

## CHAPTER-VI OTHER TAX AND NON-TAX RECEIPTS

### 6.1 Tax administration

This chapter consists of receipts from Power Sector Projects, Revenue, Industries, Irrigation & Public Health and Public Works departments. The tax administration is governed by sets of Acts and Rules framed separately for each department. The tax administration is assisted by a team of officers/officials in the collection of revenue receipts.

### 6.2 Results of audit

Test check of the records of the Multi Purpose Projects and Power, Revenue, Industries, Irrigation & Public Health and Public Works Departments, conducted during the year 2009-10, revealed that non-deposit of tax and royalty etc. and other irregularities amounting to ₹ 1,362.76 crore in 466 cases, which fall under the following categories:

| (Rupees in crore) |  |                 |                 |
|-------------------|--|-----------------|-----------------|
| Sr. No.           | Categories   | Number of cases | Amount          |
| 1.                | <b>“Receipts from Power Sector Projects” (a review)</b>                        | 01              | 1,111.97        |
| 2.                | Incorrect determination of market value of property/ exemption on housing loan | 121             | 1.78            |
| 3.                | Non/short levy of stamp duty and registration fee                              | 24              | 0.33            |
| 4.                | Non/short realisation of royalty, dead rent etc.                               | 10              | 0.29            |
| 5.                | Non/short recovery of water and abiana charges                                 | 55              | 17.68           |
| 6.                | Non-deposit of tax and royalty etc.  | 08              | 2.62            |
| 7.                | Other Irregularities   | 247             | 228.09          |
| <b>Total</b>      |  | <b>466</b>      | <b>1,362.76</b> |

During the course of the year, the department accepted underassessment and other deficiencies of ₹ 3.43 crore in 84 cases which were pointed out in earlier years. An amount of ₹ 51.10 lakh was realised in 104 cases during the year 2009-10.

A few illustrative cases involving ₹ 204.03 crore and a review of **“Receipts from Power Sector Projects”** with financial impact of ₹ 1,111.97 crore are mentioned in the following paragraphs.

## A. MULTI PURPOSE PROJECTS AND POWER DEPARTMENT

### 6.3 “Receipts from Power Sector Projects”

#### 6.3.1 Highlights

- Return on equity amounting to ₹ 170.42 crore for the years 2005-06 and 2007-08 to 2009-10 due from five Hydro-electric Projects owned by the Himachal Pradesh State Electricity Board (HPSEB) was not claimed by the Government.

**(Paragraph 6.3.8)**

- Upfront premium/charges of ₹ 707.69 crore realised during 2007-08 to 2009-10 was not treated as receipt of the department and irregularly deposited in the reserve fund.

**(Paragraph 6.3.9)**

- ₹ 196.53 crore of the upfront premium/charges on the six hydro electric projects allotted to the Satluj Jal Vidyut Nigam Ltd. (SJVNL) and Himachal Pradesh Power Corporation (HPPC) during January 2007 and October 2008 were not claimed.

**(Paragraph 6.3.10)**

- Non-invoking of provisions of the Power Policy in supplementary implementation agreements (IAs) executed with independent power producers (IPPs) in respect of the two hydro electric projects resulted in loss of revenue of ₹ 114 crore.

**(Paragraph 6.3.11)**

- Lack of monitoring and internal control resulted in inadmissible rebate to the Power Trading Corporation of India (PTC) and non-realisation of surcharge from the PTC resulting in loss of ₹ 8.79 crore.

**(Paragraph 6.3.13)**

- Non-transfer of power to the PTC from four hydro electric projects during February 2006 to March 2007 resulted in loss of revenue of ₹ 13.92 crore to the State Government.

**(Paragraph 6.3.17)**

#### 6.3.2 Introduction

Power is an essential item for the socio-economic and infrastructure development and development of hydro power forms the basis for the sustainable development of the country. The Himachal Pradesh has an identified power potential of approximately 20,415.02 mega watt (MW) in its five rivers<sup>59</sup> basins. In order to

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<sup>59</sup> Beas, Chenab, Ravi, Satluj and Yamuna.

harness the untapped hydro power potential of the State, the Government of Himachal Pradesh (GoHP) is executing the hydro electric projects (HEPs) through four sectors<sup>60</sup>. Out of this total potential, 6,428.52 MW has been harnessed upto March 2009. Harnessing of hydel power in the State is regulated under the provisions of the Electricity Act 2003, Hydro Power Policy 2006 (Power Policy) of the GoHP and decisions taken by the Government from time to time.

HEPs upto 5 MW capacity were to be executed through Himachal Pradesh Energy Development Agency (Himurja) and above 5 MWs by Multi Purpose Projects and Power (MPP & Power) department. A fixed percentage<sup>61</sup> of the deliverable energy<sup>62</sup> generated by these power producers is placed at the disposal of GoHP which can sell it and earn revenue “royalty” (which shall hence forth be called *power share* of GoHP). The receipts from the MPP & Power mainly comprises of royalty in the shape of power supplied free of cost by all the sectors executing the projects, equity share of power (25 *per cent* at cost) from Nathpa Jhakri HEP and shared generation<sup>63</sup> from Ranjit Sagar Dam (Thein Dam) and Shanan project. As per the power policy, the royalty on water usage in the shape of free power is chargeable ranging from 12 to 30 *per cent* in three time bands<sup>64</sup> in respect of projects above 5 MW. HEPs upto 5MW are exempted from royalty for the first 12 years. The sale of free power and equity share was arranged through the Power Trading Corporation of India (PTC) and the Himachal Pradesh State Electricity Board (HPSEB).

