly it was imperative for the DISCOMs to introduce and implement this scheme on top priority for bringing down the losses at a faster pace for financial sustainability of the DISCOMs.
- > This scheme envisaged the relocation of meters outside the consumers premises in MPB (Meter Pillar Box) with the view to stop the pilferage of energy by the consumers and also for balancing of the load on Distribution Transformers as large number of DTs were getting damaged due to overloading and uneven load on different phases resulting into financial loss to the Nigam running into Crores of rupees besides repeated disruption in supply causing inconvenience to the public and hence resentment.
- > The basic aim of the scheme was to minimize the human intervention / fiddling of meters by the unscrupulous consumers and to obliterate the

²⁹ 20X1 MMPB, 6X1 MMPB 4x1 MMPB

use of bare ACSR conductor so as to stop the consumer from tapping energy directly from bare LT lines especially during odd hours.

Reply of DHBVN

Introductory part

Reply of UHBVN

A)

- i) NIT No. 27 was floated for pilot project of MPBS in six villages of Daryapur feeder in OP Circle, Jhajjar with estimated cost of Rs. 0.86 crores. The estimate was prepared on the approved P&D item wise rates and supply rate of Meter Pillar Box which were circulated without overhead charges (rate list of material & purchase order for meter pillar box by DHBVN is placed at Annexure- 1&2). The BOQ of NIT for turnkey works are being prepared after adding applicable overhead charges. In the instant NIT, the BOQ was prepared accordingly i.e. approved P&D rates plus 15% overhead charges. The instruction regarding overhead charges to be added over and above the cost of material/items in the estimates for turnkey works is annexed as (Annexure- 4).

As such PD&C wing circulated item-wise rates for the purpose of preparation of estimates which were not inclusive of overhead charges i.e. all taxes, freight, insurance, contingencies, T&P charges, handling charges, service tax, supervision charges and profit of supplier. Hence, it is wrong to say that the estimates prepared were on higher side.

Reply of DHBVN

A)

i)

- The Nigam circulates item wise P&D rates for preparation of estimates for turnkey works from time to time. These rates are being governed by the latest purchase order of materials which are being procured by MM wing of the Nigam. While preparing the turnkey estimates, overhead charges as applicable by the Nigam are added for floating of the NIT
- While preparing the estimates for floating of NIT No. 27/P&D/2013-14 (B-326) by UHBVN for carrying out the work of Meter Pillar Box Scheme (MPBS) in 6 no. Villages falling on 11KV Daryapur feeder in (Op) Circle Jhajjar UHBVN on turnkey basis, there were no rates of meter pillar box available with P&D or MM wing. DHBVN had procured the meter pillar box from M/s Arun Enterprises, Sahibabad vide Purchase Order No 98 dated 13.02.2013 for execution of work of meter pillar box scheme as a pilot study in two

no. villages namely Singran and Chirod under (OP) Circle Hisar on labour rate basis. The PO rates of meter pillar box against above purchase order of DHBVN were considered as base rates and overhead charges @15% were added to the base rates as per the PD&C Instruction No.7/2011/P&D dated 11 04.2011(Annexure-B).The estimated supply rates of other items were taken from the prevailing P&D rate list by adding 15% overhead charges.

- The audit has raised the observation by considering supply rate i.e procurement rate of meter pillar box under DHBVN as estimated rate for meter pillar box against NIT No. 27/P&D/2013-14 (B-326) floated by UHBVN for carrying out the work of Meter Pillar Box Scheme (MPBS) in 6 no. Villages falling on 11KV Daryapur feeder in (Op) Circle Jhajjar UHBVN on turnkey basis, which is not justified.

The detail of the rate are as under: -

| Description | DHBVN supply rate (in Rs.) | UHBVN estimated rate (in Rs) after adding 15% overhead charges (being turnkey work) given in the BOQ of the NIT |
|-----------------------------|----------------------------|--|
| Metallic pillar box 20 in 1 | 10906 82 | 12542.85 |
| Metallic pillar box 6 in 1 | 2355 87 | 2709 25 |

Thus, the estimates prepared against NIT was justified one and in accordance with the prevailing instructions of the Nigam.

Reply of UHBVN

- ii) The Nigam circulates item wise rates for preparation of estimates for turnkey works from time to time. These rates are being governed from the latest purchase order of materials which are being procured by MM wing of the Nigam. These circulated item wise rates are basic rates which are being got approved from competent authority of the Nigam. While preparing the turnkey estimates, overhead charges as applicable by the Nigam are added for floating of the NIT. While preparing the estimates for floating of instant NIT, there were no rates of meter pillar box available with P&D or MM wing. DHBVN had procured the meter pillar box. These rates were considered as a base rate of meter pillar box and overhead charges were added in the base rates as per the instructions of the Nigam.

The audit has raised their observation by comparing supply rate against purchase order with the turnkey rates, the same is not justified as both process are totally different -

In the procurement of material, 100% payment is being made to the supplier against only supply of material in Nigam's store where as in turnkey works, only 50% payment is to be made on supply of material and remaining 50% shall be made after erection/utilization at site and verified. Moreover, the Performance Bank Guarantee in

DHBVN purchase order was 5% where as in turnkey works, it was 10%.

Also it is submitted that in turnkey contract involved many factor which directly reflected on the rate of material i.e. only certain percentage of payment of material is being made as per provision in the contract on the supply and remaining percentage of payment of the material is being made only after erection of the material and completion of the project.

Similarly, turnkey contractor has to bear administrative charges, storage and supervision charges, watch and ward, wastage of material and labour.

This scheme was implemented for the first time in the State of Haryana and. no standard rates for various items viz 20-in-1 Meter Pillar Boxes, 6-in-1 Meter Pillar Box etc. were available with the Nigam The rate of meter pillar boxes in the NIT was taken on the latest supply rates available with the DHBVN, i.e. during February, 2013 with 15% overhead charges.

In the instance NIT the supply rate of Meter Pillar Box & estimated rate for turnkey works are as under:

| Description | Unit (No) | DHBVN supply rate (in Rs.) | UHBVN estimated rate (in Rs)after adding 15% overhead charges (being turnkey work) given in the BOQoftheNIT |
|-----------------------------|------------|----------------------------|--|
| Metallic pillar box 20 in 1 | No. | 10906 82 | 12542 85 |
| Metallic pillar box 6 in 1 | No. | 2355 87 | 2709.25 |

Moreover, it is pertinent to mention here that the work of the 11 KV Daryapur feeder was awarded to M/s Arun Enterprises on competitive basis through open tender and which can be safely reckoned as the market rate for execution of such works after negotiation Committee.

In view of the above, the estimate had been framed as per the instructions of the Nigam and work was awarded on competitive rate through open tender where sufficient participants participated (3 no.).

Reply of DHBVN

- ii) As already explained above, the estimated rates for supply of meter pillar box against NIT No 27/P&D/2013-14 (B-326) floated by UHBVN for carrying out the work of Meter Pillar Box Scheme (MPBS) in 6 no. Villages falling on 11KV Daryapur feeder in (Op) Circle Jhajjar UHBVN on turnkey basis were arrived after adding 15% overhead on PO rates issued to M/s Arun Enterprises by DHBVN during Feb, 2013 against direct supply as per the existing instruction of the Nigam. Further, the work was awarded against ibid NIT @22.6% above the estimated cost after due negotiations as per the existing policy of Haryana Govt.

Thus, the rates of meter pillar box finalized under instant NIT by UHBVN were including 15% overhead charges on PO rates of DHBVN and contractor premium of 22.6% as per details given in

the below table:-

| Description | DHBVN unit supply rate (In Rs) | UHBVN estimated rate (in Rs.) for NIT No 27 after adding 15% overhead charges (being turnkey work) given in the BOQ of the NIT | UHBVN awarded rates (in Rs.) after adding 22.6% contractor premium on the estimated rates at Sr. No. II |
|----------------------------|---------------------------------|--|---|
| | 1 | II | III |
| Metallic pillar box 20in1 | 10906.82 | 12542.85 | 15377.53 |
| Metallic pillar box 6 in 1 | 2355 87 | 2709.25 | 3321 54 |

In view of the above, the estimate had been framed as per the instructions of the Nigam and work was awarded on competitive rate through open tender where sufficient firms participated (i.e. 3 nos.).

Reply of UHBVN

- iii) UHBVN floated an NIT No. 27/P&D/2013-14 (B-326) for carrying out the work of Meter Pillar Box Scheme (MPBS) in 6 no. Villages falling on 11KV Daryapur feeder in (Op) Circle Jhajjar. The work was awarded to M/s Arun Enterprises (L-1 bidder) on 11.04 2013 through open tender i.e. NIT No. 27/P&D/2013-14 (B-326), after due negotiations at a premium of 22.6% over the estimated cost it was duly mentioned in Clause No. 28.2 of Instructions to Bidders (ITB) of bidding documents of NIT No 27/P&D/2013-14 (B-326) floated by UHBVN for carrying out the work of Meter Pillar box Scheme in 6 no. Villages falling on 11KV Daryapur feeder in (Op) Circle Jhajjar that the "the tenders shall be decided as per the prevailing instructions of Government of Haryana at the time of floating of NIT". From the above, it is amply clear that award of work is to be done in accordance with the prevailing instructions of Haryana Govt.

The policy guidelines issued vide Department of Industries & Commerce, Govt of Haryana G. O No. 2/2/2010-4 I Bil dated 28 May 2010 was prevailing at the time of allotment of NIT No. 27/P&D/2013-14 (B-326) for carrying out the work of Meter Pillar box Scheme in 6 no. Villages falling on 11KV Daryapur feeder in (Op) Circle Jhajjar, which does not specify that the tender will be dropped if the estimated cost of the L-1 bidder is more than 10% of the estimated cost.

The audit wing has not produced the complete relevant clause as per Procurement Regulation clause 10 (Negotiation), which is reproduced as under:-

- 10.1 No negotiations shall be conducted with the tenderers after opening the price bids for goods, works and services.

After opening of the price bids, if L-1 rate is found more than estimated rate/cost of the tender by more than 10%, the tender enquiry shall be dropped and the tenders be invited afresh after detailed scrutiny of the estimated cost. The above amendment shall be applicable in the NIT/Tender Enquiry floated w.e.f. 1.11.2006 and onwards.

10.2 This clause will not apply to the negotiations conducted by the SPC with the tenders after the opening of Part-I tender, where the tenders are invited in two parts.

Provided further that negotiations regarding delivery schedule and other commercial terms not related to the rates quoted which may be conducted by the purchasing authority with the parties selected for placing the purchase order, shall not be deemed as a negotiation under this Regulations.

As per above clause, since the instant NIT was floated in two parts, the condition of dropping of tender did not apply.

Moreover, negotiation with the firm had been held as per prevailing instructions issued by Govt. of Haryana, Industries Deptt. Chandigarh in which there was no such clause for dropping of tender if the quoted rates was more than 10% of the estimated rates. Moreover* justification of rates being more than 10% comes from the following facts^

- > Contractor profit of 1.0% is universally accepted across all the projects {as survey cost, wages, T&P, transportation (from site store to field), storage charges and other overhead & misc charges to be incurred by the Contractor during the execution of work}}.
- > Since only 50% of payment is made against supply of material, interest element on cost of financing balance 50% of the cost of the material is also to be taken into account.
- > Supervision charges of the contractor are also involved.
- > The work also involves Site storage charges, watch and ward of the material
- > Wastage of material.
- > Miscellaneous charges
- > The project involves high risk factor due to resistance from public that leads to wastage of considerable labour cost during execution of the meter shifting work.

Even HPPC and SHPPC have allowed much higher rates both in purchase as well as turnkey contract considering above facts

Ten no. firms participated in the common NIT floated on 11.04.2013 on behalf of UHBVN & DHBVN by UHBVN (NIT-31) for annual contract for one

year with the successful firms for execution of work of Meter Pillar Box. In the ibid tender enquiry, the rate quoted by the L-1 bidder was 35% higher than the estimated cost of the Nigam. The negotiation were held with L1, L2 & L3 bidder, they declined to accept the counter offer of 15% and the same was dropped on 18.06.2013. Thus from the above facts, it is quite evident that the rates given to M/s Arun Enterprises, Ghaziabad (i.e. 22.6%) were considered quite reasonable, as the same were ascertained after following the transparent, fair and naturally justified procedure/ mechanism.

Reply of DHBVN

iii)

- The Procurement Regulation clause No. 10 (Negotiation) is reproduced as under (Annexure-C):-

10.1 No negotiations shall be conducted with the tenderers after opening the price bids for goods, works and services.

After opening of the price bids, if L-1 rate is found more than estimated rate/cost of the tender by more than 10%, the tender enquiry shall be dropped and the tenders be invited afresh after detailed scrutiny of the estimated cost.

The above amendment shall be applicable in the NIT/Tender Enquiry floated w.e.f. 1.11.2006 and onwards. 10.2 This clause will not apply to the negotiations conducted by the SPC with the tenders after the opening of Part-I tender, where the tenders are invited in two parts.

