

CHAPTER-3

3. Compliance Audit Observations

This chapter includes three paragraphs based on test check of transaction of State PSUs.

Chhattisgarh State Beverages Corporation Limited

3.1 Loss due to payment of additional duty from own margin

The Company paid additional duty from its margin instead of recovering the same from the retailers resulting in loss of ₹ 8.53 crore.

The Chhattisgarh State Beverages Corporation Limited (Company) is the sole licensed wholesale agent under the *Chhattisgarh Videshi Madira Niyam 1996 (Videshi Madira Niyam)* to procure, store and sell Foreign Liquor¹ (FL) in Chhattisgarh. Every financial year, the Company procures different brands of FL from the suppliers at the landing price² and after adding its margin³ of 10 per cent on landing price, the same is then sold to the retailers having permit of the State Excise Department.

The Government of Chhattisgarh (GoCG), in order to increase its tax revenue, imposed (31 March 2016) additional duty on FL at the rate of one per cent of the total sales amount with effect from 1 April 2016. Audit observed (February 2017) that instead of adding this additional duty to the sale price⁴, the Board of Directors (BoD) decided (18 March 2016) to absorb the additional cost from the Company's own margin and accordingly, the Company paid additional duty amounting to ₹ 8.53 crore on FL sold during the year 2016-17 from its margin. The margin is the major source of income of the Company⁵ from which its administrative and establishment expenses are met. Therefore, decision of Company to pay the additional duty from its own margin was not in the financial interest of the Company which resulted in loss of ₹ 8.53 crore during 2016-17

The Administrative Department {Commercial Tax (Excise) Department} stated (July 2017) that as per the State Government order one per cent additional duty was paid by the Company from its margin with the approval of BoD. It was further stated that the retail price was fixed by the Excise Department.

¹ Indian made foreign liquor, foreign made foreign liquor and beer.

² The price at which the Company receive the stock of FL at its godowns.

³ The Company fixed its margin with approval of Board of Directors.

⁴ Excise Department fixes the retail price after obtaining the price from the Company. Had the Company included the additional duty in their sale price conveyed to the Excise Department this would have automatically passed on to the retailers lessening the burden on the Company.

⁵ The Company had not received any financial support from GoCG so far. The Company's surplus/reserves as at 31 March 2017 was ₹ 65.40 crore. Further, profit of the Company came down from ₹ 6.08 crore in 2015-16 to ₹ 3.07 crore in 2016-17 mainly due to payment of additional duty from its own margin.

The reply is not acceptable as the notification of the State Government was for levy of additional duty and it did not stipulate that the same should be paid from the margin of the Company. Further, it may be mentioned that the Excise Department fixes the retail price after obtaining the sale price of the Company and adding therein duty, surcharge, license fee and profit of the retailer. Had the Company included the additional duty in their sale price conveyed to the Excise Department, this would have been automatically passed on to the final consumers by way of higher retail price lessening the burden on the Company. Here it is pertinent to note that in the subsequent year 2017-18, the Company had increased its margin by one *per cent* (to 11 *per cent*) to compensate for the payment of additional duty and value added tax and consequently, the sale price of the Company and retail prices of FL were increased accordingly in 2017-18.

Chhattisgarh Medical Services Corporation Limited and Chhattisgarh State Civil Supplies Corporation Limited

3.2 Avoidable payment of interest

CMSCSL and CSCSCL unnecessarily paid penal interest of ₹ 1.17 crore to Income Tax authorities due to failure to correctly estimate current income for the financial year and non-submission of IT Return on time.

The Income Tax Act, 1961 requires assessee to pay advance tax on estimated current income for the financial year in four advance installments, at the prescribed rates, failing which, penal interest is payable at the rate of one *per cent* per month of delay. Similar penalty provisions also apply when the annual return on income is filed late.

Scrutiny of records (July/October 2016 and April 2017) of Chhattisgarh Medical Services Corporation Limited (CMSCSL) and Chhattisgarh State Civil Supplies Corporation Limited (CSCSCL) revealed that the Finance Wing⁶ of both the companies failed to remit advance tax in full, as required under the Income Tax Act. Against total tax liability of ₹ 2.22 crore and ₹ 2.66 crore for 2014-15 and 2015-16⁷, CMSCSL paid advance tax of ₹ 96.88 lakh (44 *per cent* of required tax amount) and ₹ 93.33 lakh (35 *per cent* of required tax amount) respectively. Audit observed that the Company failed to correctly estimate its income for each quarter during 2014-15 and 2015-16 even when the Company had the mechanism to prepare quarterly provisional accounts for the purpose of estimation of income chargeable to tax.

Similarly, CSCSCL, against total tax liability of ₹ 47.50 lakh, ₹ 82.13 lakh and ₹ 91.11 lakh for the year 2013-14, 2014-15 and 2015-16, had paid no advance tax for 2013-14 and 2014-15 while it paid advance tax of ₹ 30.90

⁶ Headed by General Manager (Finance) of CMSCSL and General Manager (Finance) of CSCSCL.

⁷ The amount of penal interest paid by the CMSCSL in 2013-14 and in 2016-17 were not material.

lakh (34 per cent of required tax amount) for 2015-16⁸. Audit observed that the failure to pay advance tax in 2013-14 and 2014-15 and short remittance of advance tax in 2015-16 was due to failure of the Company to assess its estimated income on quarterly basis for paying advance tax and delay in finalisation of the accounts for respective years⁹. The delay in finalisation of accounts also resulted in delayed filing of income tax returns for the years 2013-14, 2014-15 and 2015-16 by 18 months, 17 months and 11 months respectively. Consequently, both the companies unnecessarily paid penal interest of ₹ 1.17 crore¹⁰.