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<sup>60</sup> (a) **State sector:** Medium and small HEPs are being executed through this sector. Out of total potential of 1831.45 MW. 466.95 MW projects are under operation, 1364.50 MW projects are under implementation or stand allotted. For the purpose HP Power Corporation (HPPC) was constituted by the Government in December 2006.

(b) **Central sector:** Large size projects involving high capital cost viz. Parbati, Chamera I, II & III, Koldam etc. have been handed over to the Central Public Sector Undertaking like National Hydel Power Corporation (NHPC), National Thermal Power Corporation (NTPC).

(c) **Joint sector:** Nathpa Jhakri Hydro Electric Project (HEP) with generating capacity of 1500 MW has been commissioned under this with Satluj Jal Vidyut Nigam Limited (SJVN) and Rampur HEP (402 MW) already stands allotted with it. Under Central/Joint sector, 5490.57 MW have been harnessed.

(d) **Private Sector :** In October 1991, Government of India (GOI) mooted the policy of privatisation of power projects in India. Since then, the GoHP has signed memorandum of understanding (MOU)/agreements for various projects from time to time. Under Private Sector, 471.00 MW projects have been commissioned (Projects upto 5 MW commissioned through Him Urja).

<sup>61</sup> 12 *per cent* (15 *per cent* in case of Malana HEP) of deliverable energy.

<sup>62</sup> The energy generated as measured at generator(s) terminals less auxiliary consumption and transmission losses upto power station.

<sup>63</sup> Thein Dam: 4.6 *per cent* and Shanan project: 0.5 *per cent*/MW.

<sup>64</sup> 12 *per cent* of deliverable energy upto 12 years.

18 *per cent* of deliverable energy for the next 18 years.

30 *per cent* of deliverable energy for the remaining period.

### 6.2.3 Organisational set-up

The overall administrative control rests with the Principal Secretary, MPP & Power, who is assisted by the Secretary, HPSEB. The Secretary HPSEB is assisted by the Chief Engineer System Operation (CESO) and the Director State Load Despatch Centre (DSLDC) Totu (Shimla). However, the Government established a post of Director of energy in July 2009 to handle the affairs of Power Sector Projects.

### 6.3.4 Scope of audit and audit methodology

We conducted a review of the efficacy of the system of collection of royalty and receipts from the power projects for the period 2004-05 to 2008-09 in the office of the Principal Secretary, (MPP & Power) between August 2009 and April 2010. We obtained data/information from Satluj Jal Vidyut Nigam Limited (SJVNL), National Hydel Power Corporation (NHPC), HPSEB, Himurja and cross verified it with the records maintained by MPP & Power Branch of Himachal Pradesh Secretariat, Chief Accounts Officer (CAO), HPSEB and Director, SLDC Totu, Shimla. The *power share* of GoHP/equity share available at bus bar<sup>65</sup> were correlated with the bills, payments received there against and its accounting in Government accounts.

### 6.3.5 Acknowledgement

We acknowledged the cooperation of the MPP & Power Department in providing necessary information and records for audit. An entry conference was held in November 2009 with the Government and the scope and the methodology for conducting the review were discussed. The draft review was forwarded to the department and to the Government in June 2010 and was discussed in the exit conference held in July 2010. The Principal Secretary (MPP & Power) represented the Government while the Director (Energy) represented the department. Replies of the Government received during the exit conference and at other times have been appropriately incorporated in the relevant paragraphs.

### 6.3.6 Audit objectives

We conducted the review with a view to ascertain that:

- the receipts due to the Government on account of *power share* of GoHP/equity margin, upfront premium/charges, have been assessed and realised correctly as per provisions of the Power Policy, Memorandum of understandings (MOUs)/Implementation Agreements (IAs) entered into; and

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<sup>65</sup> Bus bar means the point at which the energy is received from the power project after auxiliary consumption for further transmission.

- an adequate internal control mechanism existed to ensure proper realisation of the receipts from the power projects.

### 6.3.7 Trend of revenue

Provisions of the Himachal Pradesh Budget Manual (HPBM) lay down that the actuals of the previous years and the revised estimates should be taken as the best guide in framing the budget estimates (BEs) and a continuance of any growth or decline in income indicated by them, may, in the absence of definite reasons to the contrary, properly be assumed in all the cases in which the proportionate estimates can be usefully employed. Manual provisions also suggest that special attention should be paid to new source of revenue of which account has not been taken in the previous years.