Provided further that negotiations regarding delivery schedule and other commercial terms not related to the rates quoted which may be conducted by the purchasing authority with the parties selected for placing the purchase order, shall not be deemed as a negotiation under this Regulations. It was duly mentioned in Clause No 28.2 of instructions to Bidders (ITB) of bidding documents of NIT No. 27/P&D/2013-14 (B-326) floated by UHBVN that the "the tenders shall be decided as per the prevailing instructions of Government of Haryana at the time of floating of NIT". From the above, it is amply clear that award of work is to be done in accordance with the prevailing instructions of Haryana Govt. s The policy guidelines issued vide Department of Industries & Commerce, Govt. of Haryana G. Q. No 2/2/2010-4 I BII dated 28 May 2010 (Annexure-E) was prevailing at the time of allotment of NIT No 27/P&D/2013-14 (B-326) which stipulates in the matter of negotiation that "Wherever the indenting department and the DS&D are of the considered view that the rates quoted by the bidders, including those quoted by L1 are not reasonable, the negotiations would be held only with the L1 and a counter-offer made to the L1. In case the L1 bidder does not accept the counter offer, the tender would be dropped and recourse taken to invite fresh tenders".

Moreover, negotiation with the firm had been held as per prevailing instructions issued by Govt. of Haryana, Industries Deptt. Chandigarh in which there was no such clause for dropping of tender if the quoted rates was more than 10% of the estimated rates

Note:- It is also pertinent to mention here that High Powered Purchase Committee (Nigam) and High Powered Purchase Committee (Govt.) is following the above procedure in allotment of turnkey contract of Power Utilities as well as other department.

B) Implementation of the Scheme in the State

Board of Directors (BoDs) of DHBVNL approved (25 April 2013) the award of work under MPBS scheme at the same rates as of the pilot project of UHBVNL. UHBVNL too awarded the work at same rates as its own pilot project. However, it obtained (22 April 2013) a list of firms from Punjab State Power Corporation Limited (PSPCL) to whom contracts for MPBS were awarded in the Punjab State and decided (23 April 2013) that the work of MPBS be got executed from these firms for all its circle offices by capping the rates at which pilot project of UHBVNL was awarded. The estimated expenditure on this scheme covering 35 lakh consumers of DISCOMs was³⁰ 903 crore. DISCOMs placed work orders for Rs. 282.47 crore (UHBVNL. Rs. 20.98 crore on three firms³¹ and DHBVNL: Rs. 261.49 crore on five firms³² on turnkey basis between April to November 2013

Audit observed:

- i) As per Delegation of Powers, the turnkey works of value more than Rs. 50 crore are to be awarded with the approval of High Powered Purchase Committee (Government). However, DISCOMs carried out the works of Rs. 282.47 crore through its circle offices and at rates 23 percent above the estimated cost.
- ii) The decision to carry out the works of MPBS in the entire State and to make applicable the rates at which pilot project was got executed, was taken within 12-14 days from the award (11 April 2013) of pilot project without even waiting for the outcome of the pilot project, which was scheduled for completion within 4 months i.e. August 2013.
- iii) DISCOMs introduced (April 2013) the Meter Pillar Box scheme, with capital investment of Rs. 282.47 crore, without obtaining the approval of HERC Further, DISCOMs did not include (March

³⁰At Rs 2,580 per consumer

³¹M/s Arun Enterprises Ghaziabad, M/s Jay Bee Industries, Bhatinda and M/s JR Transformers, Bhatinda.

³²M/s Ishwar Metals Industries, Jaipur, M/s Aggarwal Traders, Bhiwani, M/s JR Transformers, Bhatinda, M/s Saini Electricals, Palwal and M/s Arun Enterprises, Ghaziabad.

2015) the Capital Expenditure of Rs 87.46 crore (UHBVNL: Rs. 2.81 crore and DHBVNL: Rs. 84.65 crore) incurred on scheme while filing their Annual Performance Review petition for financial year 2015-16 (including true up of ARR for 2013-14).

- iv) For execution of turnkey projects through empanelled firms, the PD&C wing of DHBVNL had directed (September 2012) field offices that in order to avoid any favour to any particular contractor, the work should be distributed uniformly to all the empanelled firms. DHBVNL issued 282 work orders to five contractors.³³ Following points were noticed in this regard:

- Out of total 282 work orders valuing Rs. 261.49 crore, 184 work orders valuing Rs. 179 crore were awarded by DHBVNL to one contractor M/s Ishwar Metal Industries, Jaipur (Firm A) only
- Out of these 184 work orders, 86 work orders valuing Rs. 123 crore were awarded during September to October 2013, even though Firm A was unable to complete 98 work orders issued earlier during April to June 2013.
- Of the 86 work orders issued subsequently, in respect of 38 work orders SE (OP) Faridabad enhanced the quantity of the materials from Rs 38.77 crore to Rs. 71.86 crore without giving any justification.
- Firm A could erect (up to March 2017) material of Rs. 34 12 crore only, against work orders valuing Rs 179 crore.

Thus, 65 *per cent* of the total work orders awarded were issued to a single firm, Firm A, which could complete only 19 *per cent*^{34 50} of the work

- v) Superintending Engineers (OP) were competent to execute the work of MPBS through empanelled contractors up to financial limit of Rs. five crore³⁵ in each case. However, Superintending Engineers (SEs) of DHBVNL issued (April to November 2013) work orders valuing Rs. 241 crore³⁶ in five circle offices exceeding their financial competence of Rs. five crore.

³³M/s Ishwar Metals Industries, Jaipur, M/s Aggarwal Traders, Bhiwani, M/s JR. Transformers, Bhatinda, M/s Saini Electrcals, Palwal, and M/s Arun Enterprises, Ghaziabad.

³⁴Rs. 34.12 crore/ Rs 179 crore x 100.

³⁵Initially the limit was Rs. two crore which was increased up to Rs five crore for this scheme only

³⁶Bhiwani: Rs. 57 crore, Fardabad. Rs. 123 crore, Hisar: Rs. 15 crore, Namaul Rs. 35 crore and Jind Rs 11 crore.

Reply of UHBVN

B)

The neighboring state of Punjab Power Distribution utility PSPCL Patiala has implemented Meter Pillar Box scheme resultantly achieved the reduction in AT&C losses on rural feeders. The payback period of the scheme is very less, in view of above list of only those contractors which had successfully executed the work of shifting of at least 15,000 meters in meter pillar box scheme were enquired from PSPCL. Based on the list received from PSPCL, the firms were empanelled for execution of said work in the State of Haryana. As such techno-commercial viability & sustainability was very well ascertained & examined by the department well in time

Accordingly, 17 No. firms were empanelled for carrying out the works at the rates awarded to Ms Arun Enterprises through open tender procedure for execution of work on 11KV Dariyapur Feeder till the finalization of common NIT for annual rate contract floated by UHBVN on behalf of both the DISCOMs.

- i) UHBVN floated the NIT-31 for Annual Rate Contract (ARC) on behalf of UHBVN & DHBVN for one year for execution of work of meter pillar box wherein ten no. Arms participated in the instant NIT. In the ibid tender enquiry, the rates quoted by the L-1 bidder was 35% higher than the estimated cost of the Nigam. The negotiation was held with L1, L2 & L3 bidder, they declined to accept the counter offer of 15%. As such, the instant tender enquiry was dropped.

Thus from the above facts, it is quite evident that the rates given to M/s Arun Enterprises, Ghaziabad (i.e. 22.6%) were considered quite reasonable, as the same were discovered through open tender where sufficient bidders (3 no.) participated. The same was awarded by the committee after negotiation as per policy. This work was to be executed on priority basis. It was principally decided that before cropping up of public resentment, work should be executed. Further, this work was required to be got carried out feeder wise. As working/site conditions are different for each feeder, so for focused approach, separate limited tender enquiry was required to be floated for each feeder so that potential public resistance /obstructions on any feeder does not hamper the work on the other feeders. It is simultaneously pertinent to mention here that in case of other routine works viz. sub-station, bifurcation of feeder etc. separate area specific tender enquiry is floated based on requirement from time to time. A similar scheme was already operational in the PSPCL in the state of Punjab. As such, the list of the contractor who were already carrying out the same works were acquired from them. Accordingly, a memorandum was put up before Board of Directors of DHBVN who considered and approved the list of 21 no. of turnkey contractor for execution of meter pillar box scheme in State of Haryana and the following approvals were accorded to SE/Operation, by BODs of DHBVN:-

For works already allotted under Meter Pillar Box Scheme

- (i) Post facto approval may be accorded for authorization given to SEs/Operation Circles of both DHBVN & UHBVN vide memo no. Ch-9/DD-264, dated 06.5.13 to execute the work of Meter Pillar Box Scheme through empanelled Contractors upto the financial limit of Rs. 5.0 Crore in each case
- (ii) One time relaxation of Clause no. 7 of Delegation of Powers be accorded for award work upto Rs. 5 Crore in each case to empanelled firms instead of Rs 2.0 Crore authorized presently under DOP.
- (iii) One time relaxation of Clause no. 7 of DOP regarding processing the case of HPPC for allotment of work where quoted rates are 5% higher than that of estimated rates may be accorded to enable SEs/Operation Circle to allot work to empanelled firms at rates 22.6% higher than the Nigam's estimated rates as was finalized in the work issued to M/s Arun Enterprises, Ghaziabad against NIT-27 (B-326) by UHBVN

For Future works to be allotted by SEs/Operation Circles.

- (iv) SEs (Op) of both DHBVN & UHBVN be authorized for inviting bids through limited tender enquiry from 21 firms (existing 17 no. empanelled and 4 no additional firms who have subsequently qualified technically and Financially under ARC floated by UHBVN as per the list for carrying out the work of Meter Pillar Boxes scheme. However, maximum capping of rates shall be the rates awarded to M/s Arun Enterprises, Ghaziabad against NIT -27 (B-326).

One time relaxation of Regulation 6 "Mode of Purchase" of DHBVN procurement Regulation may be accorded wherein it has been provided that limited tenders can be called for works amounting upto Rs. 5.00 lacs in each case so as to enable SEs/ Operation to issue work order through limited tender enquiry upto Rs. 5.0 Crore in each case for the work providing Meter Pillar Boxes in DHBVN & UHBVN both. The above approval of BODs was conveyed to all SEs(OP) under UHBVN vide CE/PD&C UHBVN Panchkula office memo no. Ch-147/Bid No. B-326/DD-II dated 05.07.2013. Ex-post-facto approval was granted by BODs of UHBVN on 12.12.2013.

Provision in the standard terms and conditions specifies that the work allotted should match with the turnover Field officers are required to strictly observe these conditions while allotting the work.

Moreover, the work orders valuing of Rs. 20 98 Cr have been issued which is less than Rs. 50 Cr in UHBVN

In view of above, no NIT had been floated with costing more than Rupees 50 Cr. as such, no need to get approval from HPPC (Govt.) for award of contracts.

Reply of DHBVN

- i) The BODs decided to get the work of meter pillar box scheme executed from 21 no. empanelled firms through limited tender enquiry. Respective SEs/Op were authorized to allot work up to Rs. 5.0 Cr in each case with maximum capping of rates as the rates awarded to M/s Arun Enterprises, Ghaziabad by UHBVN against NIT-27 (B-326).

However, the SEs/Op misinterpreted the instructions issued by BODs for allotment of work upto Rs 5.0 Cr in each case thereby violating the spirit of the instructions. They allotted work in huge quantities beyond their competency. Necessary disciplinary action against delinquent SEs/Op has been taken by DHBVN.

Reply of UHBVN

- (ii) In this connection, it is emphatically brought out that the losses on the rural domestic feeders were hovering around 60%-70% and in some cases even upto 90%, as such it was imperative for the DISCOMs to take up the work of meter shifting in meter pillar boxes to reduce the losses. The payback period of the scheme was also very less. The work for preparing estimates prior to taking the work in hand would have taken considerable time so taking holistic view & point into consideration with respect to realization of envisaged objectives expeditiously, it was decided to get the work executed without waiting for preparation of comprehensive estimates as financial health of the utility was at stake.

Reply of DHBVN

- ii) The success of meter pillar box scheme was already established in the neighboring state of Punjab. Also a pilot study was carried out in two no. villages namely Chirod and Singhran under (Op) Circle Hisar of DHBVN where too the results were found encouraging in terms of reduction in line losses. Based on the pilot study and established results in the state of Punjab, the work of meter pillar box scheme was conceived in other areas. Thus to say that the work allotted by UHBVN under (Op) Circle Jhajjar was a pilot study is not correct as the pilot study had earlier been carried out in Chirod and Singhran Villages of Hisar Circle of DHBVN.

Reply of UHBVN

- (ii) The MPBS had taken as pilot project as such the same had not taken in CAPEX for the FY2013-14 and the implementation of the scheme did not succeed as such the same had not been taken in APR for FY2015-16.

