



क्षेत्रीय प्रशिक्षण संस्थान, मुंबई  
Regional Training Institute, Mumbai



निगमित अभिशासन और वित्त, वाणिज्यिक लेखापरीक्षा और स्वायत्त निकायों के लेखापरीक्षा पर ज्ञान केंद्र

Knowledge Centre for Corporate Governance and Finance,  
Commercial Audit and Audit of Autonomous Bodies

(भारतीय लेखापरीक्षा और लेखा विभाग)  
(Indian Audit and Accounts Department)

Case Study on  
Commercial Audit -  
Discriminatory rates of Land Allotment

December 2020

Regional Training Institute, Mumbai

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**Table of Contents**

<b>Sr. No.</b>	<b>Contents</b>	<b>Page No.</b>
1.	From Director General's desk	5
2.	Case Summary and Disclaimer	7
3.	Case Story	7-12
4.	Teaching Notes	13-25
4.1	Synopsis	13
4.2	Teaching Objectives	13
4.3	Learning Objectives	13
4.4	Training programme in which this case-let can be used	13
4.5	Target Audience	13
4.6	Protagonist	14
4.7	Relevant Readings	14
4.8	Teaching Plan and analysis	14
4.8.1	Case Plan	14-18
4.9	Takeaways on possible responses	18-24
4.10	Summing Up	24-25
4.11	What happened	25
5.	Report No.3 (PSUs) of 2019 - Audit on Government of Rajasthan- Chapter V- Para 5.2.	26-28
6.	Back page and Copyright Information	30

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### **From the Director General's desk**

Regional Training Institute, Mumbai has been designated as Knowledge Centre for Corporate Governance, Finance and Commercial Audit from April 2015 and Audit of Autonomous Bodies since May 2020. In pursuit of excellence in our assigned areas of Knowledge Centre activities, we had been bringing out a series of interesting cases on our Knowledge Centre topics.

In November 2016 and February 2017, Headquarters conducted workshops for preparation of case-lets on the same pattern as those used by management schools, which would provoke independent thought, initiate discussion and may at least at the outset, lead to numerous open-ended conclusions among participants attending a training programme. It would help in summing up the learning outcomes of the programme and to assess how effective it has been in helping the participants take decisions on cases which may come to their notice during Audit, based on what they have learnt during the training. It would serve as a tool for initiating group activities such as discussion and inculcate a sense of collective participation in the training before arriving at a consensus based on discussion.

The role of the faculty would be that of a detached facilitator, who would try to moderate the discussion to a logical end. Just as the case-let proper would give the participant a glimpse into a real life or probable situation, the teaching notes would give the faculty a glimpse into the kind of discussions that may emerge during the session.


Following the workshops, Headquarters issued a Guidance Note on Developing and Utilising Case studies in November 2017. Subsequent to these workshops and issue of guidance note on preparation of case studies, RTI, Mumbai brought out a case-let (January 2018) on "Audit of Corporate Governance - Role of Executive Directors" in the new format. This was the first case-let, developed by a single RTI, to have been disseminated by Headquarters among all RTIs (August 2018). It is heartening to note that our very first effort at preparing a case-let was approved, without any edits whatsoever. We have been including the case-let during our training programmes on Corporate Governance.

Following in its footsteps, we have now drafted a second case study on "Discriminatory rates of Land Allotment" in the new format envisaged by Headquarters. It relates to Commercial Audit. It is not an analysis of an audit observation. Rather, it is based on a situation, which can be discussed by participants in different ways. The faculty can note the fact that the case is inspired by Para 5.2 of Report No.3 (PSUs) of 2019 on Government of Rajasthan for the year ended 31 March 2018. For the purpose of the case-let, some more elements like valuation and welfare focus have been weaved into the facts indicated by the para. The para is given for reference as part of the case study in the teaching notes. This para was selected, considering its unique conclusion on socio-economic impact of executive action and on the proposed remedy of recovery itself being flawed. It is intended to expand perspectives and elicit multiple views and to lay a preparatory ground for outcome-based audits in future.

We have incorporated suggestions of the peer review team on the case study.

I am confident that the readers would benefit from the end result.

RTI, Mumbai  
11 December 2020

  
(Alka Rehani Bhardwaj)  
Director General  
RTI, Mumbai

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**Case Summary**

*The case study is in the form of a fictional story, which involves solving a problem – taking a decision as to whether an audit observation can be sustained or not, considering the arguments for or against it, from the point of an Assistant Audit Officer. It involves judgement not only on matters as to whether a loss has occurred, if so, what steps have been proposed by the Executive to make good the loss and whether these are acceptable or not, in the situation explained in the case study.*

*The story is seen from the eyes of the protagonist, Shri Bilal, an Assistant Audit Officer of an office. Shri Lakshman, Senior Audit Officer and Smt. Harshada, CFO of audited Corporation are other characters in this case study.*

Disclaimer: The case study has been designed as a story taking place during an audit of a PSU and is meant to provide a glimpse of a case of audit of land allotment by an industrial development corporation. But, the persons, activities and attitudes attributed to them, names, etc. are either fictional or are partly adapted from/ inspired by disparate instances to suit the purpose of appreciation of challenges, which an officer may face in conducting such audits. This is only a guide to be used in training and should not be considered as being on par with audit reports or regulations or manuals or other instructions for audit.

**Case Story****Commercial Audit- Discriminatory rates of Land Allotment**

Shri Lakshman, Senior Audit Officer and his Assistant Audit Officer, Shri Bilal, were assigned the audit of a state industrial development corporation. They were asked to audit the propriety and suitability to purpose of allotment of land made by the Corporation to industrialists for catalysing investment and generating employment in backward/ most backward districts of the State.