As per estimates of the receipts figures of the BEs and actuals were as under:

| (Rupees in crore) |                        |  |   |                      |
|-------------------|------------------------|--|---|----------------------|
| Year              | Budget estimates (BEs) | Actual receipts as per finance account | Variation with reference to finance account | Variation (per cent) |
| 2004-05           | 231.55                 | 284.71                                 | (+) 53.16                                   | 22.96                |
| 2005-06           | 232.00                 | 251.47                                 | (+) 19.47                                   | 8.39                 |
| 2006-07           | 400.00                 | 910.08                                 | (+) 510.08                                  | 127.52               |
| 2007-08           | 525.00                 | 1414.52                                | (+) 889.52                                  | 169.43               |
| 2008-09           | 886.00                 | 1255.43                                | (+) 369.43                                  | 41.70                |

The details given above indicate that the variation between the BEs and actuals of the receipts from the power projects ranged from 8.39 to 169.43 *per cent*.

After we brought the matter to the notice of the department it stated (October 2009) that income from the hydro power projects is subject to the weather conditions, hydrology of the projects, which keep on changing and the income flows cannot be predicted with certainty. However the Principal Secretary assured (July 2010) that the budgeting process is being streamlined and from the next year onwards the actual receipts will be prepared close to the budget estimates framed by the department.

### Audit findings

#### 6.3.8 Return on Equity (ROE)

The HEPs under the control of the MPP & Power Department were transferred alongwith assets and liabilities to the HPSEB on its formation in the year 1971. The GoHP converted loans amounting to ₹ 234 crore granted to the HPSEB upto March 1993 into equity capital (EQ) in the five HEPs<sup>66</sup> owned by the HPSEB. The Himachal Pradesh Electricity Regulatory Commission (HPERC) was formed in December 2000 and started functioning from January 2001. It approved Return on Equity (ROE) for each year payable by the HPSEB in respect of generation,

<sup>66</sup> Baner, Gaj, Ghanvi, Khauli and Larji.

transmission and distribution businesses on the basis of equity investment (Annexure-XII).

The MPP and Power department was required to raise the demand for the ROE but we noticed that the department had not maintained any record for monitoring and realisation of the ROE. We obtained the records from the HPSEB and noticed that the ROE amounting to ₹ 212.04 crore was due from the HPSEB for the period from 2005-06 to 2009-10, out of which the ROE of ₹ 41.62 crore for the year 2006-07 was to be deposited into the HPSEB development fund as per the direction of the HPERC. The remaining amount of ₹ 170.42 crore was not demanded by the Government. This resulted in loss of revenue to that extent.

After we pointed this out (April 2010), the department raised the demand.

The Principal Secretary (MPP & Power) while accepting the audit contention intimated (July 2010) that a system of maintaining the record would be developed. He however, stated that keeping the financial conditions of the HPSEB into consideration, a proposal for converting the amount of the ROE into a grant to the HPSEB would be approved. Further action taken has not been intimated (September 2010).

**The Government may consider putting in place a system for maintaining the records and for raising the demands.**

### **6.3.9 Irregular deposit of upfront premium/charges**

Upfront premium/charges were receipt of the Government in lieu of surrender of potential site to a prospective power producer by the Government. As per the Power Policy, if a power producer is permitted by the Government to withdraw on techno economical grounds, 50 *per cent* of the amount shall be refunded and in other cases no refund is admissible. In the power policy the head of account to which the amount shall be credited, was not mentioned.

We noticed that the Government had realised ₹ 707.69 crore on account of upfront premium/charges from the prospective power producers between July 2007 to October 2009 and deposited it into the treasury under non-interest bearing head “8229-110-Electricity Development Fund”. Depositing of the receipts into the Reserve Fund was irregular as the Reserve Fund is created for specific purpose.

The receipt classified as revenue should be credited to the concerned revenue division/head of consolidated fund of the state.

Our scrutiny of records revealed that the Department withdrew ₹ 707.69<sup>67</sup> crore in March 2010 from the Reserve Fund upto October 2009 and transferred the amount into current bank account of the Himachal Pradesh Infrastructure Development Board (HPIDB). The HPIDB is established (January 2002) by the GoHP under the HPID Act, 2001 for financing, construction,

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<sup>67</sup> 2007-08: ₹ 259.37 crore; 2008-09: ₹ 292.42 crore and 2009-10: ₹ 155.90 crore.



maintenance and operation of the infrastructure projects and raise resources on behalf of the State Government for infrastructure projects development. The withdrawal and subsequent transfer of funds outside the Government account for the purpose of investment was irregular.

After we pointed out the matter, the Principal Secretary (MPP & Power) stated (July 2010) that the upfront premium/charges were credited to the reserve fund to refund the upfront premium of the projects that were not viable. He further stated that the amount of upfront premium upto 2009-10 had been transferred to the HPIDB for temporary investment in March 2010. He also stated that at-least 50 *per cent* of this amount would be credited to the concerned receipt head in this year and in future 50 *per cent* of the upfront premium would be credited to the receipt head. For this purpose, in case a change in policy is required the same shall be made.

### 6.3.10 Non-claiming of upfront premium/charges

The Power policy provided that 50 *per cent* of the upfront premium at prescribed rates<sup>68</sup> was to be realised at the time of signing of the MOU upto January 2008 and thereafter in full.

**6.3.10.1** We noticed that the MOUs were signed (October 2008) by GoHP with the SJVNL for allotment of the Luhri HEP 775 MW and the Dhaulasidh HEP 40 MW to the SJVNL in joint sector without recovering upfront charges amounting to ₹ 163 crore. This resulted in non-realisation of ₹ 163 crore.