Reply of DHBVN

- (iii) Since the decision to implement meter pillar box scheme was taken during FY 2013-14, so, the capital investment plan for

execution of work of meter pillar box scheme could not be posed to HERC as ARR for FY 2013-14 had already been filed during Nov, 2012. However, capital investment plan of Rs. 50.00 Cr per year was posed to HERC for above scheme in the capital investment plan for FY 2014-15, FY 2015-16 & FY 2016-17, which was duly approved by HERC.

Reply of DHBVN

(iv) Relates to DHBVN

Reply of DHBVN

(iv)

- It is admitted that work orders amounting to Rs. 179 Cr (approx) were issued to the firm M/s Ishwar Metal Industries, Jaipur by respective SEs/Op in DHBVN in gross violation of instruction issued by BODs. This issue was particularly alarming in (OP) Circle Faridabad where work orders amounting to Rs. 101.14 Cr were awarded to M/s Ishwar Metal Industries, Jaipur. Strict action has already been taken against Sh. Subhash Deshwal, the then SE/Op, Faridabad for irregularities committed by him as per the findings of the preliminary enquiry conducted by Sh. R.K Sodha, the then SE/Construction, DHBVN, Hisar and other subsequent enquiries conducted by Vigilance wing of HPUs as well as State Vigilance Bureau (SVB) The officer has not been reinstated even at the time of his retirement
- The work orders amounting to Rs 123 Cr were issued to the firm M/s Ishwar Metal Industries during September to October, 2013 as the firm was found to be successful bidder against limited tender enquiries floated by respective SEs/Op under DHBVN. Moreover, the completion period of the earlier work allotted to the firm was four months but considering the nature of the work and continuous hindrances involved thereagainst, it was not practical to complete the work within the stipulated period. However, due to irregularities noticed during enquiry conducted by the then SE/Construction, DHBVN, Hisar and other subsequent enquiries conducted by Vigilance wing of HPUs as well as State Vigilance Bureau (SVB), Sh. Subhash Deshwal, the then SE/Op, DHBVN, Faridabad was placed under suspension. The officer has not been reinstated even at the time of his retirement.
- Stringent action has already been taken against Sh. Subhash Deshwal, the then SE/Op, Faridabad and six other officers for irregularities committed by them and these officers were suspended as per the findings of the preliminary enquiry conducted by the then SE/Construction, DHBVN, Hisar and other subsequent enquiries conducted by Vigilance wing of HPUs as well as State

Vigilance Bureau (SVB). Further Sh. Subhash Deshwal has not been reinstated even at the time of his retirement.

- Majority of the work, was allotted to the firm during September and October, 2013.¹ Due to irregularities observed on the part of the firm namely M/s Ishwar Metal Industries, Jaipur and M/s Saini Electricals, Palwal upon preliminary enquiry conducted by the then SE/Construction, DHBVN, Hisar, the work of these firms were suspended during Jan, 2014 and they were not allowed to execute the work any further. The material of these firms were taken in Nigam's custody.

Reply of UHBVN

- (v) Relates to DHBVN Reply of DHBVN
- (v) SEs/Op misinterpreted the instructions issued by BODs for allotment of work upto Rs. 50 Cr in each case thereby violating the spirit of the instructions. They allotted work in huge quantities beyond their competency. Necessary disciplinary action against delinquent SEs/Op as per Annexure-F has been taken by DHBVN.

C) *Incomplete execution of scheme*

Company wise details of materials supplied, erected and lying unutilised as on March 2017 is given below:

Table 3.3: Value of material unutilised

| (Rs in crore) | | | | | |
|---------------------|---|----------------------------------|----------------------------|---------------------------|--|
| Name of the Company | Total Value of work order including supply & erection | Value of material to be supplied | Value of material supplied | Value of material erected | Value of material unutilised ³⁷ |
| 1 | 2 | 3 | 4 | 5 | 6 |
| DHBVNL | 261.49 | 199.86 | 131.20 | 68.80 | 58.35 |
| UHBVNL | 20.98 | 15.33 | 6.44 | 3.75 | 2.69 |
| Total | 282.47 | 215.19 | 137.64 | 72.55 | 61.04 |

Source: Data provided by DISCOMs

Above table revealed that **34 percent** and **24 percent** of the total material to be supplied was erected in DHBVNL and UHBVNL respectively and the DISCOMs failed to execute the project in its entirety.

Reply of UHBVN

C)

As per prevailing payment procedure under turnkey works, the vendor supply the material to the department, the representative of department JE/SDO

³⁷The difference between column 4 and total of column no. 5 & 6 crore is subject to reconciliation by DISCOMs.

check the material and the same were being taken on form IV after that the same material was being issued to the contractor on trust receipt, hence, the material does not remain with the Nigam & always remain in the custody of vendor/firm.

As the un-utilized material was with the firm and as per contractual obligations, it was required to be erected by the firm. Due to consistently resistance from the public, the meter shifting scheme as envisage had not been succeeded and material could not be fully erected on the feeder. It is added that the payment of Rs. 2.54 Cr. (approx) has been made against supply of material amounting to Rs. 6.08 Cr. (approx). The unutilized material amounting to Rs. 3.54 Cr. was handed over to the firms on trust receipt and as such no payment of this material has been made.

Reply of DHBVN

- C) The material supplied by the firms could not be erected in entirety on account of account of stiff resistance from the general public as well as due to stoppage of work in Faridabad Circle on account of irregularities noticed in preliminary stage during the enquiry conducted by the then SE/Construction, DHBVN, Hisar.

D) Inventory management

Contractors supplied only ₹ 131.20 crore and ₹ 6.44 crore of material against ₹ 199.86 crore and ₹ 15.33 crore of material to be supplied in respect of DHBVNL & UHBVNL respectively. Even this short supply was not fully used in erection works. As a result DISCOMs were burdened with huge inventory. Audit observed that the DISCOMs did not use the unutilised material of MPBS in subsequently introduced (July 2015) Mhara Gaon Jagmag Gaon (MGJG) scheme, despite specific directions (February 2017) of the State Government. Due to non-utilisation of this material, the DISCOMs had to bear avoidable interest of Rs. 21.97crore³⁸ (March 2017) on inventory of Rs. 61.04 crore procured for implementation of MPBS.

UHBVNL stated that the unutilised material is lying with the firms and the leftover material cannot be used for other scheme i.e. MGJG and loss reduction programme. The reply is not acceptable as the State Government had specifically directed to use the material under MGJG scheme in order to avoid it becoming scrap.

Reply of UHBVN

D)

As decided by the State Govt out of the material lying in the Nigam stores, only healthy and useable material (to be ascertained by a committee of

³⁸Calculated @ 12 per cent on Rs. 61.04 crore for three years (April 2014 to March 2017)

officers) and that too at the depreciated rates or the P&D rates at the time of issuance of the work order, whichever is lower, is now being/shall be utilized.

The decision to use the healthy and useable material was taken by the state Govt. (Copy of the decision of the State Govt. is annexed as Annexure-11) with the condition that firm will not drag the utility into litigation, but an Arbitration case was filed. Director/Projects, DHBVN, Hisar was appointed as Arbitrator. On the retirement of Director/Projects, DHBVN, Hisar, Nigam appointed Sh. Sanjeev Kumar Bansal, Director/Projects, HVPNL as Arbitrator. The brief detail of the case is as under. -

Total 20 No. work orders (10 No. supply + 10 No. erection) were issued to M/s Aran : Enterprises for Rs. 13.22 Cr. The firm has supplied the material and erected some of the material which comes out to Rs. 5.53 Cr. (approx.) out of which a payment of Rs. 1.97 Cr. (approx) has been made to the firm. Due to arisen of the dispute between the firm and the Nigam, further payment to the firm was withheld. The un-utilized material amounting to Rs. 3.02 Cr. (approx.) was handed over to the firm on trust receipt and as such no payment of this material has been made. The firm has filed a claim for Rs. 7.28 Cr. (Rs. 3.56 principle pending payments + Rs. 3.72 Cr. interest as per IUISME) in the Arbitration case.

Meanwhile the firm filed a case before the Punjab and Haryana High Court, Chandigarh challenging the appointment of Arbitrator by the Nigam. Keeping in view of the case filed by the firm in Hon'ble High Court, Sh. Sanjeev Kumar Bansal (Arbitrator) decided as sine-die

As per decision of State Government, the material has not been taken due to firm filed Arbitration case against the Nigam.

The next date of hearing is fixed on 27.04.2021 in the Hon'ble Punjab & Haryana High Court.

Reply of DHBVN

D)

Regarding unutilized material of above work, it is intimated that the various enquiries were conducted since Nov. 2013 and the unutilized material was under custody of State Vigilance for enquiry etc. After vigorous pursuance at the various levels of the State Govt. the decision regarding usage of healthy and useable material at depreciated rates was given by the State Govt. during February, 2017 with the condition that firm will not drag the utility in litigation. The unutilized healthy usable material of firms has been taken over at depreciated rates. Majority of the material so taken over by the Nigam has been utilized and only material worth Rs. 4.37 Cr is lying in Nigam's stores, which too is being utilized as per requirement.

Reply of UHBVN

The reply has already been given in Audit observation Point- B i.e. implementation of the scheme

Reply of DHBVN

From the foregoing details, it is evident that work of meter pillar box scheme was envisaged on the basis of established result achieved in the State of Punjab. Further, encouraging result was observed in pilot study carried out in two villages of Hisar circle. Subsequently, UHBVN floated an NIT -27 (B-326) for execution of work in 6 no. villages falling on Dariyapur feeder on turnkey basis and the rates finalized there against by UHBVN after due negotiation as per the procedure of the State Govt. were 22.6% above estimated rates. Thereafter, BODs decided to get the work of meter pillar box scheme executed from 21 no. empanelled firms through limited tender enquiry. Respective SEs/Op were authorized to allot work up to Rs. 5.0 Cr in each case with maximum capping of rates as the rates awarded to M/s Arun Enterprises, Ghaziabad by UHBVN against NIT -27 (B-326).

Thus, there was no irregularity in the instructions issued by BODs for implementation of the scheme but SEs/Op misinterpreted the instructions issued by BODs for allotment of work upto Rs. 5.0 Cr. in each case. They allotted work in huge quantities beyond their competency thereby violating the spirit of the instructions. Further, during execution of work, other irregularities were observed and enquiries were conducted by following officers/agencies:-

1. Sh. R.K. Sodha, the then SE/Construction Hisar (for Faridabad Circle)
2. Committee of 3 officers namely Sh. Virender Singh, SE/M&P, UHBVN, Panchkula, Sh. R. K. Jain, SE/MM, DHBVN and Sh. R. K. Batra, SE/PD, DHBVN for ascertaining the quality of material (for Faridabad circle)
3. Committee of Sh. D. S. Dudi, the then CE/RAPDRP and Sh. R. K. Sodha, the then SE/Const. for carrying out the complete accounting of material and payments made to the contractor in other circles i.e. Rewari, Narnaul, Bhiwani, Hisar and Sirsa.
4. Vigilance wing of HPUs/State Vigilance Bureau.

On the basis of enquiries conducted at various level, strict disciplinary action has been taken against delinquent officers/ officials. 58 No. charge sheets were issued to delinquent officers/officials for lapses in Faridabad circle and 49 No. charge sheets were issued to delinquent officers/officials for lapses in other circles. The work allotted by respective SEs/Op could not be executed in entirety due to stiff resistance as well as suspension of work of M/s Ishwar Metal Industries, Jaipur and M/s Saini Electricals, Palwal due to irregularities committed by these firm as established in the preliminary stage in the enquiry conducted by the then SE/Construction, DHBVN, Hisar.

Based upon the enquiry conducted by various officers/ agencies (including departmental vigilance wing and SVB), the details of work orders issued to the firm visa-vis work net payment made, value of work executed and value of material taken over by the Nigam was assessed as per details noted below:-

| Name of the firms | Value of the Work Orders (Rs. In Crore) | Net Payment released to the Firms (Rs. In Crore) | Total Value of Material Erected (Rs. In Cr.) | Total Value of Executed Work including erection charges (Rs. In Crore) | Value of Material in Nigam's custody (Rs. In Cr.) |
|-----------------------|---|--|--|--|---|
| M/s Ishwar Metal | 179 | 43.98 | 35.67 | 41.93 | 37.81 |
| M/s Saini Electricals | 21.22 | 6.02 | 3.65 | 4.36 | 10.93 |
| M/s Aggarwal Traders | 46.46 | 24.18 | 25.98 | 32.00 | 3.55 |
| M/s J R. Industries | 3.71 | 2.93 | 2.9 | 3.32 | 0.00 |
| M/s Arun Enterprises | 11.32 | 1.41 | 2.9 | 3.18 | 1.98 |
| Total | 261.71 | 78.52 | 71.10 | 84.81 | 54.18 |

The unutilized material has been taken over at depreciated rates after decision of State Govt. in Feb, 2017. Majority of material has been utilized and only material worth Rs. 4.37 Cr is lying in Nigam's Stores, which too is being utilized as per requirement. Subsequently, Mhara Gaon Jag Mag Gaon scheme envisaging similar provisions as that of meter pillar box scheme (viz relocation of meter outside consumer premises, replacement of bare ACSR of LT line with insulated cables etc) has been launched w.e.f 1.07.2015 in rural area to curb theft of power, improve billing efficiency and quality of service to the consumers and encouraging results have been achieved against this scheme. The work of MGJG stands completed in 2203 villages out of 3655 villages in the jurisdiction of DHBVN and 24 hours power supply is being given to these completed villages.