They found that the Corporation had a complex multi-tiered system of deciding on allotment of land. The Corporation, by itself, could not take a decision in this regard. An empowered committee with broad representation of top bureaucracy of the state, including parent department of the Corporation and representatives of the Corporation, would present the case before the State Cabinet for approval.

As regards the scheme of allotment, the audit party saw that there was a Government scheme in existence, whereby advertisement would be issued in newspapers and allotment would be

by draw of lots and wherever allotment of over 60 *per cent* of saleable land was involved, auction would be resorted to.

The audit party selected some of the files relating to allotment of land and came across a case, wherein 25 hectares of industrial land was allotted to a group of four companies at Rs.5 crore, where the valuation was Rs.9.50 crore. The total value of the industrial area based on PWD schedule of rates was Rs.13.19 crore, while actual and committed expenditure thereon was Rs.12.86 crore. The value of the allotted land was Rs.9.50 crore, which was 73.87 *per cent* of saleable land.

Scrutiny of the file revealed the following.

1. A meeting attended by a high-ranking officer of the Corporation's parent department and of three other associated departments of the State Government along with a senior officer of the Corporation and representatives of prospective allottee was convened for deciding allotment of land to an industrialist.
2. An in-principle decision was taken by high-level meeting, subject to approval at appropriate levels of State government and the industrial development corporation to:
  - i Allot 25 hectares of land at Rs.5 crore to the party.
  - ii If the assessed value of land was higher, the difference would be reimbursed by the State Government.
3. The very next day, the party applied through four group companies for allotment of the land.
4. Within a week of application, orders were issued for allotment on these terms, by relaxing the requirements as to newspaper advertisement, drawing lots/ auction, etc.
5. The land was valued at Rs.9.50 crore at this stage.
6. Three weeks later, the matter was cleared by empowered committee as a customised package and recommended to the State Cabinet.

7. State Cabinet overruled the recommendation after six weeks.
8. Six months later, the industrial corporation issued notices to the party to pay the differential of Rs.4.50 crore.
9. While the party did not pay the amount, the empowered committee recommended the Corporation to bear the difference, which was complied with.

The audit party felt that there was merit in commenting on a loss of Rs.4.50 crore. But in order to establish if there was a lapse on the part of the Corporation, the team discussed the matter with the CFO of the Corporation, Smt. Harshada, before putting the findings in writing.

She was appointed by the parent department as a key functionary in the Corporation.

The discussion was something on these lines.

**Shri Lakshman:** Going by the estimates of your own Corporation, land valued at Rs.9.50 crore was allotted to an industrialist group for Rs.5 crore, at 52.63 *per cent* of its cost. Don't you see that there is a huge loss to the Corporation?

**Smt. Harshada:** Sir, how do you arrive at a loss in this case? The value is all notional. The value of Rs.9.50 crore is only the cost incurred by the Corporation on the land.

**Shri Bilal:** You accept that Rs.9.50 crore is the actual cost of the land. Then, how come it is notional?

**Smt. Harshada:** Cost cannot be equated with value. It was in a meeting with representatives of departments of the State, including our parent department, which gave the in-principle approval for its allotment at Rs.5 crore. It was the empowered committee, which again had our parent department's representative, which gave its approval thereto. Naturally, they would have felt that considering the larger benefits of the land allotment, by way of industrial development and employment generation in this backward area, it should be allotted to the party at

Rs.5 crore. That's all the value that they saw for it from the perspective of the allottee. The balance, if at all, is the cost of welfare. It was a subsequent unexpected event that the Cabinet overruled it.

**Shri Bilal:** Why wasn't the land cost determined before deciding on allotment?

**Smt. Harshada:** Why are you asking about land cost again and again? I told you. It is just a notional value..... (*Glancing at Shri Lakshman, addresses Bilal*) Your senior officer seems to be convinced.

**Shri Lakshman** (after a pause): What about the fact that a procedure had to be followed? Bulk of the land in this industrial area was given away to an identified single party on preferential basis, while you have norms on giving publicity and adopting auction methodology.

**Smt. Harshada:** Sir, we were convinced about the party's ability to use the land for intended purposes, like industrial development, employment generation and all that. He has promised a Rs.1000 crore textile project here, with advanced machinery. Otherwise, we would have got some localised small-scale or medium-scale industries at the most. We have to promote ease of business - big business - to enable trickling down of welfare.

**Shri Lakshman:** What was the hurry in approving the project, when approvals had to come through from the Cabinet?

**Smt. Harshada:** Sir, as I was saying, we wanted the party to go ahead with the project. Besides, officers from our parent department had already shown their willingness.

**Shri Bilal:** What was the scheme under which your parent department had accepted this proposal to allot land at concessional rates?

**Smt. Harshada:** No idea. They told us go ahead. We went ahead. Then they said write it off, we wrote it off.

**Shri Lakshman:** Keep aside the sarcasm. Are you passing on the blame to your parent department? You have a duty to explain.

**Smt. Harshada:** No, No, Sir, we expected that the department's view that it was a Customised Package would be accepted by the Cabinet. The motive was purely to garner investment and to create employment in a most backward district. So, we did not invoke the existing scheme, which did not have scope for such concessions.