The Power Policy provides that all projects above 5 MW are liable to pay fixed upfront charges as per the capacity of the project in lieu of surrender of the potential site. The Policy did not exempt any power producers from payment of upfront charges.

**6.3.10.2** Our scrutiny of the records revealed that four HEPs<sup>69</sup> were allotted to the HPPC during January 2007 and October 2008. No terms and conditions were fixed while allotting the projects as such the upfront charges were not realised. This resulted in non-realisation of ₹ 33.53 crore.

After we pointed it out, the Principal Secretary (MPP & Power) stated (July 2010) that being Government Undertaking upfront charges were not recovered from

<sup>68</sup> ₹ 0.45 lakh/MW for HEPs above 2 MW to 5 MW with ceiling of ₹ 0.75 lakh (Non refundable) from December 2006 to January 2008 and ₹ 10 lakh/MW for HEPs upto 5 MW after January 2008 (HEPs to be executed through Himurja).

₹ One lakh/MW for HEPs above 5 MW to 50 MW from December 2006 to January 2008.

₹ Two lakh/MW for HEPs above 50MW to 100 MW from December 2006 to January 2008.

₹ Ten lakh/MW for HEPs above 100 MW from December 2006 to January 2008.

₹ Twenty lakh/MW for HEP above 5 MW allotted after January 2008.

<sup>69</sup> Shongtong Karchham (402 MW), Chirgaon Majhgaon (46 MW), Sainj (100 MW) and Tidong-II (60 MW).

above power producers and change, if required in the policy, would be made to allow for these situations.

### 6.3.11 Non-invoking of provisions of Power Policy

We noticed that the two HEPs<sup>70</sup> were allotted to IPPs in 1993 i.e. prior to the implementation of the Power Policy. The concerned IPPs failed to start the project as they could not adhere to the benchmarks as per IAs. Subsequently, supplementary IAs were signed in December 2007 and March 2009 incorporating the provisions of the Power Policy 2006 but upfront premium of ₹ 114 crore was not charged as per prescribed rules. This resulted in non-realisation of revenue of ₹ 114 crore.

After we pointed it out, the Principal Secretary (MPP & Power) stated (July 2010) that the clause of upfront charges could have been incorporated in the Supplementary IAs but to avoid legal complications it might have not been added at that time. We observed that the failure to incorporate the clauses had resulted in potential loss of ₹114 crore.

### 6.3.12 Non-payment of royalty on power share of GoHP

GoHP decided in January 2006 that *power share* in the shape of royalty at the rate of 12 per cent of the deliverable energy would be charged from the HEPs from April 2006 executed by the HPSEB after 1990 on HPERC tariff. The GoHP is entitled to 12 per cent free power as royalty from the projects, as per the Government of India decision (November 1990), commissioned after 1990.

The Government had not developed any system for ascertaining the amount of royalty due to it from the HPSEB. No time schedule has been fixed by the Government for remission of the royalty due to it. There is no provision for levy of interest or any penal provision in case of non or belated payments of dues in the policy.

We noticed that the HPSEB purchased 2,383.40 lakh units as *power share* of GoHP from its own five HEPs<sup>71</sup> during 2006-07 to 2008-09. The royalty amount of ₹ 68.81 crore on account of *power share* had neither been demanded by the GoHP nor was it paid by the HPSEB. This resulted in non-realisation of ₹ 68.81 crore.

Further, we noticed that the HPSEB had purchased 22,058.74 lakh units on account of *power share* of the GoHP from eight Central/Joint/Private sector projects<sup>72</sup> during 2004-05 to 2008-09. Out of total amount of ₹ 455.22 crore payable to the GoHP at the prescribed rates, the HPSEB had paid ₹ 284.62 crore. An amount of

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<sup>70</sup> M/s Jai Parkash Industries Ltd (Karchham Wangtoo HEP 1000 MW ) and M/s Hazara Engineering Company (Dhamwari Sunda HEP 70MW).

<sup>71</sup> Baner, Gaj, Ghanvi, Khauli and Larji.

<sup>72</sup> Bairasiul, Baspa-II, Chamera-I, Chamera-II, Malana, Patikari, Ranjit Sagar Dam and Shanana.

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₹170.60 crore was payable by the HPSEB which had not been demanded by the GoHP. This resulted in short realisation of royalty of ₹ 170.60 crore.

**The Government may consider putting in place a system for ascertaining the amount of royalty due to it from the HPSEB in respect of its own projects and from Central/Joint/Private sector projects. A provision for levy of interest or any penal provision in case of non or belated payments may be considered for incorporation in the policy.**

The Principal Secretary assured (July 2010) that the amount would be realised from the HPSEB and would subsequently be returned in the shape of grant-in-aid and in future, system for payments of free power royalty would be evolved.

### 6.3.13 Monitoring and Internal control

Internal control and checks are prescribed to ensure efficient and smooth working of a system and to see that the rules and instructions are adhered to. We noticed that the Government had not prescribed any check(s) in the collection of the dues from the power projects. There existed no Directorate office for raising the demand and ensuring prompt and correct payments of Government receipts due on account of royalty on sale of power.

The GoHP entered into power purchase agreements (PPAs) with the PTC in May and December 2005 for sale of the Governments' share of power/equity share. The GoHP/Chief Electrical Inspector (CEI) were required to verify the correctness of the payments made by the PTC.