From the above, it is concluded that although there had been irregularities in execution of Pillar Box Scheme but the payment released to the firms is less than value of completed work together with material taken in custody of DHBVN. Hence, there is no loss to the Nigam. Also, the department has taken stringent disciplinary action against officers/officials involved in the case.

During the oral examination, the Committee was not satisfied with the reply of the Corporation and observed that there were serious lapses on the part of the Officers/Officials of the Corporation in implementation of the Meter Pillar Scheme. The Committee also noticed that there was non-compliance of the directions of Hon'ble Chief Minister to file criminal cases against delinquent Officers/Officials. Therefore, the Committee recommended that strict action be taken against delinquent Officers/Officials who disobeyed the orders of the Hon'ble Chief Minister after conducting departmental enquiry, under intimation to the Committee. The Committee further recommended that the Officers/Officials who were found involved in this scam should be transferred with immediate effects. Hence, the Para be kept pending.

Dakshin Haryana Bijli Vitran Nigam Limited

3.9 Extra expenditure due to payment at higher rate

16. The Company incurred extra expenditure of Rs. 2.12 crore due to payment to contractor at the existing higher rates instead of rates finalised in the new NIT.

Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL) awarded (January 2012) the work of collection and analysis of meter data³⁹ on monthly basis through Common Meter Reading Instrument (CMRI) of the consumers having High Tension (HT) and Low Tension (LT) Current Transformer (CT) meters to M/s Signals & Systems (India) Pvt. Ltd. Chennai (contractor) @ ₹ 239.91 per connection per month. The period of the contract was for two years up to January 2014. The same was extended for one year up to January 2015. The Company floated (September 2014) a Notice Inviting Tender (NIT) for the aforesaid work, to discover fresh rates, but was dropped due to inadequate response. Another new NIT for the work was floated in May 2015 whose price bid was opened in October 2015. Meanwhile, the existing work order was extended by Whole Time Directors (WTDs) from time to time⁴⁰ up to March 2016 with the condition that the payment in this extended period would be adjusted with the LI rates finalised of NIT under process (September 2014/May 2015), in case the new rates finalised are lower than the existing work order rates.

Audit observed that at every stage of contract extension, Circle Office, Metering & Protection (M&P), Gurugram, DHBVNL issued letters (January, April, August, November 2015 and January 2016) to the contractor for extension of work order with the condition that the rates would be paid as finalised in NIT under process or the existing (January 2012) work order rates, whichever is lower. However, the contractor protested (May, September, December 2015 and February 2016) and intimated Circle Office (M&P), Gurugram that the condition of payment at lower rates as per NIT under process than existing rates was not acceptable and requested to consider the rates⁴¹ of existing work order awarded in 2012. Despite non-acceptance by the contractor to work at lower rates as per WTDs orders, the Circle Office continued the work order with existing contractor at existing rates. The Circle Office in its follow up report (August and November 2015) to the WTDs did not apprise the factual position of non-acceptance of the contractor to work at lower rates as decided by WTDs. After finalisation of NIT floated in May 2015, the work was awarded (11 February 2016) to the existing contractor and another

³⁹ Tamper data and load survey.

⁴⁰ Extension period. February to March 2015, April to June 2015, July to October 2015, November to December 2015 and January 2016 to March 2016 approved on 14 January, 8 April, 7 August, 6 November 2015 and 18 January 2016 respectively

⁴¹ Existing work order rates of January 2012 or rates finalised in the NIT under process, whichever is lower.

contractor i.e. M/s BCITS, Jaipur @ Rs. 174 per connection which was lower than the existing rates by Rs. 65.91 per connection (Rs. 239.91 - Rs. 174). The new work orders were awarded on 22 July 2016 after completion of procedural formalities. The field offices of DHBVNL released (February 2015 to September 2016) payment of Rs 7.23 crore⁴² to M/s Signals & Systems (India) Pvt. Ltd. Chennai for work executed during February 2015 to March 2016 on old rates (January 2012 rates) but did not adjust excess payment of Rs. 2.12 crore already (before opening of price bid in October 2015 - Rs. 1.34 crore and after opening - Rs 0.78 crore) made at existing higher rates of January 2012 from the subsequent bills of the contractor.

This non-compliance with WTDs orders of adjusting payments with reference to the Li rates of NIT finalised in February 2016 has resulted in excess payment of Rs 2.12 crore to contractor during February 2015 to March 2016. The Company has not fixed accountability for non-compliance with directions.

The Management stated (May 2017) that the recovery of excess payment made to M/s Signals & Systems (India) Pvt. Ltd. Chennai will be effected after re-verification of calculations of excess payment.

The matter was referred (May 2017) to the Government; their replies were awaited (November 2017)

In this regard, it is submitted that the excess payment of Rs. 2.12 Crores made to M/s Signals & Systems (India) Pvt. Ltd. Chennai has been got re-calculated in all the four Divisions of M&P i.e. Gurugram, Faridabad, Bhiwani & Hisar. After taking into account the service tax & other details, the actual amount to be recovered comes out to be Rs. 1,24,49,644/- (Rupees One Crore Twenty Four Lakhs Forty Nine Thousand & Six Hundred & Forty Four only) instead of Rs. 2.12 Cr (as intimated by the Audit Party). The prime reason for difference is that in the previous work order, the rates quoted in previous WO were inclusive of all taxes including service tax, whereas the rates of revised work order were exclusive of service tax. The copy of both work orders are attached, Hence, a sum of Rs. 58,91,077/- was to be paid by the Nigam on a/c of Service Tax as per the revised WO. The same was not taken into account by the Audit Party while calculating the excess payment of Rs. 2.12 Cr. Also, as per the detail of month wise bills of the Firm, got rechecked by M&P Divisions, the total no. of connections for which reading was taken were 311667 against 355733 and data analysis done were 126230 against 175412 (as per AG calculation). Due to this, a difference of Rs 29,38,181/- comes out in the calculation of AG audit and calculation of M&P Divisions. Therefore, the total difference comes out to Rs. 88,29,258/-, hence the actual amount to be recovered from the firm comes out to Rs. 1,24,49,644/- The same has been got

⁴²Rs. 4.64 crore during February to October 2015 and ? 2.59 crore during October 2015 to March 2016.

pre-audited from the SO/RAP-V, DHBVN, Gurugram as per the request of Chief Auditor, DHBVN, Hisar.

The agenda was put up before the WTDs in its 151st meeting held on 12th January, 2018 wherein the approval for recovery from M/s Signals & Systems, Chennai regarding overpayment for extended period from Feb, 2015 to March, 2016 ' has been accorded. The decision of WTDs has been intimated through the advice of Company Secretary, DHBVN, Hisar vide his office memo No. CS/DH/WTd-151/Advice-3347 dated 18.01.2018. Accordingly, the same has been intimated to all four Xen/M&P vide SE/M&P Circle, DHBVN, Gurugram memo No. Ch. 86/M&P/GL-235 dated 05.02.2018 for effecting the recovery.

Thereafter, the recovery of excess amount has been made by respective Xen/M&P from the amount of security deposit of the firm M/s Signals & Systems, Chennai lying in their offices as under:-

| Sr. No | Name of Office | Amount | JV No | Remarks |
|--------|--------------------|---------------|------------------|--|
| 1 | M&P Divn, Gurugram | 50,64,969/- | 65 dated 03/2018 | |
| 2 | M&P Divn Fandabad | 44,91,590/- | 16 dated 03/2018 | |
| 3 | M&P Divn.Bhiwani | 14,56,512/- | 66 dated 03/2018 | Recovered by Xen/M&P, Gurugram as no amount was available with XEN/M&P Bhiwani |
| 4 | M&P Divn.Hisar | 14,36,573/- | 11 dated 03/2018 | |
| | Total | 1,24,49,644/- | | |

The copies of JVs are attached.

It is further submitted that however the recovery of Rs 1,24,49,644/- as per para has already been affected from the firm M/s Signals & System Pvt Ltd. Chennai but the firm filed a suit before the Micro Small Enterprises Facilitation Council, Chennai. After obtaining the advice from LR, HPU, Panchkula, the case was defended by engaging an advocate at Chennai after obtaining WTDs approval. The MSEFC, Chennai disposed off the petition by referring the case to the Arbitrator of Madras High court. Presently, the case is pending before the Arbitrator of Madras High Court. The case is being pursued for disposing off the claim of firm.

Hence, in view of the above reply and recovery of amount of Rs. 1,24,49,644.00 from the firm M/s Signals & Systems (India) Pvt. Ltd. Chennai

As per directions imparted in the meeting and proceedings of meeting dated 05.01.2021 received vide Secretary, Haryana Vidhan Sabha memo no. 3/CPU/2020-21/346 dated 08.01.2021, a committee of 2 Nos. officers i.e CE/MM-cum-CTO, DHBVN, Hisar and Chief Financial Officer, DHBVN, Hisar was constituted vide SE/Administration, DHBVN, Hisar O/o No. 54/SE/Admn/Gen-47 dated 08.01.2021 to inquire into the matter. The committee has submitted inquiry report on dated 13.01.2021. As per finding of committee inquiry report, explanation has been called by giving 7 days time for submission of reply in respect of following officers and officials held responsible:-

| Sr No. | Responsible for | Name of officers/officials |
|---|---|---|
| 1 | Failed to effect recovery of excess payment made to the firm and continued releasing the payment on old/higher rate from 2/2016 onwards despite the discovery of new rates | 1. Sh. Krishan Swaroop, the then Xen/M&P, Bhiwani 2. Sh. Raj Kumar the then Xen/M&P, Hisar & Bhiwani 3. Sh. B.K. Ranjan the then Xen/M&P, Fandabad 4. Sh. Ram Niwas the then Xen/M&P, Gurugram, Hisar & Bhiwani (Retired on 31.10.2019) 5. Sh. Ombir the then Xen/M&P, Gurugram 6. Sh. Naresh Kumar, Dy. Supdt-cum-Accountant M&P Division Gurugram. 7. Sh. Sidharth Goswami, UDC M&P Division, Fandabad 8. Sh. Anand Malik, Dy. Supdt-cum-Accountant M&P Division Hisar 9. Sh. Rajbir, UDC M&P Division Bhiwani (Resigned on 03 09 17) |
| 2 | Failed to effect recovery of excess payment already made to the firm. | 1. Sh. Naresh Dhillon the then Xen/M&P, Hisar 2. Sh. Vijender Singh the then Xen/M&P, Hisar & Bhiwani 3. Sh. Jamman Singh, Dy. Supdt-cum-Accountant M&P Division, Fandabad 4. Smt. Dimple Chhabra, Dy. Supdt-cum-Accountant M&P Division Hisar |
| 3 | Failed to ensure the compliance of decision of WTDs taken during 01/2015 resulting excess payment to the tune of Rs 1,24,49,644/- to the contractor | 1. Smt. Vineeta Singh the then SE/M&P, Gurugram 2. Sh. S S Yadav the then SE/M&P, Gurugram (Retired on 31 08 2017) |
| 4 | Failing to convey to the Management (get decided the matter from Management) regarding refusal of the firm to carry out the work on new discovered rate if lower and failed to enforce the recovery of over payment from concerned XENs/M&P during the tenure of administrative control of M&P Circle | 1. Sh. J. B. Mudgil, CE/Commercial, Hisar (Retired on 31 12 2016) 2. Sh. Sanjeev Chopra, CE/Smart City Project, Gurugram (Retired on 30.11.2019) |
| Further action will be taken according to the reply received from the above mentioned officers/officials. | | |

The Committee noticed that there were serious lapses on the part of Officers/Officials in performing their duties as they failed to effect recovery of excess payment made to firm, failed to ensure the compliance of WTDs and failed to convey the management regarding refusal of the firm to carry out the work of new discovered rate. Therefore, the Committee desired that strict action be taken against the delinquent Officers/Officials under intimation to the Committee.

3.10 Irregular reimbursement

- 17. The Company made irregular reimbursement of Rs.1.41 crore towards payment of Central Sales Tax to a contractor without obtaining documentary evidence.**

Central Sales Tax (CST) is levied on interstate sales under CST Act 1956. Section 6(2) of the Act provides that if during movement of goods in the course of interstate sale, the goods are sold in-transit by transfer of documents of title of such goods to the Government or to a registered dealer, the in-transit sale would be exempt from CST.