**Shri Bilal:** So, there was no scheme, no approval.

**Smt. Harshada:** No... No, Sir..... (*pauses*). But, our Department has told us that the difference of Rs.4.50 crore should be added to the cost of the remaining land. We will fix the rate of future allotments through adjustment in reserve price, by including this difference in the cost of the remaining land. So, there won't be any loss. I hope you won't be issuing audit observations, as the amount will be recovered from the remaining land?

**Shri Lakshman:** We have noted your explanation.

(The audit party returned to their cabin).

The SAO and the AAO discussed the matter amongst themselves, as follows.

**Shri Lakshman:** Bilal, what do you think about the outcome of the discussion?

**Shri Bilal:** Sir, I believe we have a case.

**Shri Lakshman:** Are you sure? The following questions need to be answered if we need to give a water-tight observation:

1. If they are going to recover the cost from the remaining land, we may end up without money value at all. How do we sustain the money value?
2. Has there been a loss? How do we rebut the idea of notional valuation?

3. With welfare valuation thrown in, can we stick to cost basis of valuation?
4. What about the idea of suitability of purpose?
5. Is there a clear welfare benefit accruing to the local people from the allotment in terms of Employment/Social resource utilisation, etc.?
6. I am fairly convinced of the fact that procedure has not been followed and there is no scheme or approval governing it. But, from the point of view of the Corporation, is it a mistake, when their parent department was involved throughout? After all, the Corporation and the department have a separate legal status.
7. In case we propose an observation, what recommendations can we make?

As Shri Bilal, what reply would you give to the SAO, who brought out these concerns?



## **Teaching Notes**

### **1. Synopsis**

The case study intends to convey the view that commercial audit may extend beyond the management of the corporate itself to the government department concerned as well. The case develops through the mind of the protagonist, who feels that the argument of zero monetary effect due to prospective recovery of loss/ irregular benefits from one source or the other may not be the fairest way of dealing with an issue.

### **2. Teaching Objectives**

To give participants a realistic portrayal of dilemmas and deliberations, which a commercial audit team could face while auditing an industrial development corporation or company.

### **3. Learning Objectives**

The main learning objectives of this case-let are to:

1. Appreciate multi-layered decision-making structures in PSUs, which may even extend to parent departments.
2. Identify instances where decision-making becomes discretionary or individual-specific rather than being policy-driven and approved by due process.
3. See the social implications of flawed damage control measures fitted only to avoid the opprobrium of losses.
4. Get an idea as to which audit criteria could be relevant for propriety audits.
5. Learn from each other through discussion as to how to tackle/ rebut replies/ views of Management on audit observations involving valuation amidst claims of zero loss.
6. Recognise that mind-games such as hierarchy-based discrimination and demoralisation of junior audit personnel can be deployed by recalcitrant elements in audited organisation as an indirect method of resisting genuine requests for information and how support of higher ups could restrain such attitudes.

### **4. Training programme in which this case-let can be used**

Commercial Audit, audit of industrial development corporations/ companies.

### **5. Target Audience**

Auditors to SAOs of Commercial Audit

## 6. Protagonist

The protagonist of this story is Shri Bilal, AAO, who has to satisfactorily address his SAO's concerns on the sustainability of audit observation.

## 7. Relevant readings

1. Manuals on audit of industrial development finance corporations and companies
2. Schedule of rates, guidance rates for stamp duty, norms and standards for valuing cost of land and land development
3. Policy, including concessions and procedures for allotment of industrial land
4. Delegation of powers for allotment of industrial land

## 8. Teaching Plan and analysis

The participants can be organised into groups of 4-5 members each.

### 8.1 Case Plan

Reading Time:	0-15 minutes
Introduction and setting up the situation:	15-25 minutes
Discussion of Background:	25-40 minutes
Evaluating the alternatives:	40-55 minutes
Discussion of 'what happened':	55-65 minutes
Case wrap-up takeaways:	<u>65-75 minutes</u>
<b>Total:</b>	<b><u>75 minutes</u></b>

#### 8.1.1 Introduction and setting up the situation

Sl. No.	Requirements	Compliance
1.	What is the situation	It is a situation involving the need to rebut certain arguments having a bearing on whether an audit observation is sustainable or not, after noting views of management.
2.	Why is it serious/important?	It has social justice and welfare implications concerning fair opportunity to small and large-scale businesses. It also indicates financial impact of benefits wrongly passed on to large-scale players at the cost of small players.
3.	Who are the stakeholders or parties involved?	The immediately proximate parties involved are the audit party, the Corporation, the concerned state departments and their decision-making bodies and prospective genuine beneficiaries of industrial development. Later, it may involve the audit office, State Reports Wing (Commercial Audit Section), HQ, CAG, State Legislature, PUC, the general public and so on, depending on whether the matter is escalated.
4.	Who is the main protagonist?	It is Bilal, the AAO.

Sl. No.	Requirements	Compliance
5.	What is the dilemma that he/she is faced with?	He has to resolve the concerns of his SAO on whether an audit observation would be tenable, after discussion of the matter with the management. There is apparently no loss being sustained by the government in the end-analysis and intended purpose is being served.