We noticed that GoHP had not put in place any system for raising the bills. The PTC made payments and even prepared the bills itself. The department had not developed any control mechanism for ensuring prompt raising of the bills and for ensuring the correct receipt from the PTC. It was stated that the CEI had visited the office and

verified the bills between January 2006 to January 2007 but we found a number of deficiencies that resulted in non-realisation of ₹ 8.79 crore as mentioned in the following paragraphs:

#### 6.3.13.1 Inadmissible rebate to PTC and non-realisation of surcharge

We obtained information from the PTC through the GoHP for receipt of payments and found that

As per PPAs, the GoHP was required to fax fortnightly bills to the PTC of free power royalty/equity share. Two *per cent* rebate in payment was admissible to the PTC if the payment was made within seven days from the receipt of the fax bill. In case the payment was made beyond 30 days surcharge at the rate of 15 *per cent* per annum was to be charged.

during the period April 2005 to March 2009 the bills were prepared by the PTC itself. The PTC had prepared 121

bills<sup>73</sup> during this period and had made payments after deducting two *per cent* on account of rebate in all the bills. Our scrutiny revealed that in 21 cases the PTC had made payment of ₹ 142.69 crore between July 2005 and March 2009 with average delay of 19 days. Though it was not entitled for any rebate it availed rebate of ₹ 2.99 crore. We also noticed that out of the above cases in three cases the bills were prepared by the PTC after an average delay of ten days but had availed rebate of ₹ 1.61 crore.

We further noticed that in seven cases an amount of ₹ 54.24 crore was paid after 30 days from the due date. Since no bills were prepared by the department, the amount of surcharge could not be claimed. As such, there was non-realisation of surcharge of ₹ 79.25 lakh.

Thus, inadmissible rebate of ₹ 2.99 crore was claimed by the PTC. Besides, surcharge of ₹ 79.25 lakh was not realised from the PTC. This resulted in loss of revenue of ₹ 3.78 crore.

**We recommend a system may be put in place for prompt raising of demands and ensuring the correctness of amount paid on account of the energy bills.**

After we pointed above facts to the Government, the Principal Secretary stated (July 2010) that the bills were not raised because of absence of the Directorate Office and the same has been framed by the Government vide notification dated July 2009 and hoped that the system will run smooth hereafter.

**6.3.13.2 Non-realisation of sale proceeds**

We noticed that as per monthly regional energy account of the Northern Regional Electricity Board, royalty of ₹ 1.82 crore was payable by the PTC on account of 68.52 lakh units *power share* of the GoHP sold to Punjab in October 2005. No bill was raised against the PTC. This remained unnoticed to the PTC also. In absence of a system for maintenance of the accounts in respect of royalty due to it, the Government was unaware of this receipt resulting in non-realisation of the amount to the extent of ₹ 1.82 crore.

The Principal Secretary (MPP & Power) stated (July 2010) that the demand would be raised against the PTC.

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<sup>73</sup> The first fortnightly bills were prepared by the PTC on the basis of data obtained from Northern Regional Load Despatch and second fortnightly bills on the basis of data of Northern Regional Electricity Board.

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### 6.3.13.3 Irregular deduction of wheeling charges

Our test check of the records (November 2009) revealed that wheeling charges<sup>74</sup> of ₹ 3.19 crore beyond delivery point<sup>75</sup> were deducted by the PTC from royalty bills of November 2006 and December 2006 whereas these charges were to be borne by the PTC.

As per PPA transmission charges, transmission losses etc. beyond the delivery point shall be borne by the PTC and PTC customer.

The Government admitted in January 2010 that no formal bills were raised to the PTC. The Principal Secretary (MPP & Power) stated (July 2010) that the audit point would be examined and if needed demand for wheeling charges will be raised.

### 6.3.14 Internal Audit

Internal Audit is a vital component of control mechanism to enable an organisation to assure itself that prescribed systems are functioning reasonably well. We noticed that the department had not introduced any system of internal audit in the absence of which the department was unaware of the malfunctioning of assessment and collection of royalty and other dues.

**We recommend that the Government may consider putting in place a system of internal audit for ensuring of assessment and collection of royalty and other dues.**

### 6.3.15 Non-deposit of revenue into the Government account

HEPs upto 5 MW capacity were to be executed through the Himachal Pradesh Energy Development Agency (Himurja).

We noticed (May 2010) that the Director, Himurja had realised an amount of ₹ 4.19 crore<sup>76</sup> during 2006-07 to 2009-10 on account of upfront premium and extension fee from 227 IPPs in respect of HEPs upto 5 MW and deposited into the bank account of the Himurja instead of crediting it to Government account.

Further we noticed that out of this, an amount of ₹ 2.95 crore had been spent to meet administrative expenditure by the Director, Himurja and to promote the on going schemes as confirmed by him in May 2010. Remaining amount was still

<sup>74</sup> It means the operation whereby distribution system and associated facilities of a transmission licensee or distribution licensee used by other person for conveyance of electricity on payment of charges.

<sup>75</sup> The Delivery point for sale of energy means the stage from where the electricity is transmitted through transmission lines by the Power Grid Corporation.