Dakshin Haryana Bijli Vitran Nigam Limited (Company) issued (3 July 2013) a work order (WO) for supply of material for installation of high tension lines for high voltage distribution system and system strengthening for non-HUDA areas of Gurugram City to M/s Shyam Indus Power Solutions Pvt. Limited, New Delhi (contractor) at a cost of Rs. 110 crore plus taxes⁴³ of Rs. 8.27 crore. As per clause 5 of the WO, taxes in respect of transactions between the Company and the contractor, on all items of supply including bought-out finished items, which were to be dispatched directly from the sub-vendor's work to the Company's site, was to be paid after receipt of each shipment at site against documentary evidence.

Audit observed that the contractor raised (October 2013 to January 2016) invoices towards exempted sale under the aforesaid provision of the CST Act amounting to Rs. 70.59 crore. No tax had been paid as per returns filed by the contractor against such supply. However, the contractor raised a separate bill for reimbursement of CST amount of Rs 1.41 crore in February 2016 without submitting any supporting documentary evidence of tax payment. The Company also did not seek any documentary evidence of payment of CST paid from the contractor before allowing the reimbursement of tax in May 2016.

Government stated (August 2017) that the contractor had raised the claim of taxes which had been paid on purchases made by contractor. The reply was not tenable as taxes paid by the contractor on his purchases were not liable to be paid by Company as the sale price was including all incidental expenses and profit element. As per aforesaid provision of Act no tax was payable under transit supply, hence the tax reimbursement of Rs. 1.41 crore to the contractor was irregular.

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

In reply to the observations of the Audit, it is submitted that the work for supply of material for installation of high tension lines for high voltage distribution system and systems strengthening for non HUDA areas of Gurugram city was awarded to M/s Shyam Indus Power Solution Pvt. Ltd., New

⁴³Central Sales Tax, Value Added Tax etc.

Delhi (Contractor) vide CE/PD&C, DHBVN, Hisar vide work order no. 297& 298/SE/P&D/WB/DH/2009/G-02R dated 03.07.2013

The firm raised separate bills for taxes & duties paid on purchases during February, 2016 along with sales tax-cum-indemnification certificate to the effect that sales tax charged is not exempt under the relevant provisions of the Act and has been/will be included in the sales tax returns and that he (contractor) will always indemnify DHBVN in case of wrong or incorrect payment on this account.

Accordingly, on confirmation of receipt of material by the consignee and submission of indemnification certificate by the firm, the payment of bills of the contractor was made.

Later on, as and when it came to notice that the firm did not submit the documentary evidence on this account as pointed out by the Audit, the payments so claimed on account of taxes i.e. Rs.2,0052,293/- has been deducted from the running bill payment due to the firm in September, 2017.

In view of above, the audit para may please be dropped, as the compliance of C&AG observations stands already made by DHBVN.

The Company also did not seek any documentary evidence of payment of CST paid from the contractor before allowing the reimbursement of tax in May 2016.

Government stated (August 2017) that the contractor had raised the claim of taxes which has been paid on purchases made by contractor. The reply was not tenable as taxes paid on purchases were not liable to be paid by Company as the sale prices was included all incidental expenses and profit element. As per aforesaid provision of Act no tax was payable under transit supply, hence the tax reimbursement of Rs 1.41 crore to the contractor was irregular.

Additional Reply

The firm, claimed said amount vide its invoice no. 1 dated 09.02.2016 along with **Sales Tax Certificate**. The recovery against irregular reimbursement of taxes was made in the month of September & December, 2017 after pointed out by the PAG/Audit Party, Haryana, Chandigarh. Following officers/officials had processed/ released the above payment and found responsible for reimbursement of taxes without obtaining

| Sr. No. | Name of Officer/ Official | Designation | Present Status |
|---------|---------------------------|-------------|--|
| 1 | Sh. Anil Bulan | FA&CAO | His services stand dismissed in other cases. |
| 2 | Sh. Rakesh Seih | Sr A.O, | His services also stand dismissed in other case. |
| 3 | Sh. Lalit Kumar | SO | He is under suspension in other case. However, explanation of the official has been sought by the Management. Copy attached as Annexure-E. |

The recovery of amount paid on account of Taxes has already been made from Retention bills of the firm. So, no action was taken against the firm. Details of recovery (**Relevant Noting Page showing the detail of recovery with sample. Retention bills, is attached.**

However, the firm vide this office letter dated 11.01.2021 followed by reminder issued on, 14.01 2021 was asked to submit the relevant documents in support of their claim of CST.

In reference, the firm vide their representation dated 14.01.2021 (Annexure-I) has inter-alia stated that "to our surprise DHBVN unilaterally deducted amount of Rs. 1.41 Cr.(CST) & Rs.0.91 Cr (VAT) for which all the relevant documents were submitted from time to time. We again tried to submit all the bills raised by manufacturers to support our transaction but all in vein. We interpreted the tender document and the contract signed by M/s Shyam Indus Power Solutions Private Limited & M/s DHBVNL in a certain way which was dealt by DHBVNL in a different way at a later.

The firm further stated that even if, we consider all the sales under subsequent sales as per Section 6(2) of CST Act. No CST will be levied in SIPS (M/s Shyam Indus Power Solutions) bill and no CST will be deposited to sales tax directly. So as a matter, of fact, which all tax challans were expected to be submitted along with bills. As per the market practices DHBVN precedence and World Bank principles we got to understand that DHBVNL will reimburse all the sales tax on the bills raised by manufacturers to SIPS (M/s Shyam Indus Power Solutions) during the currency of the contract."

The payments are regulated based upon the terms and conditions of individual NIT/ WO/ PO. However, to avoid recurrence of such situations, an instruction has been issued.

The Committee observed that the company made the recovery against the irregular reimbursement of taxes only after pointed out by the audit party and found serious lapse on the part of the Officers/Officials of the Corporation who had processed / released the payment of reimbursement of taxes without obtaining proof of deposit. The Committee recommended that the Corporation should re-examine the reply submitted by the firm legally and submit a detailed report to the Committee at the earliest.

Appendix 3

**Statement showing loss of interest for non receipt of subsidy claimed
from the State Government**

(Referred to in Paragraph 2.6.1.5 ii)

(Rs. in crore)

[illegible]

Appendix 7

Statement showing cases where Corporation either failed to link the settlement amount with the value of mortgaged security or failed to settle the account in accordance with the guidelines of the Scheme (Referred to in paragraph 3.11.3.1)

| Sl. No. | Name of the borrower | Facts of the case | Reply of the Corporation |
|---------|--|---|--|
| 1 | J B Agro, Yamuna Nagar (3 loan accounts) | Three loans amounting to Rs 16 10 lakh were disbursed during January 1995 to December 1998. The unit was in default since inception. The Corporation approved (March 2010) borrower's case for one time settlement (as an individual case and not under any OTS Scheme) at Rs 0 32 crore against outstanding dues of Rs 1 24 crore which was not paid and the OTS decision was cancelled (July 2011). Upon request from the borrower (August 2012) its earlier settlement decision was revived (December 2012) at Rs.0 38 crore (OTS amount Rs.0 32 crore and for the interest 20 06 crore). The borrower deposited the amount in July 2013. Audit observed that the borrower had mortgaged the land valuing Rs 0 66 crore (December 2008) with Corporation Since the OTS - NPA policy 2011 also covered those cases in which earlier OTS stood cancelled so this case was to be considered and settled under OTS Scheme 2011 and should not have been settled at the value less than the value of mortgaged property. This settlement favouring the borrower resulted in loss of Rs 0 28 crore (Rs 0 66 crore - Rs 0 38 crore) to the Corporation. | The Corporation stated (July 2016) that collateral security could not be sold as the same was under illegal encroachment since more than 20 years and hence the settlement amount was not linked with the value of security. The reply is not tenable as loan was granted 18 years back (1995 to 1998) against the security and at the time of sanctioning the loan the Corporation should have physically verified the security besides verifying from revenue records whereas also as per reply the names of encroacher were recorded. |
| 2 | ADL International (2 loan accounts) | The Corporation accepted (January 2012) the proposal (January 2011) of the borrower to settle the loan at Rs 0 61 crore against the outstanding dues of Rs 25 07 crore whereas the value (February 2011) of assets mortgaged with the Corporation was Rs 2 14 crore. This resulted in self inflicted loss of Rs 1 53 crore (Rs.2.14 crore - Rs 0.61 crore). | The Corporation stated that the loanee offered Rs 0.61 crore which was accepted by the Corporation citing financial crunch of loanee as a reason. The reply is not tenable as the settlement was made violating the policy of linking settlement amount with value of security. |
| 3 | Gobinda Builders, Sonapat (1 loan account) | The Corporation settled (June 2013) a loan account of a borrower at 20.43 crore against outstanding dues (April 2013) of 220.88 crore and the value (March 2012) of mortgaged property was Rs 2 45 crore. Audit noticed that the loan was settled (June 2013) at Rs 42 89 lakh, without considering the realizable value only. (March 2012) of collateral security of Rs 2 45 crore, which resulted in loss of Rs 2 02 crore (Rs 245 crore - Rs 42.89 lakh) | The Corporation stated (July 2016) that the main guarantor had already expired and the guarantor was willing to pay OTS amount of Rs.42.89 lakh. The reply is not tenable, as the value of security available was Rs 2 45 crore and should have been linked to work out the OTS amount |

| | | | |
|---|---|--|--|
| 4 | National Steel Tube, Bhiwani (1 loan account) | As against the outstanding dues of Rs 92.53 lakh of the borrower, the value (May 2012) of the property mortgaged with the Corporation was Rs.44.42 lakh. However, the Corporation settled (December 2012) at Rs 0.32 lakh only. Thus, settlement of loans at less than the value of property mortgaged resulted in loss of Rs 44.10 lakh (Rs 44.42 lakh - Rs.0.32 lakh) | The Corporation stated (July 2016) that the original documents of one collateral security were missing and remaining two collateral securities could not be sold. Hence, the settlement was arrived at without linking with value of security. The reply is not acceptable as the documents of security should have been kept by the Corporation in safe custody. |
| 5 | Parsley Foods Limited, Hissar (2 loan accounts) | Against outstanding (November 2012) dues of Rs 8.06 crore in case of a borrower the assessed value of the security was Rs.56.23 lakh. The Corporation worked out settlement amount at Rs 88.12 lakh. The account under Section 31 of the SFC Act, 1951 would be settled at Rs. 70 lakh by the Board of Directors on the proposal of the time consuming. Hence, settlement arrived at the subcommittee which was in violation of the policy and resulted in amount stated by the borrower. The reply is not tenable as the recourse available in Act should have been resorted to and settlement done as per policy | The Corporation stated (July 2016) that the available security was disputed and the process under Section 31 of the SFC Act, 1951 would be time consuming. Hence, settlement arrived at the time consumed by the borrower. The reply is not tenable as the recourse available in Act should have been resorted to and settlement done as per policy |
| 6 | Mukund Pipe, Sirsa (2 loan accounts) | Out of the two Settlement Schemes, minimum settlement amount in the case of OTS-NPA was higher than OTS - Loss scheme as in case of the latter, borrower informed the Corporation about its poor financial position and was able to pay the OTS of former, principal as well as interest of re-cast account is recovered, whereas in case of latter, amount as per loss policy instead of NPA policy observed that total outstanding (December 2012) amount against four loans. Thus, the loan was settled as per loss policy. The sanctioned to a unit was Rs 22.17 crore. The Corporation accepted (March 1996) the collateral security at Rs 52 lakh but had not reassessed the same borrower was available and should have been The borrower applied (July 2012) for the settlement of loan under OTS-Loss Scheme. Since the Corporation was having the collateral security so the case was to be covered under OTS-NPA Scheme and minimum settlement amount under it worked out to Rs.1.07 crore. However, the Corporation agreed (July 2012) to settle the account for Rs 72.32 lakh under OTS Loss Scheme. This resulted in loss of Rs.34.30 lakh (Rs.106.62 lakh - Rs 72.32 lakh) to the Corporation | The Corporation stated (July 2016) that the borrower informed the Corporation about its poor financial position and was able to pay the OTS of former, principal as well as interest of re-cast account is recovered, whereas in case of latter, amount as per loss policy instead of NPA policy observed that total outstanding (December 2012) amount against four loans. Thus, the loan was settled as per loss policy. The sanctioned to a unit was Rs 22.17 crore. The Corporation accepted (March 1996) the collateral security at Rs 52 lakh but had not reassessed the same borrower was available and should have been The borrower applied (July 2012) for the settlement of loan under OTS-Loss Scheme. Since the Corporation was having the collateral security so the case was to be covered under OTS-NPA Scheme and minimum settlement amount under it worked out to Rs.1.07 crore. However, the Corporation agreed (July 2012) to settle the account for Rs 72.32 lakh under OTS Loss Scheme. This resulted in loss of Rs.34.30 lakh (Rs.106.62 lakh - Rs 72.32 lakh) to the Corporation |