### 8.1.2 Discussion of Background

Sl. No.	Requirements	Compliance
1.	Issues faced by the protagonist, and its causes.	The issue faced by the protagonist is to see how to address the concerns of his SAO, who has been disillusioned about the prospects of an audit observation after a discussion with management, who have suggested that there is no overall loss on a transaction. The protagonist does not have any audit criteria to bank upon, except for the fact that some procedures have not been followed and due process was not adopted. Multiplicity of agencies make it difficult to pin-point source of lapse, if any. Audit criteria would have to be based on propriety and social justice, which may be seen as subjective.
2.	Stepping back a little, what, if anything, could have been done to avert the crisis?	As far as audit is concerned, being a prospective observation involving a specific case being audited against social justice criteria, no specific guidelines can be set in this regard. As far as the Corporation is concerned, following due process and awaiting approval of the appropriate authority before committing to any concessions could have obviated the crisis and the flawed damage control that followed it.
3.	What were some of the deeper issues that resulted in this situation?	Some of the deeper issues that could have resulted in this situation are: (i) Tendency to favour the rich and the dominant to the detriment of the meek, needy, deserving and weaker sections of the society. (ii) Pre-empting decisions of authority competent by reducing transactions to a <i>fait accompli</i> . (iii) By-passing procedures for according preferential treatment. (iv) Burdening the deserving with losses caused by favouring dominant parties.

### 8.1.3 Evaluating the alternatives

Sl. No.	Requirements	Compliance
1.	What are the decision maker's available options	i. He could opine that the matter may be watched for recovery from cost of remaining land. ii. He could say that we could wait for allotment of land in future at a higher rate and then conclude that it does not justify allotment at lower rates in the past. It only shows that price discovery or valuation of land in the past was defective

Sl. No.	Requirements	Compliance
		<p>as smaller parcels of similar land have fetched higher rates on allotment.</p> <p>iii. He can comment purely on procedural deviations and for hastily concluding the deal without approval of authorities competent.</p> <p>iv. He could go ahead and opine that a propriety and socio-economic aspect is involved, since it involves burdening smaller players with higher rates for subsidising larger players.</p>
2.	How should he/she evaluate amongst these options i.e., what are the important criteria?	<ol style="list-style-type: none"> <li>1. Criteria for cost-based valuation would be vouchers and bills for actual expenditure.</li> <li>2. Criteria for rule-based valuation would be PWD Schedule of Rates and Guidance Rates for stamp duty.</li> <li>3. Standard-based valuation would be based on IPSAS and valuation standards.</li> <li>4. For procedural deviations, the scheme and delegation of powers would be the criteria.</li> <li>5. If propriety aspects are to be looked into, the relevant facts like larger share of the land has been allotted at lower rates to large players can be adopted as criteria. The fact that smaller parcels of land are proposed to be allotted at a higher (inflated to cover previous loss) indicates that benchmark rates realisable are higher and the subsidised valuation and allotment was unnecessary.</li> <li>6. It is also possible that there may be no takers for the remaining parcels of land at the inflated rates, thereby having to resort to distress sale (maybe to the large allottee himself) or to face the situation of the land staying idle and even cost (excluding loss amount) not being realised. This would indicate the impact of inflated rates on the market demand.</li> <li>7. From the socio-economic point of view, criteria could include not only targeted amount of capital investment, but also, more significantly, targets for employment to be generated in the backward areas. If no such targets of employment exist, that itself could be an audit observation, since performance with relation to stated purpose of the Corporation is not being watched.</li> <li>8. Targets for number of small and medium enterprises directly and indirectly benefitting from the industrial area vis-à-vis large industrialists, could be a criterion against which, performance can be watched from the point of view of fair opportunity, balanced development and amelioration of standard of living of those who face adversities on account of economic inequalities and social disparities.</li> </ol>
3.	What plan of action could be recommended ?	There could be numerous perspectives on the issues flagged by the SAO. Some of these are given in the notes to discussion questions.

**8.1.4 Enhanced learning in the process**

Sl. No.	Requirements	Compliance
1.	By evaluating the situation, the course of action, and the consequences, students can develop the tacit knowledge that their peers gained from experience	This is the purpose of the case study. It will help them go through the same phases of decision-making which audit parties would go through in the field.
2.	Students can be encouraged to relate personal experiences to the situations encountered by protagonists in the case scenarios	This will come up as part of the discussion on questions.
3.	Learn that trade-offs are a part of real life decision making	There are multiple views. Management views too need to be taken into account. These will temper the observation, if any. Naturally, all this will arise from trade-offs and a single opinion will not prevail.
4.	Emphasise the importance of the underlying assumptions when comparing options	The assumptions could be on occurrence or non-occurrence of monetary loss, varied perceptions on the relative advantages and disadvantages associated with promotion of business-big and small, norms on valuation of land, whether recovery of loss is enough to close an audit observation and so on. More importantly, would it be acceptable to 'rob Peter to pay Paul'? – Another aspect is - Would one's answer change depending on whether "Peter" is richer or poorer than "Paul"?

**8.1.5 What happened**

Sl. No.	Requirements	Compliance
1.	Discussion of the actual course of events after the point at which the case ends	<p>The guidance note requires that in case of audit paras or audit observations taken up for preparation of case study, the conclusion should not be made known to the participants or included in the material being circulated to the participants. The issue is discussed as a hypothetical one.</p> <p>Hence, only an imaginary/ idealistic ending is indicated in the "What happened" segment as:</p> <ol style="list-style-type: none"> <li>1. It was placed before the legislature, where the social and financial implications of preferential treatment at the cost of balanced industrial development and higher burden on weaker segments of society were analysed and a policy was recommended to be laid down for more stringent monitoring for deterring such practices, and</li> <li>2. The Cabinet ordered an investigation into the allotment and fixed responsibility on departmental heads who by-passed procedures and pre-empted the prospects of Cabinet disapproval by releasing the concession, making it a <i>fait accompli</i>.</li> </ol>

Sl. No.	Requirements	Compliance
2.	Give students a sense of closure	The “What happened” segment would give a sense of closure.
3.	May not always have information of the actual outcome (that is the nature of cases)	In the instant case, the trainer would have actual information of the actual outcome and the knowledge that a report has been approved with similar observation. But participants would be given a sense of closure only as a narration of the end of this story, without relating it to any audit observation.