<sup>76</sup> Upfront premium: 2006-07 to 2009-10: ₹ 1.71 crore and extension fee 2006-07 to 2008-09 ₹ 2.48 crore.

lying with the Himurja and being reflected in the balance sheets as payable to GoHP. The amount was not demanded by the Government.

Direct utilisation of the Government receipts towards expenditure and non-deposit thereof in the Government account was in contravention of the financial rules.

The Principal Secretary (MPP & Power) stated (July 2010) that it was a small autonomous body registered for development of renewal energy sources and system would be developed for deposit of Government revenue into the proper receipt head or adjustment as Grant-in-Aid.

### **6.3.16 Un-authorised deduction of transmission and distribution losses**

**6.3.16.1** We noticed that transmission losses were availed of by the HPSEB.

As per instructions of the GoHP issued in October 2005, the HPSEB was required to pay *power share* at prescribed rates on gross units. Further the Government clarified in March 2006 that T&D losses shall not be admissible to the HPSEB.

The department had not detected the mistake. This resulted in cumulative loss of revenue of ₹ 11.73 crore upto March 2009.

The Principal Secretary (MPP & Power) stated (July 2010) that demand would be raised to the

HPSEB for payment of the amount of ₹ 11.73 crore.

#### **6.3.16.2 Late deposit of Government receipts**

Our test check of records revealed that an amount of ₹ 1,605.64 crore was received between August 2005 and February 2009 from two corporations<sup>77</sup> on account of

As per Rule 2.4, Himachal Pradesh Financial Rules (HPFR) 1971, Volume-I, departmental receipts collected during the day is required to be credited into the treasury on the same day or on the morning of the next day at the latest.

upfront premium and royalty on sale of *power share* of the GoHP/equity share. These amounts were deposited late by the department into the treasury with average delay of 11 days, affecting ways and means positions of the Government. Had these amounts been deposited timely,

the Government could earn interest of ₹ 1.81 crore during the period of delay calculated at ruling rate of 3.5 *per cent* per annum paid by the banks.

After we pointed this out, the Principal Secretary (MPP & Power) stated (July 2010) that the mechanism for receipt and deposit of funds was not fully established in the beginning and efforts would be made for crediting the amounts into the treasury through electronic transfer of money.

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<sup>77</sup> M/s Brakel Corporation: ₹ 173.42 crore (upfront premium deposited after 62 days) and M/s PTC: ₹ 1432.22 crore (sale proceeds of *power share*/equity share, average delay in depositing was 11 days).

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### 6.3.16.3 Non-reconciliation with the treasury

We noticed that no basic records were maintained by the department as such important checks like reconciliation of the receipts between the treasury records and the department records could not be done.

After we pointed this out, the Government stated (July 2010) that reconciliation with the treasury would be done.

### 6.3.17 Loss of revenue due to non-transfer of power share to PTC

As per decision of the GoHP (January 2006) the *power share* of the GoHP from four projects<sup>78</sup> was to be transferred to the PTC for sale.

We noticed that the above four projects supplied 1,705.25 lakh units of *power share* of the GoHP to the HPSEB between February 2006 and May 2006 and November 2006 to March 2007 meant for transfer to the PTC. The HPSEB instead of transferring the energy to the PTC consumed itself and paid royalty at its own rates. The Government had at no time directed the HPSEB to transfer the energy to the PTC or pay royalty at the PTC rate. The lack of action on the part of the department resulted in loss of revenue of ₹ 13.92 crore.

Further, as per PPA (December 2005), the PTC was to pay, the minimum rate for *power share* of GoHP at Rs. 3 per kwh while the rates payable by HPSEB were ₹ 1.93 upto May 2006 and ₹ 2.35 thereafter.

After we pointed this out, the Principal Secretary (MPP & Power) stated (July 2010) that in future the HPSEB shall not be allowed to utilise *power share* of the GoHP to be sold through the PTC.

### 6.3.18 Conclusion

The review indicated that the department needs to strengthen the internal control and maintain relevant records for assessment and collection of royalty of *power share* of the GoHP. The upfront premium realised from the IPPs has not been treated as revenue of the department. The amount was kept under Reserve Fund which is irregular. Non-existence of any penal provision in the rules for timely payment of free power of the GoHP purchased by the HPSEB, the payments had been inordinately delayed which resulted in accumulation of arrears. Further, the PPA (December 2005) provides for raising the fortnightly bills to the PTC and verification of payments made by the PTC to the GoHP through quarterly visit of the GoHP officials to the PTC office. The department had failed to effectively scrutinise the receipt and correctness of payments due from the HPSEB and the PTC. This led to non/short realisation of revenue.

<sup>78</sup> Baspa HEP, Malana HEP, Shanan HEP and Thein Dam.

### **6.3.19 Recommendations**

**The State Government may consider to:**

- **put in place a system for maintaining the records and for raising the demand.**
- **evolve a system for ascertaining the amount of royalty due to it from the HPSEB in respect of its own projects and from Central/Joint/Private sector projects. A provision for the levy of interest or any penal provision in case of non or belated payments may be considered for incorporation in the policy.**
- **put in place a system for prompt raising of demands and ensuring the correctness of amount paid on account of energy bills.**
- **develop a system of internal audit for ensuring of assessment and collection of royalty and other dues.**

The Principal Secretary accepted (July 2010) the recommendations and stated that appropriate action will be taken for implementation.