HARYANA FINANCIAL CORPORATION: CHANDIGARH

Reply of para 3.11 of CAG Report for the F.Y. 2015-16

| | Reply of the Corporation |
|--|---|
| | <p>The Haryana Financial Corporation was established under the State financial Corporation's Act, 1951 in the year 1967 to provide financial assistance to Industrial Units in Small Scale Sector, to finance transport loans and other loans under various schemes in Haryana. It was providing financial assistance in accordance with the norms and policies of the Corporation framed as per provisions of SFCs Act, guidelines received from SIDBI and directions received from State Govt, from time to time. Since its establishment, the Corporation has sanctioned loans of Rs. 2881.57 crore to 18531 units. The Corporation has disbursed Rs 1792.76 crores to 17160 units since inception. At present principal and misc. outstanding of the corporation is Rs. 110.20 crore as on 31.3.2017 in 904 accounts which includes 868 accounts involving amount of Rs. 101.64 crore (principal + misc outstanding) which have been prudentially written off from the books of accounts of the Corporation with the right of the Corporation to recover the loans. It may be observed that the amount outstanding in written off accounts is only 5.67% of total amount disbursed till date.</p> <p>Regarding recovery of amount. In these cases, the recovery of Rs 7.27 crores is against principal & misc. exps. upto the date of write off against the disbursed amount of Rs 35.43 crore. As per policy, recovery is first appropriated towards misc. exps., then towards interest and then towards principal. Recovery against interest has not been given in these cases. As Corporation has recovered around 20% of principal, it implies Corporation must have recovered interest amount in these cases also which might have been more than the amount disbursed.</p> <p>Regarding acceptance of improper securities i.e. securities with defective title or non-availability of security, the Corporation has been improving its parameters w.r.t. security being accepted after learning from past experience. Regarding security with defective title, it is stated that earlier the Corporation was accepting security on the basis of search reports of Advocates. However, subsequently, the Corporation started its own verification of its title documents.</p> <p>The Corporation has financed first generation entrepreneurs who find it difficult to get finance from banks or other financial institutions. At that time, security was accepted as per the norms as formulated by the Corporation from time to time. There is no lapse on the part of the Corporation.</p> <p>The Corporation took decision to stop accepting un-partitioned properties on 19.2.1997. The Corporation has discontinued with the practice of accepting property on the basis of power of attorney w.e.f. 13.12.2000. The Corporation has also stopped accepting collateral securities located in rural areas. The Corporation also started checking the original documents from the office of Sub-Registrar/Municipal Committee through Legal Officer of the concerned branch w.e.f. 29.07.2003.</p> <p>From 1.4.2003 onwards the Corporation provided financial assistance to units set up in approved industrial areas/Estates only and percentage of NPAs in loans disbursed from 1.4.2003 onwards was 0.3% only as on 31.3.2017. Thus, it is evident that the Corporation has</p> |

| | |
|--|--|
| | <p>been continuously improving its policies and procedures regarding acceptance of securities</p> <p>Regarding non-availability of security, it may be mentioned that in some cases loans are provided against working capital and machinery/equipments, vehicle only. No security is available at present in such cases because the security has either been disposed off by the Corporation or by the borrowers. Moreover, the movable security/assets depreciate considerably over a period of time and their value would have become negligible by now. However, in cases where security has been fraudulently sold by the borrowers, the Corporation has taken appropriate action against the borrowers by lodging FIRs/filing Court cases</p> <p>In cases where the units are under liquidation or in pending Court cases, the Corporation has to await decision of Courts/Official Liquidator for Initiating any recovery action</p> <p>As the Corporation is not in the position to compete with the banks/financial institutions, it has discontinued fresh sanctions w e f. May,2010</p> <p>The BoDs of the Corporation has decided to wind up the Corporation and the Corporation has taken up the case with the State Govt. to consider/take decision with regard to winding up of the Corporation u/s 45 of the SFCs Act,1951 which is under process. The case wise reply in annotated form is given in Appendix 7.</p> |
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Appendix 7

Statement showing cases where Corporation either failed to link the settlement amount with the value of mortgaged security or failed to settle the account in accordance with the guidelines of the Scheme.

(Referred to in paragraph 3.11.3.1)

| Sl. No. | Name of the borrower | Facts of the case | Reply of the Corporation | Present Status |
|---------|--|--|--|---|
| 1 | J B Agra, Yamuna Nagar (3 loan - accounts) | Three loans amounting to Rs.16.10 lakh were disbursed during January 1995 to December 1998. The unit was in default since inception. The Corporation approved (March 2010) borrower's case for one time settlement (as an individual case and not under any OTS Scheme) at Rs.0.32 crore against outstanding dues of Rs.1.24 crore which was not paid and the OTS decision was cancelled (July 2011) Upon request from the borrower (August 2012) its earlier settlement decision was revived (December 2012) at Rs. 0.38 crore (OTS amount '0.32 crore and for the interest Rs 0.06 crore). The borrower deposited the amount in July 2013 Audit observe^ that the borrower had mortgaged the land valuing Rs 0.66 crore (December 2008) with Corporation Since the OTS - NPA policy 2011 also covered those cases in which earlier OTS stood cancelled so this case was to be considered and settled under OTS | The Corporation stated (July 2016) that collateral security could not be sold as the same was under illegal encroachment since more than 20 years and hence the settlement amount was not linked with the value of security. The reply is not tenable as loan was granted 18 years back (1995 to 1998) against the security and at the time of sanctioning the loan the Corporation should have physically verified the security besides verifying from revenue records whereas also as per reply the names of encroacher were recorded. | In the captioned case, earlier the settlement was approved in March, 2010 at Rs.31 76 lakh by the Board of Directors. But the loanee did not honour the settlement and it was cancelled in July, 2011. The loanee again approached for revival of cancelled settlement and the Board of Directors in its meeting held on 24.12 2012 revived the earlier settlement with further interest at total amount of Rs.38 02 lakh. In this case, though the collateral security in the shape of agricultural land measuring 87K 15M situated at Vill Chaudharwas, Distt. Hisar was available with the Corporation, however, it could not be disposed off even after making 19 attempts as the same was occupied by the Mujharas and their families who were residing there since more than 20 years it is submitted that while examining the title of the collateral security, the Corporation verified the ownership from the documents submitted by the borrower. Subsequently, it was observed by the Corporation that in many cases, the collateral security was occupied by the tenants, though the title of the property was in the name of the mortgagor. The Corporation never |

| | | | |
|--|--|--|---|
| | | <p>Scheme 2011 and should not have been settled at the value less than the value of mortgaged property. This settlement favouring the borrower resulted in loss of Rs 0.28 crore (Rs.0 66 crore - Rs.0.38 crore) to the Corporation.</p> | <p>received a bid more than Rs 20.50 lakh. Although the revised assessed value of the above collateral security at D C rate worked out to Rs 65.81 lakh but due to the reasons described as above the sale did not fructify.</p> <p>The Corporation had also not been able to recover any amount in response to the Recovery Certificate issued to the concerned Collector. The Sole-prop, was also arrested by the Revenue Authorities and kept behind bars for 40 days. The settlement amount was approved by the BOD of the Corporation after keeping in view all the above facts in respect of the collateral security.</p> <p>As per the OTS-2011 Policy, the settlement amount in the case under NPA scheme would have been linked with the value of available collateral security mortgaged with the Corporation at Rs.65.81 lakh. However, keeping in view the facts about the collateral security as mentioned above, the Corporation would not have been able to settle the accounts of the firm at Rs.65.81 lakh.</p> <p>The concern has deposited the entire settlement amount along with interest and the case stands adjusted on 30.07.2013. Thus, through revived settlement at Rs 38.02 lakh as approved by BOD on 24.12.2012, the Corporation was able to recover a total sum of Rs.52.96 lakh against the disbursed amount of Rs. 16.10 lakh.</p> |
|--|--|--|---|

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| 2 | A.O.L International (2 loan accounts) | <p>The Corporation accepted (January 2012) the proposal (January 2011) of the borrower to settle the loan at Rs 0.61 crore against the outstanding dues of Rs 5 07 crore whereas the value (February 2011) of assets mortgaged with the Corporation was Rs 2 14 crore. This resulted in self inflicted loss of Rs 1.53 crore (Rs 2 14 crore - Rs 0.61 crore)</p> | <p>The Corporation stated that the loanee offered Rs 0.61 crore which was accepted by the Corporation citing financial crunch of loanee as a reason. The reply is not tenable as the settlement was made violating the policy of linking settlement amount with value of security.</p> | <p>The Corporation has received the entire settlement amount of Rs. 61.00 lakh from the company Besides, an amount of Rs 3,32,340/- being interest on settlement amount has also been received from the party and thereafter HFC released (29th June, 2012) original documents of mortgaged securities</p> <p>The Corporation had initiated recovery action by recalling loan in June, 1998 due to continuous default by the company. The notice Under Section 29 of SFCs Act was also issued in 1998. As the company requested for re-schedulement, the same was approved and action Under Section 29 was kept in abeyance As the company approached the BIFR, the Corporation could not take action under the provisions of SFCs Act since 2000. As such, the recovery was stalled since 2000 due to pendency of the case before the BIFR The Corporation approved the settlement on 22.12 2011</p> <p>During the Sub-Committee Meeting held on 30 09 2011, the director of the company was advised to enhance its settlement offer of Rs 61.00 lakh but the director informed that they were suffering from financial crunch and had no source to arrange funds and requested to sympathetically consider their settlement offer of Rs.61.00 lakh. The Committee observed that it was a BIFR case and the Corporation had been unable to enforce the security mortgaged to it for making recovery of its dues for a long period i.e for about 11 years, and keeping in view the uncertainty of any such possibility, the</p> |
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| | | | | <p>Committee recommended to settle the account at Rs.61.00 lakh and the settlement was approved by the Board of Directors of the Corporation on 22.12.2011</p> <p>Against the total disbursed amount of Rs.66.34 lakh the Corporation has recovered Rs.150.72 lakh (including the settlement amount in full) It has also been gathered that other secured creditor namely Central Bank of India approved settlement of the company at Rs.130.00 lakh on 26/07/2011 against principal outstanding of Rs.430.00 lakh. Total amount of waiver allowed was Rs.578.22 lakh by the Bank</p> <p>Thus it may be observed that the Bank has waived off substantial amount of principal outstanding at the time of settlement of account In addition to waiver of interest Whereas, the Corporation has waived off only the interest and no amount of principal has been sacrificed by the Corporation</p> |
| | | | <p>The Corporation stated (July 2016) that the main promoter had already expired and the guarantor was willing to pay OTS amount of '42.89 lakh only. The reply is not tenable as the value of security available was '2.45 crore and should have been linked to work out the OTS amount</p> | |
| | | <p>The Corporation settled (June 2013) a loan account of a borrower at Rs. 0.43 crore against outstanding dues (April 2013) of Rs.20.88 crore and the value (March 2012) of mortgaged property was Rs.2.45 crore Audit noticed that the loan was settled (June 2013) at Rs.42.89 lakh, without considering the realizable value (March 2012) of collateral security of Rs.2.45 crore, which resulted in loss of '2.02 crore (Rs.2.45 crore - Rs.42.89 lakh)</p> | | |
| 3 | Gobinda Builders, Sonipat (1 loan account) | | | <p>The Corporation sanctioned a term loan of Rs.98.58 lakh on 15.3.1995 to M/s Gobinda Builders (P) Ltd, Sonapat out of which Rs.86.29 lakh was disbursed to the company The unit committed default and the Corporation took over possession of the unit and the same was sold for Rs.52.60 lakh on 21.3.2003 Out of six collateral securities mortgaged to the Corporation three collateral securities were sold for Rs.28.32 lakh in June 2003 & March 2004 The remaining three collateral securities were also put to sale against which bids amounting to Rs.27.40 lakh were received</p> |