### 8.1.6 Case Wrap-up and takeaways

Sl. No.	Requirements	Compliance
1.	Summarise the case discussion	A summing up section is included below.
2.	Closing it does not require you to give any correct answers or solution to the case	This is taken into account. But, among all the different arguments, the crux of the prospective observation is indicated.
3.	Link it back to the teaching and learning objectives.	Summing up links to the teaching and learning objectives.

## 9. Takeaways on possible responses

### Q.1 If they are going to recover the cost from the remaining land, we may end up without money value at all. How do we sustain the money value?

- (i) While reading and discussing this case study, participants may express their views based on their perceptions on what should be commented upon in audit.
- (ii) Participants may have different views on this. Some may feel that the case is not yet ripe for inclusion in the audit report. They may opine that for now, it should be entered in Register of Important Points for watching progress in future.
- (iii) Another view would be to drop the observation altogether since recovery is proposed.
- (iv) There could be another view to retain it as Part -II B para.
- (v) Another section may feel that from the point of view of propriety, recovery of cost from small enterprises for a largesse already passed on to a large player is ethically and logically incorrect from the point of view of sincerity of purpose of allotment.
- (vi) Some may even venture to suggest that the value of taxes lost on the income earned due to higher employment that could have been generated in small scale units should be quantified.



But the general response would be that it would be too subjective and complicated to quantify these.

(vii) Many may veer to the view that there has been a breach of procedure and a hasty implementation, with a dominant party being seen to be granted land at preferential rates. Hence, it may be an indicator of something deeper, which needs to be investigated, irrespective of the money value.

**Q.2 Has there been a loss? How do we rebut the idea of notional valuation?**

**Q.3 With welfare valuation thrown in, can we stick to cost basis of valuation?**

**Q.4 What about the idea of suitability of purpose?**

These questions are closely related. There may be a number of views on these as follows.

(i) On the idea of whether there has been a loss, many participants may agree that there has been a loss on this transaction on comparison with cost incurred on the land.

(ii) The idea of recovery of cost may not be an apt measure of the loss or its mitigation, as the new buyers would have paid the enhanced rates anyway, if they felt it is worth it. The real loss would be the lost opportunity for unlocking true value, by not going for an auction.

(iii) Gain on future transactions cannot offset loss on earlier ones, since the purpose of the entity is not to run a business in which, it can fluctuate between profitable and loss-making deals, but is one that is intended for economic well-being on a no-profit, no-loss, cost-driven approach. Hence, every loss is to be detected and quantified. It is a loss because the government has refused to bear this loss as a subsidy. It is wasteful because the government did not adjudge the expenditure on the land to have a service potential that would be worth the subsidy on allotment to the big businessman.

(iv) Coming to the argument that valuation is notional, if that were the case, the very proposal of getting a re-imbursalment of differential cost would have been unnecessary. The very fact that claim was made with the government and then with the party and later it was decided to recover the loss from future allotments through adjustment in reserve price shows that the Corporation has accepted the cost of Rs.9.50 crore as a base for measuring the land's true value. This reveals the dichotomy in the Corporation's view. Also, comparison with the audit criteria like Corporation's own established practise of valuing land at cost as per schedule of rates or as per actual expenditure is relevant.

- (v) Use of guidance rates such as those for stamp duty, District Level Committee (DLC) Rates, etc. would be objective measures of value.
- (vi) But on matters relating to notional valuation, welfare valuation and suitability to purpose, there could be huge variations in perceptions. These could affect judgement on the overall outcome of the entire deal and may lead to an outcome audit, going beyond a traditional propriety audit. Answer to these questions would depend on perspective.
- (vii) These in turn would lead to further questions like: Whether a large businessman who can afford to invest Rs.1000 crore needs a concession of Rs.4.50 crore? Is that incentive enough? Or, looking at the notional valuation argument from a diametrically opposite view, is it that the land value is, in fact, far more than a cost-based valuation? In that case, can it not be seen as a largesse for the large businessman?
- (viii) 'Welfare' and 'suitability to purpose' arguments can vary greatly. 'Suitability of purpose' would be determined by how much the deal has led to resolution of the issues of industrial backwardness in the area and unemployment. There could be those who believe in the theory of economics that revolves around big capital and that welfare can trickle down from big businesses only. Others would believe in a grassroots theory, that encouragement and empowerment of small players alone would ensure balanced socio-economic progress.
- (ix) Whether investment in advanced machinery is going to have a trickle-down effect for the local populace? Would it really generate employment? Or rather, would a grassroots approach have been a boon to the poor and unemployed locals, if they were allowed to set up small units on the concessional land and genuinely generate labour-intensive employment? For them, subsidised value of land would have even served as a proxy for capital, which they would badly lack. But rather, they have, in this case, ended up being burdened with a higher cost due to inclusion of past losses in the price of land.
- (x) If small and unestablished players go ahead and avail the allotment of land at inflated rates anyway, doesn't it prove that the benchmark market rates (the highest possible rate at which, there is demand for the land) is, definitely at least equal to, or probably much higher than the rates set and so the bigger and more established allottees could be expected to have been willing and able to pay more? So, can these not be seen as separate transactions- one being a totally avoidable, huge loss and the other, where it has, probably, realised much less than its potential value. So, one transaction cannot be seen as offsetting the other and in fact, the loss as compared to market value is in fact much higher than that assessed in both these transactions.
- (xi) On the other hand, if there is no demand at the inflated rates, the consequences could be distress sale, in which, the original allottee himself can corner this land too, or idling of land,

which means blocking of funds. This may lead to the argument that the value of land should be based on perceived value of its alternative uses (opportunity cost). In such cases, auction, which was one of the appropriate methods of allotment would have been the best course of action, to discover value through market forces. Here too, a view may emerge that auction can also be dominated and manipulated by bigger players and that methods like allotment by lots may not fetch real value. But, there would be unanimity about the randomness and unbiased nature of allotment by lots.