## 6.4 Other Audit observations

*Our scrutiny of the records in the offices of Power, Revenue, Stamp duty and registration departments revealed cases of non-recovery, short recovery, non-deposit and incorrect determination of market value etc., as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed out in audit each year, but not only do the irregularities persist but also remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.*

## 6.5 Non-recovery of electricity duty

According to the Himachal Pradesh Electricity (Duty) Act, 1975, and the Rules made thereunder, electricity duty (ED) was leviable on energy supplied by the Himachal Pradesh State Electricity Board (Board) to consumers. Under the rules *ibid*, the duty collected by the Board in monthly bills for the energy supplied shall be deposited into the Government account half yearly i.e. in April and October every year.

We collected the information from the office of the Chief Electrical Inspector (CEI), and noticed (April 2010) that ED of ₹ 167.83 crore realised by the Board, was payable as on 31.3.2009. Besides, the Board also collected ED of ₹ 69.56 crore during the period April 2009 to September 2009. We, however, noticed that out of total ED of ₹ 237.39 crore, the Board deposited ₹ 38 crore only in May 2009. Thus, balance of ₹ 199.39 crore on account of the ED had not been deposited by the Board till March 2010 and revenue to that extent remained out of the Government account. In absence of an interest provision and a deterrent penalty clause the Board continued to retain the money year after year. The minimum interest that Government could have saved on the loans raised by it amounted to ₹ 16.39 crore.

There is no provision of interest/penalty for non/belated payment of electricity duty into the Government account.

After we pointed out (May 2010), the CEI intimated (June 2010) that the ED of ₹ 140 crore had been deposited by the Board on 5<sup>th</sup> April 2010. Further, report on recovery of the remaining amount was awaited.

We reported the matter to the Government in May 2010. We have not received their reply (September 2010).

**In view of the above the Government may consider incorporating a provision of interest/penalty for non/belated payment of electricity duty into the Government account.**

## B. REVENUE DEPARTMENT

### 6.6 Incorrect determination of market value of property

#### 25 Sub Registrars<sup>79</sup> (SRs)

We checked the records of the above offices and noticed between May 2009 and March 2010 that 292 documents were registered during 2007-08 for a consideration of ₹ 17.61 crore. We cross checked these documents with the *partas*<sup>80</sup> prepared by the concerned *patwaris* and found that their market value was ₹ 39.54 crore. The registering authorities, while registering the documents failed to correlate the consideration with that of the *partas*. This resulted in short realisation of stamp duty of ₹ 1.09 crore and registration fee of ₹ 8.92 lakh (Annexure-XIII).

After we pointed out the cases between May 2009 and March 2010, the SR Sainj intimated in March 2010 that out of ₹ 1.11 lakh, ₹ 0.15 lakh had been recovered and efforts were being made to recover the balance amount. Further report on realisation has not been received (September 2010).

We reported the matter to the Government between August 2009 and March 2010. We have not received their replies (September 2010).

#### 6.6.1 Short recovery of stamp duty on lease deed

##### Three Sub Registrars<sup>81</sup> (SRs)

Our scrutiny of the records between August and September 2009 revealed that during 2008, 26 lease deeds were registered for periods ranging from 10 to 40 years, for consideration amount of premium aggregating to ₹ 16.72 crore. SRs while registering these deeds levied stamp duty at the rate of one *per cent* inadvertently instead of

Article 35 of schedule-1 of Indian Stamp Act, 1899, provides that where a lease is granted for a fine or premium or for money advanced in addition to rent received, the stamp duty as applicable to conveyance (No. 23) is chargeable. As per the Indian Stamp (Himachal Pradesh Amendment) Act 1970, where the lease purports to be for a term not exceeding 100 years, stamp duty is chargeable at the rate of three *per cent* of consideration amount.

<sup>79</sup> Bijnri, Bilaspur, Dalhousie, Dharamsala, Ghumarwin, Hamirpur, Indora, Jhandutta, Joginernagar, Junga, Kangra, Kasauli, Kullu, Manali, Mandi, Nahan, Nalagarh, Pachhad, Palampur, Poanta Shaib, Rajgarh, Sainj, Shimla (Urban), Solan and Sundernagar.

<sup>80</sup> It is a valuation report of the land prepared by the *Patwari*.

<sup>81</sup> Kalpa, Nichar and Sangla in Kinnaur District.

three *per cent*. Thus, against stamp duty of ₹ 50.16 lakh, ₹ 16.72 lakh were levied, resulting in short realisation of revenue of ₹ 33.44 lakh.

We reported the matter to the Department and the Government in September 2009; we have not received (September 2010) their replies.

## C. INDUSTRIES DEPARTMENT

### 6.7 Short recovery of dead rent

#### Mining Officer Solan

We noticed in May 2009 that 12 lessees paid royalty of ₹ 27.59 lakh on account of crushing stone extracted by them from 514.10 hectares of leased area during 2008-09. The dead rent payable by the concerned lessees for the leased area amounted to ₹ 51.41 lakh. Since the amount of the royalty paid was less than the dead rent due, the lessees were required to pay the amount of dead rent. The department failed to detect this which resulted in short recovery of dead rent of ₹ 23.82 lakh.