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| | | | <p>by the Corporation and accepted by the Auction Committee on 21.9.2004. The owner of these collateral securities namely Sh Nand Lai obtained stay against the sale and as such the sale was cancelled by the Corporation.</p> <p>Recovery Certificate was issued by the Corporation for the recovery of its dues on 20.12.2007. On vacation of stay by the court on 25.2.2010 against sale of collateral security, RC was withdrawn and the above properties were again put to sale on 5.7.2010. The party again approached the court and obtained stay against the sale of these properties from the Lower Court. As such the properties were withdrawn from sale. The Court decided the case in favour of the Corporation and vacated the stay in August 2012. The company had earlier applied for settlement in the year 2012 and the proposal was placed before the Board of Directors in its meeting held on 10.7.2012. The Board after going through the facts of the case observed that the assessed value of one of the collateral securities mortgaged by the promoter/ guarantor was quite high. Further, the promoter was not agreeable to settle their loan account as per policy and requested for waiver of the entire outstanding amount. Since the offer of the borrower was not within the parameters of the settlement policy of the Corporation, the Board unanimously resolved to decline the request of the party. The company again approached the Corporation and the matter was considered by the Sub-Committee in its</p> |
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| | | | | <p>meeting held on 30.5.2013 wherein the Committee considered the proposal of the company for settlement of loan account under the Policy for Compromise Settlement of Chronic Non Performing Assets (Doubtful Loan Accounts) of HFC-2011 without linking the settlement amount with the value of available mortgaged collateral securities. It was observed that at the time of disbursement of loan the value of collateral securities had been accepted at Rs 22.56 lakh. It was also observed that the OTS amount in this case would have worked out to Rs 42.89 lakh if the collateral securities were not available.</p> <p>The Committee observed that it was a peculiar case where the Corporation has already disposed of primary security and three collateral securities. The Corporation had already recovered an amount of Rs 93.60 lakh against the disbursement amount of Rs 86.29 lakh. The main promoter had already expired and none of his close family members was available to discharge the liabilities. The guarantor was a farmer, not directly related to the promoters and was in no way to draw any benefit from the financed business. He had agreed to furnish the guarantee only on account of some social pressure, a practice which is not commonly unknown in the rural areas. He was still ready and willing to pay the OTS amount of Rs 42.89 lakh by selling part of his property. The Corporation could recover an amount of Rs 136.49 lakh against the disbursed amount of Rs 86.29 lakh. Under</p> |
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| | | | | <p>these circumstances, the Committee observed that the insistence of settlement of the account by linking the same with the value of mortgaged collateral securities would be inhuman and result in completely ruining the family of this remotely connected guarantor. Even otherwise, the Government had taken a rather liberal posture in cases of default of agricultural loans where disposal of agricultural land was not being resorted to as a part of its welfare policies. For the reasons aforesaid, the Committee recommended to settle this case by treating the same as an exception to provisions of the loan settlement policy. The Board of Directors in its meeting held on 25.6.2013 resolved that the settlement of loan account without linking with the value of mortgaged properties in case of M/s Gobinda Builders (P) Ltd. Sonapat was being approved on humanitarian ground only, and this should not be taken as precedent. When the collateral securities were put National Steel As against the outstanding dues of Tube, Bhawani Rs.92.53 lakh of the borrower, the value (1 loan (May 2012) of the property mortgaged account) with the Corporation was Rs.44.42 lakh. However, the Corporation settled (December 2012) at Rs 0.32 lakh only. Thus; settlement of loans at less than the value of property mortgaged resulted in loss of Rs.44.10 lakh (Rs. 44.42 lakh -Rs.0 32 lakh) The Corporation stated (July 2016) that the original documents of one collateral security were missing and remaining two collateral securities could not be sold. Hence, the settlement was arrived</p> |
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| | | | | <p>at without linking with value of security The reply is not acceptable as the documents of security should have been kept by the Corporation in safe custody to auction in 2004, the mortgagor of the security obtained stay which continued for more than 5 years. The Corporation again put the property to auction in 2010 and the mortgagor again obtained the stay against the sale of property in July 2010 which again continued for nearly two years. It may be observed that whenever the Corporation put the collateral security to sale the mortgagor obtained stay against the sale of property hindering the process of recovery. As a result, the Corporation could not realize the value of these collateral securities since 2004. Further, the Board of Directors is competent authority to grant any relaxation in the settlement policy on case to case basis or to amend this policy in general as per provisions of policy for Compromise Settlement of Chronic Non Performing Assets (Doubtful Loan Accounts) of HFC-2011</p> |
| 4 | M/s National Steel Tubes, Bhiwani (1 loan account) | <p>As against the outstanding dues of Rs 92.53 lakh of the borrower, the value (May 2012) of the property mortgaged with Corporation was Rs 44.42 lakh. However, the Corporation settled (December 2012) at Rs. 0.32 lakh only. Thus, settlement of loans at less than the value of property mortgaged resulted in loss of Rs. 44.10 lakh (Rs 44.42 lakh Rs 0.32 lakh)</p> | <p>The Corporation stated (July 2016) that the original documents of one collateral security were missing and remaining two collateral securities could not be sold. Hence, the settlement was arrived at without linking with value of security. The reply is not acceptable as</p> | <p>M/s National Steel Tubes, Bhiwani was granted a term loan of Rs 42.00 lakh in May 1986 by the Corporation for manufacturing steel tubes. The Company availed a loan of Rs 41.09 lakh out of the sanctioned amount. As the company committed default in repayment of loan, the possession of the unit was taken over by the Corporation and the primary security was auctioned for Rs 32.25 lakh in January 2006. After disposal of primary security and three</p> |

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| | | | <p>collateral securities, there were three more Collateral Securities available with the Corporation as under: -</p> <p>a. Land measuring 0.5904 Hectares being 1/4 share of agriculture land 2 3615 hectares situated at Village Kichakpur (U.P.) It could not be sold as the original documents were missing. The value of this property was not got assessed as the same could not have been sold in the absence of documents of the property</p> <p>b. The remaining two Collateral Securities i.e. agriculture land measuring 1 OK 15M situated at Village Sanwar Tehsil Bondkaian Distt. Bhiwani and Agn Land measuring 11 K situated at Village Sankror, Distt Bhiwani could not be sold despite making 22 attempts as the mortgaged properties were in share, i.e. the un-partitioned agn Land.</p> <p>The case was approved for settlement under NPA 2011 settlement scheme by the Board in its Meeting held on 24.12.2012 for Rs. 32,634/- (being the misc expenses) on the recommendations of Sub Committee Meeting dated 26.9.2012 vide which it was observed "keeping in view that the said security could not be sold in spite of 22 attempts which appeared so on account of its non-accessible situation and also the amount already recovered, the committee observed that the said securities were virtually non-realizable. Accordingly, the committee recommended that keeping in view that the Corporation had not received any bids for the realizable mortgaged</p> | <p>the documents of security should have been kept by the Corporation in safe custody</p> |
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| | | | | <p>secured in 22 sale attempts and an amount of Rs. 97.04 lakh had been recovered against disbursement amount of Rs. 41.09 lakh, the request of the firm for settlement for an amount of Rs. 32,634/- without linking with value of securities be recommended for acceptance / approval of the Board</p> <p>The collateral securities were accepted as per the policy and procedures prevalent at that time. Further a sum of Rs 97.36 lakh (including sale of Primary & three Collateral Securities, recovery made from the party and through settlement amount) has been recovered against disbursed amount of Rs 41.09 lakh indicating that the Corporation has recovered more than two times of disbursed amount</p> <p>(The Board of the Corporation is empowered to deviate from the policy. Keeping in view the circumstances of the case, Board decided to settle the case at Rs 32,634/-). The loan account of the company has been adjusted, as the company has paid the entire settlement amount along with interest/penal interest as per the policy.</p> |
| 5 | M/s. Parsley Foods Industries, Hisar | <p>Against outstanding (November 2012) dues of Rs.8.06 crore in case of a borrower the assessed value of the security was Rs. 56.23 lakh. The Corporation worked out settlement amount at Rs.88.12 lakh. The account was settled at Rs. 70 lakh by the Board of Directors on the proposal of the sub-committee which was in violation of the</p> | <p>The Corporation stated (July 2016) that the available security was disputed and the process under Section-31 of the SFC Act, 1951 would be time consuming. Hence, settlement arrived at the amount stated by the</p> | <p>The firm was sanctioned a loan of Rs. 85.00 lakh on 30.3.1999 out of which Rs. 84.85 lakh was disbursed. On committing defaults in repayment, the Corporation disposed off the primary security and two collateral securities for Rs. 44.98 lakh. The remaining 3rd collateral security being a shop on land measuring 69.6 Sq.yds at Old Mandi Road, Near Railway Crossing, Hisar could not be</p> |

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| | | policy and resulted in loss of Rs 18.12 lakh | <p>borrower. The reply is not tenable as the recourse available in Act should have been resorted to and settlement done as per policy</p> | <p>disposed off being a disputed property. The realizable value of security as assessed by NITCON was Rs 56.23 lakh as per its report dated 8.11.2012 which was less than the computed settlement amount of Rs. 88.12 lakh and settlement amount of Rs. 70.00 lakh</p> <p>The firm applied for settlement in 2012. The case was placed before the Sub Committee of Board of Directors of the Corporation in its meeting held on 8.1.2013</p> <p>It was observed that the Corporation had already disposed off the primary security and two collateral securities. The remaining 3rd collateral security being a shop on land measuring 69.6 Sq yds at Old Mandi Road, Near Railway Crossing, Hisar being a disputed property, could not be disposed off and the Distt Court Hisar had restrained HFC from interfering with the peaceful possession of the occupant of the above remaining collateral security vide its order dated 26.4.2012. It was further observed the Corporation had filed an appeal with the Hon'ble Punjab & Haryana High Court on 19.10.2012 against the aforesaid order dated 26.4.2012 of Additional Civil Judge, Hisar but the Hon'ble High Court had not given any decision in favour of the Corporation till date of consideration by Sub-Committee. Sh. Satyawar, partner of the firm attended the meeting and apprised the Committee that there were five partners of the firm, out of which two partners were not in a position to pay any amount. The Committee informed him that the settlement</p> |
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| | | | | <p>amount as per policy worked out to Rs 88,11,760/- He informed the committee that he along with two other partners were willing to settle the loan account of HFC but they would not be in a position to pay an amount of more than Rs 70 00 lakh including already paid down payment of Rs 8 80 lakh, as they did not have any running business/ liquid funds and for paying the settlement amount they would be selling their personal properties</p> <p>The committee noted that the settlement amount under the Policy of Compromise Settlement of Loss Accounts of HFC -2011 worked out to Rs 88,11,760/-. The committee further noted that the available collateral security was disputed property and even if the case was decided in favour of the Corporation, the same could be disposed off by the Corporation u/s 31 of SFC Act which was a time consuming process. Accordingly Committee decided to recommend the OTS proposal of the firm to the Board of Directors for settling its loan account at Rs 70 00 lakh. The Board in its meeting held on 22 3 2013 approved the recommendation of Sub Committee. The loan account of the company has been adjusted, as the company has paid the entire settlement amount along with interest/penal interest as per the policy</p> <p>By settling the loan account at Rs. 70 00 lakh, the Corporation has been able to recover Rs 117 00 lakh against the disbursement of Rs 84 85 lakh. As per scheme of settlement of NPAs- 2011 the</p> |
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| 6 | M/s. Mukand Pipe Sirsa. | <p>Out of the two Settlement Schemes, minimum settlement amount in the case of OTS-NPA was higher than OTS - Loss scheme as in case of the latter, only principal amount of the re-cast accounts is recovered, whereas in case of former, principal as well as interest of re-cast account is recovered. Audit observed that total outstanding (December 2012) amount against four loans sanctioned to a unit was Rs 22.17 crore. The Corporation accepted (March 1996) the collateral security at Rs 52 lakh but had not reassessed the same. The borrower applied (July 2012) for the settlement of loan under OTS-Loss Scheme. Since the Corporation was having the collateral security so the case was to be covered under OTS-NPA Scheme and minimum settlement amount under it worked out to Rs 1.07 crore. However, the Corporation agreed (July 2012) to settle the account for Rs 72.32 lakh under OTS Loss Scheme. This resulted in loss of Rs.34.30 lakh (Rs 106.62 lakh - Rs.72.32 lakh) to the Corporation.</p> | <p>The Corporation stated (July 2016) that the borrower informed the Corporation about its poor financial position and was able to pay the OTS amount as per loss policy instead of NPA policy. Thus, the loan was settled as per loss policy. The reply was not acceptable as the security of the borrower was available and should have been covered under NPA policy.</p> | <p>The Corporation disbursed Term Loan amounting to Rs. 62.00 lakh and bridge loan against central subsidy amounting to Rs 10.30 lakh. The loan against working capital and book debts was Rs 24.25 lakh. The possession of the unit was taken in the year 2000. The unit was disposed of in the year 2003. The loans were sanctioned during the years 1995-98. The Corporation recovered Rs. 13.70 lakh from the sale of unit and Rs 1.75 lakh from the sale of vehicle. The Corporation took over the deemed possession of the properties and put to auction a number of times. The properties could not be sold due to defect in the title of the property. The Corporation then took legal action against the borrower/guarantors of the concern and filed suit under section 42 for defrauding the Corporation.</p> <p>The Sub-Committee while considering the case in its meeting held on 29.6.2012 observed that collateral security available with the Corporation was not saleable, as such, the case could be considered under the Policy for Compromise Settlement of Loss Accounts of HFC-2011. It was also informed by one of the directors of the company, Sh. Rakesh Kumar, in the meeting that one of the directors who was posted as Patwan had submitted forged documents with the Corporation and he stood dismissed by the Govt. Now, the whereabouts of that</p> | <p><i>Board of Directors of the Corporation is competent to grant any relaxation in the policy on case to case basis or amend the policy in general.</i></p> |
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| 7 | M/s. Bhwani Fiber Ltd. Bhwani | A unit had outstanding balances (May 2013) of Rs.39.30 crore in three accounts applied (June 2013) for settlement of loan under OTS-NPA Scheme and the Corporation worked | The Corporation stated (July 2016) that the value of the available security was Rs 1.34 crore and BIFR had ordered winding up of the borrower | <p>director are not available. It was also informed by Sh.Rakesh Kumar that their financial position was not good and they could pay only the amount as per Loss Policy which worked out to Rs. 72.32 lakh. With the above observations, the Committee decided to place the request of the company before the Board of Directors for consideration. As already stated above, the loan was considered as Loss Account as the available properties were not saleable. It was a conscious decision of Sub-Committee of Board of Directors of the Corporation to consider the case under Loss Policy.</p> <p>The Board in its meeting held on 10.7.2012 after going through facts of the case as well as observations of the Sub-Committee of the Board resolved to settle the loan account at Rs 72,32,303/- as One Time Settlement amount considering the loan account as loss assets. The loan account of the company stands adjusted with the Corporation. The Board of Directors of the Corporation is a Competent Authority to consider the deviation in the Policy already approved by it while settling the loan account depending upon the circumstances. The total recovery from the borrower against loans including settlement amount is Rs 122.63 lakh against the disbursement of Rs 96.55 lakh</p> <p>Loan of Rs.252.35 lakh was sanctioned in the case which was disbursed fully. The company applied for settlement on 28.6.2013 BIFR in its meeting held on 11.7.2013 directed HFC to consider the OTS offer of the company and convey its decision</p> |
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| | <p>out (January 2014) the settlement amount at Rs 2.34 crore. The borrower disputed the date of one account becoming doubtful and worked out (January 2014) the settlement amount as Rs 1.55 crore. The Board of Directors while deciding (September 2014) the settlement amount, observed that the minimum recoverable amount would remain at Rs 2.34 crore irrespective of the date of account becoming doubtful. Audit noticed that the Corporation settled (December 2014) the account at Rs 1.86 crore as offered (May 2014) by the borrower, citing the reasons that the available mortgaged security could not be sold as the borrower had approached (2003) Board of Industrial Financing and Restructuring (BIFR) for winding up. Since the settlement amount worked out to Rs.2.34 crore as such, the decision to settle the account at Rs.1.86 crore resulted in loss of Rs 0.47 crore to the Corporation.</p> | <p>Company. Hence, the proposal of the borrower for settlement at Rs.1.86 crore were accepted. The reply is not tenable as in terms of policy, the OTS amount could not be less than the principal amount of Rs 2.34 crore. Further, even if BIFR orders for winding up are passed, the claim for the Corporation would remain and the recovery can be affected through liquidator. However, after settlement at lesser amount the claim of the Corporation is treated as already settled.</p> | <p>to BIFR with the copy to the company within a period of four weeks. Party deposited upfront fee on 16.10.2013.</p> <p>The case was placed before the Sub Committee in its meeting held on 30.9.2014. As per parameters of Policy for Compromise Settlement of Chronic Non Performing Assets (Doubtful loan Accounts) of Haryana Financial Corporation-2011, the settlement formula is as under.</p> <p>"100% outstanding amount on the date of becoming doubtful plus misc expenses debited till the adjustment of account less amount recovered after the date of doubtful." As per this formula, the settlement amount became Rs 186.08 lakh. However, there is order that any amount received from eligible defaulting borrower after the cutoff date will be adjusted towards the settlement amount provided that in no case the settlement shall be less than principal (after recasting) plus upto date misc expenses.</p> <p>In this case, all the recoveries were made from the party and there was no sale of mortgaged property. Thus payment made by the party could not be adjusted in principal as per policy and the settlement amount as per policy worked out to Rs 233.68 lakh.</p> <p>Sh. K K Mohita, Director/guarantor of the company appeared before the Committee and informed that he was ready to settle the accounts at Rs. 186.08 lakh. The Committee was of the view that though the settlement amount as per policy worked out at Rs. 233.68 lakh in all the three accounts i.e.</p> |
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| | | | | <p>amount restricted on the basis of principal outstanding as per ledger, but considering the assessed value of the available securities, which is Rs. 134 39 lakh as assessed by NITCON and orders passed by BIFR for winding up, the companies proposal for settlement at Rs 186 08 lakh in all the accounts was recommended in the best commercial interests of the Corporation and the case was placed before the Board of Directors in its meeting held on 30.12.2014. The Board approved the settlement in the captioned case As per scheme of settlement of NPAs- 2011 the Board of Directors of the Corporation was competent to grant any relaxation in the policy on case to case basis or amend the policy in general. The loan account of the company has been adjusted, as the company has paid the entire settlement amount alongwith interest/penal interest as per the policy</p> |
| 8 | M/s Air Impact, Bahadurgarh | <p>Against Outstanding dues (January 2012) of a unit of Rs 25 41 crore (principal a miscellaneous expenses Rs.0 87 crore and interest Rs.24 54 crore), the assessed value (February 2012) of the mortgaged property was Rs 6.15 crore. The Corporation decided (March 2012) to settle loan at Rs 0 98 crore due to the fact that it had not been able to sell the primary security (valuing Rs 0.98 crore) as well as collateral security (valuing Rs 5 18 crore) for last 11 years. The primary security could not be sold because</p> | <p>The Corporation stated (July 2016) that the security could not be sold despite a lapse of 11 years and in case the Corporation filed case under Section 31 of SFC Act, 1951 for recovery of dues by disposing collateral security, it would be lengthy process. The reply is not tenable as the recourses available in SFC Act should have</p> | <p>The full facts of the case were placed before the Board of Directors in its meeting held on 29.3.2012. It has been clearly mentioned in the Board Minutes that though the assessed value of mortgaged properties is much more than the settlement amount offered by the company but the fact remains that the Corporation has not been able to dispose of the primary as well as collateral security for last more than 11 years. The Corporation had made 32 attempts to sell the primary security till 2004 and thereafter due to /acquisition of part of land by HUDA, the Corporation was not able to sell it. The</p> |