(xii) Or, a contrary view could emerge that it is in fact the participation of the bigger players and the prospects of attendant overall progress in infrastructure in the area, that has led to smaller players being drawn to the industrial area. This means that smaller players are willing to pay more for the land, only because the bigger player is already entrenched in the industrial area and they perceive it would create welfare for them as well.

(xiii) A view could come up that encouraging emerging entrepreneurs over established entities may not always be expedient from the point of view of the economy. Ideally, such a policy is one inspired by egalitarianism, but practically, it may also run the risk of resulting in more business failures in such smaller units, causing loss of employment and general gloom.

(xiv) Hence, the question of notional and welfare valuation can throw up estimates much higher or lower than the cost-based valuation. Suitability to purpose of the deal may also be judged differently.

(xv) Some may question why is it that when cost of land is subsidised ostensibly on account of the welfare aspect to big businessmen, the same argument is not applied to small business, which is rather burdened with this cost of subsidising the rich.

(xvi) Some participants may feel that for arriving at such judgements, some application of economics may be necessary. Many may feel that the exercise may be greatly subjective or even beyond scope of audit. Hence, many may ultimately opine that the idea of notional or welfare valuation was a digression tactic of the Executive.

(xvii) To this, trainer may have to indicate that if we are conducting propriety audits, performance audits and outcome-based audits, all these arguments may also arise and may have to be assessed and countered. Assessment of loss from propriety angle may be much greater than that from regularity (compliance with set norms and procedures) angle.

(xviii) Some participants may opine that valuation standards or valuation norms for insolvency could be applied. To this, some may reply that valuation based on “service potential” of assets and not merely “future economic benefits”, as given in IPSAS can be a tool for valuing land

meant for allotment for welfare or for serving government policy, rather than for commercial purposes.

(xix) Ultimately, from audit perspective, many may conclude that uniform norms like cost-based allotment or market value (auction-based) allotment should be resorted to for fair opportunity to all and for preventing loss to the exchequer as well. If at all subsidies are to be given, they have to be in accordance with approval of the authority competent or should be in line with laid-down policy. It cannot be an *ad-hoc*, arbitrary, discretionary or discriminatory decision, or one that favours the dominant, over the deserving, which many may feel has happened in this case.

**Q.5 Is there a clear welfare benefit accruing to the local people from the allotment in terms of Employment/Social resource utilisation, etc.?**

There may be a view that a clear welfare benefit may not accrue to the local people from the allotment in terms of Employment/Social resource utilisation, etc. as big businessmen may not be interested in generating more employment and may be able to use their dominant position to reduce outflow on employee benefits. They may not buy locally available resources, but rather import it from abroad or from other centres. Some may state that smaller businesses may also resort to short-changing employees, due to their relative invisibility. Some may state that smaller businessmen would at least be self-employed locals and would source goods and supplies locally, thereby creating a market for local produce. Secondly, their ambitions, if any, to reduce employee costs by unfair means to increase their profits, would be tempered by the local community in which they operate, by way of social checks and balances. Some may feel that smaller players may in effect be a 'front' entity of larger players and thus, would not add significant value to the local community.

Participants may conclude that a link has to be established between the allotment of plots to local residents to rise in self-employment and increased production and consumption of local goods and services, to see if there is a clear welfare benefit.

**Q. 6 I am fairly convinced of the fact that procedure has not been followed and there is no scheme or approval governing it. But, from the point of view of the Corporation, is it a mistake, when their parent department was involved throughout? After all, the Corporation and the department have a separate legal status.**

(i) There may be some participants who may feel that while auditing a Corporation, we must look at irregularities within the four walls of the decision-making mechanism of the Corporation alone, while decisions taken by parent departments may be audited by civil audit offices concerned.

(ii) Another view would be that, while for legal determination and fixing responsibility, the Corporation and the department may have a separate legal status, for Audit, they must be seen as a seamless whole. Some may even feel that if this interpretation is adopted, in this case, the Corporation, with its very limited delegation of financial and administrative powers, is only an Implementing Unit and the parent department is an Audit unit, since it has operational significance with reference to achievement of objectives of the apex auditable entity, as defined by Compliance Audit Guidelines. Many participants may rebut this, as in practice, Corporations themselves may have their own Apex Auditable unit (Those charged with governance and Higher Management) and Audit units (Departments). Some may say that with restructuring, the distinction between Ministry audits by Civil audit and Corporation Audit by Commercial Audit would disappear.

(iii) There could be a view that as far as the Corporation is concerned, it was clear that the scheme could have been implemented only after securing approvals from authorities competent. Hence, procedure has not been followed. The impact of the decision is entirely on the Corporation. The decision to go ahead with the deal was taken by the Corporation, without awaiting approval. Hence, it cannot be stated that they had very limited delegation of powers. Powers were vested in the Corporation to enter into such contracts, for which, they would be responsible. It was their duty to ensure that due process was followed and that approvals of appropriate authorities were secured, which was not adhered to in this case.