The Administrative Department (Health, Family Welfare and Medical Education Department) of CMSCL stated (December 2017) that the major part of profit of CMSCL comes from sale of drugs which was dependent on demand by user department/agencies and the same could not be predicted before receipt of indents for supply from the users. Hence, it was not possible to calculate budgeted profit and CMSCL assumed lump sum profit for the payment of advance tax. The Administrative Department further stated that previously for 2013-14 CMSCL paid excess income tax of ₹ 13.56 lakh due to over estimation of advance tax which was also objected by audit.

The reply is not acceptable as income from sales of drugs, which was major part of profit of CMSCL, could have been predicted on the basis of sales data of the past months available with the Company to ensure adequate payment of advance income tax. Moreover, though the Company had a mechanism to prepare quarterly accounts for the purpose of estimation of income chargeable to tax, the Company failed to correctly assess its income. Further, despite Audit objection regarding excess payment of income tax for 2013-14 due to over estimation of income, CMSCL failed to assess its estimated income correctly in subsequent years 2014-15 and 2015-16 as well.

The Administrative Department (Food, Civil Supplies and Consumer Protection Department) of CSCSCL stated (January 2018) that accounts for the years 2013-14 and 2014-15 were finalised after a delay of two years, by which time, the due date for payment of advance tax for 2013-14 and 2014-15 was over. Hence, advance tax could not be paid. It was also stated that CSCSCL did not pay advance tax as it was incurring loss prior to 2013-14.

The reply is not acceptable as delay in finalisation of accounts continued from financial year 2007-08 which indicates that no concrete efforts were made by CSCSCL to clear arrear accounts in a time bound manner to avoid penal interest. The reply regarding loss prior to the 2013-14, is also not acceptable as CSCSCL was required to assess its income and tax liability on quarterly basis for payment of advance tax for 2013-14 and 2014-15 as per provisions of the Income Tax Act, which, CSCSCL failed to do.

⁸ During 2010-11 to 2012-13, CSCSCL had no income chargeable to tax as it had incurred losses. The penal interest paid by the CSCSCL in 2016-17 was not material.

⁹ Accounts for the years 2013-14, 2014-15 and 2015-16 were finalised in March 2016, March 2017 and September 2017 respectively.

¹⁰ CMSCL – ₹ 35.66 lakh and CSCSCL – ₹ 81.52 lakh.

Chhattisgarh Road Development Corporation Limited

3.3 Loss of interest income due to lack of proactive financial management

The Company did not avail of auto sweep facility in its bank accounts leading to loss of ₹ 1.90 crore by way of interest.

Chhattisgarh Road Development Corporation Limited (Company) is engaged in the business of construction, repair and maintenance of roads, highways, subways, bridges and other infrastructure facilities in Chhattisgarh.

The Company was operating three current accounts, one each in HDFC bank, Axis bank and Allahabad bank as on 31 March 2017. Banks had been offering value added service facilitating its customer to invest their surplus fund in current account in a profitable manner through auto sweep facility. The auto sweep account facility enables the bank customer to maintain a particular minimum balance opted by him in the current bank account and the amount exceeding the same would be automatically converted into fixed deposits (FDs) on which interest is paid at prevailing rate applicable on FDs.

Audit observed (May 2017) that out of the above three current accounts, the Company failed to avail auto sweep facility in the accounts with HDFC bank and Axis bank. During the period from October 2015¹¹ to June 2017, in each month, the Company had retained minimum funds ranging from ₹ 20.54 lakh to ₹ 100 crore in these accounts, forgoing interest income of ₹ 1.90 crore.

The Administrative Department (Public Works Department) stated (December 2017) that after receipt of funds from GoCG for construction works in December 2016, the Company had invited interest rates of different banks. As the process involved investment of Government funds, the Company had to follow the guidelines issued by the Directorate of Institutional Finance, GoCG. As soon as the process got completed and the Company got the approved rates of banks for investments in March 2017, the surplus funds were invested in Fixed Deposits (FDs) and thereafter, there was no loss of interest. The Department further stated that the auto sweep facility has since been obtained (June/July 2017) by the Company in both the current accounts with HDFC bank and Axis bank.

The reply is not relevant as Audit has not objected to investment of surplus funds in FDs of various eligible banks¹² as per GoCG guidelines mentioned in the reply. Audit had rather, objected to the Company not obtaining the auto-sweep facility in its two current bank accounts for which no

¹¹ HDFC bank account was opened in October 2015 and Axis bank account was opened in February 2017.

¹² The Directorate of Institutional Finance, GoCG issues list of eligible banks from time to time for investment of surplus funds by State Government corporations, bodies, boards and undertakings.

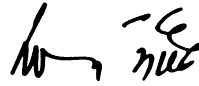
approval/guidelines from Government were required. The Company obtained auto sweep facility w.e.f. June 2017 only after this was pointed out by Audit. Had the Company availed of the same since opening of current accounts, loss of ₹ 1.90 crore could have been avoided.



Raipur
The: 26 November 2018

(BIJAY KUMAR MOHANTY)
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Countersigned



New Delhi
The: 27 November 2018

(RAJIV MEHRISHI)
Comptroller and Auditor General of India