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| | <p>some portion of land was acquired by HUDA and the remaining land had not been demarcated. The Corporation did not consider the valuation of prime and collateral security by an independent agency and settled the loan at Rs.0 98 crore instead of Rs 6.15 crore which caused a loss of Rs.5 17 crore (Rs. 6.15 crore - Rs.0.98 crore)</p> | <p>been exhausted and settlement done as per policy</p> | <p>collateral security could not be disposed off due to litigation and finally Hon'ble Punjab a Hayana High Court decided the case in favour of company quashing the action of the Corporation for sale of collateral security taken over u/s 29 of SFCs Act. In case the Corporation had filed the case u/s 31 of SFCs Act for realizing the amount by disposing off the collateral security, it would have been a long drawn process.</p> <p>In view of these facts, the Board of Directors held that the Corporation may have to settle the matter even after another five years and no useful purpose would be served by keeping the matter further pending. Therefore, the Board of Directors decided to settle the account at Rs 98 30 lakh by delinking with the value of primary as well as collateral securities available. As per scheme of settlement of NPAs- 2011 the Board of Directors of the Corporation was competent to grant any relaxation in the policy on case to case basis or amend the policy in general. The loan account of the company has been adjusted, as the company has paid the entire settlement amount along with interest/penal interest as per the policy.</p> |
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Details of Pending Recommendations of the Committee till the Finalization of this Report.

| Sr. No. | Board/Corporation | Report No. | Recommendation | No. of Recommendation |
|---------|---|------------------|--|-----------------------|
| 1 | 2 | 3 | 4 | 5 |
| | HVPNL/HPGCL/ UHBVNL/ DHBVNL | 35 th | 23 HPGCL | 1 |
| | | 38 th | 21 UHBVNL | 1 |
| | | 52 th | 7,11 HVPNL 8,10 HPGCL 12 UHBVNL | 2 2 1 |
| | | 53 th | 1 HPGCL 42 UHBVNL | 1 1 |
| | | 56 th | 3 DHBVNL | 1 |
| | | 57 th | 6 UHBVNL/ DHBVNL | 1 |
| | | 58 th | 1 DHBVNL | 1 |
| | | 60 th | 2 DHBVNL | 1 |
| | | 61 th | 1,2,4 UHBVNL & DHBVNL | 3 |
| | | 62 nd | 5 HPGCL 13-14 HVPNL | 1 2 |
| | | 63 rd | 1-7 UHBVNL & DHBVNL | 7 |
| | | 64 th | 3-7, 12 & 13 UHBVNL & DHBVNL 1 DHBVN | 7 1 |
| | | 65 th | 1-3 HPGCL 3 UHBVNL 5 UHBVNL & DHBVNL | 3 1 1 |
| | | 66 th | 5 HVPNL 6-7 UHBVNL 8 DHBVNL | 1 2 1 |
| | | TOTAL | | |
| 2. | Haryana State industrial and infrastructure Development Corporation | 53 th | 16,17,23 | 3 |
| | | 57 th | 4 | 1 |
| | | 58 th | 4 | 1 |
| | | 60 th | 8 | 1 |
| | | 62 nd | 6-10 | 5 |
| | | 65 th | 6 | 1 |
| TOTAL | | | | 12 |

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| 3 | Haryana Financial Corporation | 49 th | 2,3,4,5,6 | 5 |
| | | 50 th | 4,23 | 2 |
| | | 52 nd | 18 | 1 |
| | | 56 th | 5,6 | 2 |
| | | 57 th | 9,10 | 2 |
| TOTAL | | | | 12 |
| 4 | Haryana Agro Industries Corporation Ltd | 16 nd | 6,29 | 1 |
| | | 23 rd | 14-16 | 3 |
| | | 38 th | 8 | 1 |
| | | 48 th | 27-33 | 7 |
| | | 52 nd | 17,20,21 | 3 |
| | | 53 rd | 29-36 | 8 |
| | | 56 th | 2 | 1 |
| | | 57 th | 7 | 1 |
| | | 58 th | 6,7 | 2 |
| | | 59 th | 8-16 | 9 |
| | | 62 nd | 11 | 1 |
| | | 64 th | 15 | 1 |
| | | 65 th | 7 | 1 |
| | Haryana Agro Industries Corporation Ltd. and Haryana Warehousing Corporation | 66 th | 1-4 | 4 |
| TOTAL | | | | 43 |
| 5. | Haryana Land Reclamation & Development Corporation Ltd | 53 rd | 39 | 1 |
| TOTAL | | | | 1 |
| 6 | Haryana Warehousing Corporation | 49 th | 13 | 1 |
| | | 52 nd | 19 | 1 |
| | | 53 rd | 28, 47 | 2 |
| | | 55 th | 8,9,10,11,13 | 5 |
| | | 60 th | 7 | 1 |
| | | 63 rd | 8-14 | 7 |
| | | 64 th | 1,2 | 2 |
| TOTAL | | | | 19 |

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|-------|---|--------------------------------------|--------|-----|
| 7. | Haryana Seeds Development Corporation Ltd | 49 th | 9 | 1 |
| | | 53 rd | 3,4 | 2 |
| | | 64 th | 8 | 1 |
| TOTAL | | | | 4 |
| 8 | Haryana Tourism Corporation Limited | 48 th | 11 | 1 |
| | | 5 th | 25-27 | 3 |
| | | 58 th | 5 | 1 |
| | | 59 th | 5 | 1 |
| | | 62 nd | 1-4 | 4 |
| TOTAL | | | | 10 |
| 9. | Haryana Forest Development Corporation Limited | 58 th 66 th | 3 9 | 1 1 |
| TOTAL | | | | 2 |
| 10 | Haryana SC Finance & Development Corporation Limited | 60 th | 6 | 1 |
| | | 63 rd | 1 | 1 |
| TOTAL | | | | 2 |
| 11 | Haryana Roads & Bridges Development Corporation Limited | 55 th | 14 | 1 |
| | | 57 th | 8 | 1 |
| | | 60 th | 4 | 1 |
| | | 61 st | 5,7-12 | 7 |
| | | 62 nd | 15-16 | |
| | | 64 th | 14 | 1 |
| TOTAL | | | | 13 |
| 12. | Haryana Police Housing Corporation Limited | 60 th | 5 | |
| TOTAL | | | | 1 |
| 13 | Haryana Women Development Corporation Limited | 64 th | 16 | 1 |
| TOTAL | | | | 1 |

| | | | | |
|---|---|------------------|----------------|-----------|
| 14 | Haryana Backward Classes and Economically Weaker Section Kalyan Nigam Limited | 64 th | 18-23 | 6 |
| | TOTAL | | | 6 |
| Outstanding recommendation in respect of Non-General working companies | | | | |
| 1. | Haryana State Small Minor Irrigation & Tubewells Corporation | 42 nd | 27 | 1 |
| | | 51 st | 5,6 | 2 |
| | TOTAL | | | 3 |
| 2 | Haryana State Small Industries Export Corporation | 19 th | 11 (General) | 1 |
| | | 43 rd | 3,4,7 | 3 |
| | | 51 st | 8 | 1 |
| | TOTAL | | | 5 |
| 3 | Haryana Mineral | 41 st | 18 | 1 |
| | Limited | 45 th | 1-14 (General) | 14 |
| | | 48 th | 23,24,41 | 3 |
| | TOTAL | | | 18 |
| Outstanding recommendation in respect of General working companies | | | | |
| 1 | Haryana Urban Development Authority | 47 th | 1-20 | 20 |
| | TOTAL | | | 20 |

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