(iv) Trainer could state that the mandate envisaged for CAG according to the Constitution is to ensure Legislature's watch over the Executive. Hence, divisions of the executive such as Cabinet, Empowered Committee, Department, Corporation, etc. are not of much consequence in this matter. CAG can comment on the activities of any of these divisions individually or collectively.

(v) Secondly, the fact that observations on corporations, companies, Autonomous Bodies and other entities with separate legal status are also issued to the parent Ministry/ Department concerned is also a proof that we audit in accordance with our broader mandate of exercising watch over Executive, to chase every rupee from the point it is to be earned by the Government

or by the broader “public sector”, till it is spent. Hence, the Department is also given an opportunity to give its views on how it has directed the entities under its control to take decisions and the impact thereof.

**Q.7 In case we propose an observation, what recommendations can we make?**

Majority of participants may say that we can recommend that the Corporation make a policy to attract

- a. Big Industries
  - b. Medium industries, etc.  
and secure approval of the State Government
- (i) Some may feel that laying down such policies may reduce flexibility, convenience and autonomy in day-to-day and case-to-case decision making.
  - (ii) Some may add that the reason why Corporations do not resort to this would be to continue to exercise discretionary and arbitrary powers.
  - (iii) Participants may suggest that Audit must recommend to the Corporation to set a procedure (a) for fixation of cost; (b) for arriving at the Market price; (c) in case of exceptions, who should approve it, with recorded reasons and (d) to assess what benefit has arisen in the local area in real terms.

**10. Summing Up**

We can say that the participants would have got a ring-side view of:

- Different methods of valuation of assets like land, which is as good as a non-monetary grant given to beneficiaries, in case of industrial development corporations;
- How the existence or otherwise of money value and quantification thereof in some transactions could be highly subjective;
- Social and economic welfare aspects in determining outcome of executive action;
- How executive may try to justify losses as being essential to the purpose;
- How audit needs to be wary of apparent recovery measures, fitted to extinguish instances of loss, but involving burden on the unsuspecting meek, to protect the interests of a dominant beneficiary;
- How unchecked discretion may mostly favour the dominant rather than the downtrodden;



- How the working of the bureaucracy and individual transaction needs to be seen as a seamless whole from end to end;
- The possibility of the executive taking flawed damage control measures merely to avoid audit objections or even by invoking audit observations to justify an incorrect remedy;
- At the same time, being mindful of accounting for the impact on the overall result, of each independent (and not inter-related) transaction separately;
- Audit mandate and scope in such matters;
- Sources of audit evidence; and
- How to tackle/ rebut replies/ views and dismissive approach of Management on audit observations on such matters.
- To see how to objectively comment on seemingly subjective topics covered in audit.
- What kind of recommendations could be made.

While summing up, we can mention that CAG audits too are aimed at being faithful to the purpose, rather than being a mechanical assessment of monetary value or admission of recoveries. Hence, the social and economic impact (discriminatory pricing) should be the crux of the audit observation here. Quantification is only an indicator of its impact.

### **11. What happened**

To provide a closure to the case, we can say that an imaginary ending to the story could be that a para was printed, it was placed before the legislature, where the social and financial implications of preferential treatment at the cost of balanced industrial development and higher burden on weaker segments of society were analysed and a policy was recommended to be laid down for more stringent monitoring for deterring such practices. Cabinet ordered an investigation into the allotment and fixed responsibility on departmental heads, who by-passed procedures and pre-empted the prospects of Cabinet disapproval by releasing the concession, making it a *fait accompli*.

Actually, it is based on a printed para in Report No.3 (PSUs) of 2019 - Audit on Government of Rajasthan- Chapter V- Para 5.2, with the discussion on valuation and welfare being added to it. The para is given on the next pages. But, it must not be circulated to participants as per Headquarters' Guidance Note on Developing and Utilising Case studies dated 17 November 2017, Note 1.

*Chapter V Compliance Audit Observations relating to State PSUs (other than Power Sector)***5.2 Avoidable loss due to unjustifiable allotment of land below cost****Loss of ₹ 4.50 crore to RIICO due to allotment of land below the cost based on the decision of the Department.**

A meeting of the representatives<sup>12</sup> of the Government of Rajasthan (GoR) (including Department of Industries) and the Rajasthan State Industrial Development & Investment Corporation Limited (RIICO) with the representatives of Shri Vallabh Pittie Group (SVPG) was held (18 March 2015) wherein the following *in principle* decisions were taken:

- To allot 25 hectare industrial land to SVPG at the lump sum amount of ₹ five crore at industrial area, Dhanodi, Jhalawar.
- RIICO would assess the actual cost incurred in industrial area, Dhanodi and after calculating the rate per square metre, cost of 25 hectare land would be worked out. In case the actual cost worked out is more than ₹ five crore, the differential cost would be reimbursed by the GoR.
- SVPG would apply for customized package for availing benefits *viz.* interest subsidy, reimbursement of Value Added Tax paid, exemption of stamp duty and electricity duty *etc.* and proposal would be processed by the Bureau of Investment Promotion and the Finance Department, GoR.

The aforesaid decisions were taken subject to approval at appropriate levels of the GoR/RIICO.

SVPG accordingly submitted (19 March 2015) four applications to RIICO for allotment of total 25 hectares of land in favour of its four group companies<sup>13</sup> for setting up a textile project at Jhalawar with proposed project cost of ₹ 1000 crore. In view of requirement of SVPG, RIICO re-planned (20 March 2015) the concerned industrial area and revised its cost assessment by reducing from ₹ 13.19 crore<sup>14</sup> to ₹ 12.86 crore on the basis of actual and committed expenditure on the area till March 2015. On the basis of revised cost assessment, the land allotment rate of the area was reduced from ₹ 600 per square metre to ₹ 380 per square metre. Accordingly, the total cost of proposed allotment was worked out to ₹ 9.50 crore<sup>15</sup>. In view of revised planning and cost assessment, RIICO decided (25 March 2015) to allot 25 hectares of land in favour of the four group companies of SVPG on preferential basis for ₹ five crore by relaxing the existing rules/procedures<sup>16</sup> of land allotment and requesting the GOR for reimbursement of differential cost of ₹ 4.50 crore. RIICO accordingly issued (26 March 2015) orders for

12 Chief Secretary (CS), Principal Secretary (Finance), Principal Secretary (Industries), Secretary Finance (Revenue) of the GoR and Advisor (Infra) of the Company (RIICO).

13 Shri Vallabh Pittie Industries Limited, Akash Ganga Industries Private Limited, Platinum Textile Limited and SVP Global Venture Limited

14 Estimated cost of the area finalised in May 2013 on the basis of PWD BSR-2012 (civil works) and PWD BSR-2008 (electrical works)

15 250107.81 square metre at the rate of ₹ 380 per square metre

16 Issuing advertisement in newspaper, allotment of land/plots through draw of lot and adopting auction process beyond 60 per cent saleable land etc.



***Audit Report No. 3 (Public Sector Undertakings) for the year ended 31 March 2018***

allotment of 250107.81 square metre land in favour of the four group companies of SVPG for ₹ five crore<sup>17</sup>.

The issue of reimbursement of differential cost was discussed (15 April 2015) before the State Empowered Committee<sup>18</sup> (SEC) wherein the SEC recommended for reimbursement of differential cost by the GoR under the Customized Package. However, pursuant to State Cabinet order (3 June 2015), the Finance Department, GoR did not allow any benefit on account of reimbursement of differential cost of allotted land to RIICO.

In absence of approval from the GoR, RIICO decided (30 October 2015) to recover the differential cost of ₹ 4.50 crore from the four group companies of SVPG and accordingly demands were raised (November 2015 and January 2016). However, these four group companies of SVPG did not deposit the demand amount. Subsequently, the SEC recommended (17 June 2016) that RIICO should bear the differential cost itself and this recommendation of SEC was approved (3 August 2016) by the State Cabinet, GoR. RIICO accordingly withdrew (October 2016) the demands of ₹ 4.50 crore raised on the group companies of SVPG and decided (December 2016) to write off the differential cost of ₹ 4.50 crore from its books of accounts.

We noticed that the *in principle* decisions (18 March 2015) to allot land to SVPG at lump sum amount of ₹ five crore and in case the actual cost worked out on higher side, to reimburse the differential cost to RIICO by Government of Rajasthan were taken in presence of representatives of RIICO as well as concerned administrative department *i.e.* Department of Industries. We observed that the commitment to allot the land for lump sum amount of ₹ five crore was made without assessing the actual cost incurred on the land. Further, the commitment of allotting the land below the cost subject to reimbursement of differential cost by the Government of Rajasthan was agreed by the Department of Industries despite the fact that there was no provision for allowing benefit on account of concessional land in the Rajasthan Investment Promotion Scheme (RIPS) 2014. Further, neither the Department nor RIICO ensured prior approval of the Government of Rajasthan for reimbursement of differential cost before issuing the orders for allotment of land to SVPG at a value which was substantially below (52.63 *per cent*) the actual cost. The Government of Rajasthan was belatedly approached to grant approval for reimbursement of differential cost. The Department of Industries did not object to the advice of the Finance Department that RIICO should bear the additional cost of the land. The Department also did not brought out the issue of allotment of land at subsidised cost not being covered under RIPS 2014. Resultantly, RIICO had incurred loss of ₹ 4.50 crore due to allotment of land below the cost.

The Department of Industries (GoR) while accepting the facts stated (September/October 2018) that the industrial area has been declared as saturated in May 2018 and remaining land will be allotted through auction.

17 250107.81 square metre x ₹ 200 per square metre

18 The State Empowered Committee consisted of one Chairman (Chief Secretary of the State Government), 11 members (Additional Chief Secretaries/Principal Secretaries/Secretaries of eight departments of the State Government *viz.* Finance, Environment and Forest, Urban Development & Housing Development, Industries, Labour & Employment, Mines & Petroleum, Revenue, and Energy department, Principal Secretary to the Chief Minister, Managing Director of RIICO and Commissioner-Industries) and one member secretary (Commissioner, Bureau of Investment Promotion).

*Chapter V Compliance Audit Observations relating to State PSUs (other than Power Sector)*

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The reserve rate of remaining land will be fixed with a view to recover the remaining development cost of the area to avoid any losses. It further stated that RIICO is a 100 *per cent* Government owned Company and the motive of RIICO as well as the Government is to catalyse investment in the State so as to generate employment in backward/ most backward districts of the State.

The reply is not acceptable as allotment of major part of the area below the cost and charging/loading the differential cost on the balance area with a view to recover from small entrepreneurs would be against the motive of catalysing investment and generating employment. The objective of RIICO should not be to recover the cost of land by way of putting burden on smaller entrepreneur in view of losses it incurred on single substantial allotment.

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