As per Himachal Pradesh Minor Minerals (Concession) Revised Rules 1971, dead rent of the leased area or royalty due from the mineral extracted from the leased area whichever is higher shall be payable by a lessee.

After we reported the matter to the department in May 2009, it intimated in December 2009 that recovery of ₹ 7.34 lakh has been made from nine lessees. We have not received (September 2010) the report on recovery in respect of the remaining amount and the reply of the Government to whom matter was reported in March 2010.

#### 6.7.1 Non-realisation of royalty on rock salt

##### Mining Officer Mandi

We checked the returns filed by a lessee<sup>83</sup> in the above office and found (December 2009) that he had extracted 2,994 metric tonnes of rock salt between 2007-08 and 2008-09. The lessee was liable to pay a royalty of ₹ 8.33 lakh. But it was neither paid by the lessee nor was it demanded by the department resulting in

Royalty is leviable as soon as the mineral is removed from the leased area. Further, as per the GOI notification dated April 2003 royalty on rock salt shall be computed on the basis of average value as published by Indian Bureau of Mines in the "Monthly Statistics of Mineral Production". The State Government shall add 20 *per cent* to the bench mark<sup>82</sup> value for the purpose of levy of royalty payable at the rate of 10 *per cent* of the value so arrived at.

<sup>82</sup> Month wise average value of rock salt fixed by Indian Bureau of Mines.  
<sup>83</sup> M/s Hindustan Salts Ltd., Mandi.

non-realisation of the Government revenue to that extent. Though the lessees had filed the returns, the mistakes were not detected by the MO.

After we reported the matter to the Department in January 2010, it accepted (March 2010) our audit observation and directed the lessee to deposit the royalty. We have not received further report on realisation (September 2010).

### **6.7.2 Non-recovery of royalty and interest**

#### MO Nahan

We noticed in May 2009 that a mining lease of a lessee was renewed in September 2008 for a period of five years effective from 28.9.2005. As

As per terms and conditions of standard mining lease agreement entered into under the Himachal Pradesh Minor Minerals (Concession) Revised Rules, 1971, the lessee shall pay the minimum royalty of ₹ 6.70 lakh per annum or on the basis of production based on consumption of electricity and other measures which ever is higher. If the lessee does not deposit the royalty on due dates, interest at the rate of 24 per cent per annum shall be charged for the period of default.

per renewed lease, a minimum royalty of ₹ 13.41 lakh was recoverable for the period from October 2005 to September 2007 against which royalty of ₹ 7.12 lakh was paid during this period. This resulted in short levy of ₹ 8.55 lakh including interest of ₹ 2.26 lakh.

We also noticed in three<sup>84</sup> other MOs during May and August 2009 that six lessees<sup>85</sup> for the period from April 2007 to March 2009 deposited the royalty of ₹ 13.42 lakh after an average delay of 11 months. Interest of ₹ 2.73 lakh<sup>86</sup> on late deposit of royalty was not demanded by the department from the lessees.

We pointed out the omissions to the Department (May and August 2009) and the Government (May 2010). The department intimated (May 2010) that ₹ 6.29 lakh as difference in enhancement of royalty had now been recovered in April 2010. Interest of ₹ 0.11 lakh had also been recovered by MO Solan. We have not received further reports of recovery in the remaining cases (September 2010).

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<sup>84</sup> Bilaspur, Dharamsala and Solan.

<sup>85</sup> M/s Delta stone crusher, M/s Raj Kumar Queries, M/s Nav Durga stone crusher, M/s Ashok stone crusher, M/s Balbir Singh Milan stone crusher and M/s New Rohani stone crusher.

<sup>86</sup> Bilaspur: ₹ 0.19 lakh, Dharamsala: ₹ 2.43 lakh and Solan: ₹ 0.11 lakh.

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## D. IRRIGATION AND PUBLIC HEALTH DEPARTMENT

### 6.8 Non-levy of water charges

#### Two IPH divisions<sup>87</sup>

We test checked the records between September 2009 and November 2009 and noticed that water charges of ₹ 11.13 lakh<sup>88</sup> for the period 2007-08 and 2008-09 were not levied by the department. This resulted in non-recovery of ₹ 11.13 lakh.

Under section 5 of the Himachal Pradesh Water Supply Act, 1968, the water rates shall be levied at the rates prescribed from time to time on the basis of flat rate or metered connections.

After we pointed out the cases between September 2009 and November 2009, IPH Dalhousie division intimated in March 2010 that ₹ 2.17 lakh had been recovered and efforts were being made to recover the balance amount. Report of recovery from Bhunter division has not been received (September 2010).

We reported the matter to the Department and the Government between October and December 2009; we have not received (September 2010) their replies.

#### 6.8.1 Undue retention of Government money

#### Two IPH divisions<sup>89</sup>

We noticed in May and July 2009 that ₹ 11.62 lakh<sup>90</sup> collected for water charges/sale of tender forms etc. during March 2008 and February 2009 were deposited in treasury with average delay of 19 days. The department however, did not ensure that the Government receipts collected are deposited promptly in the treasury.

Himachal Pradesh Financial Rules, 1971, stipulates that all departmental receipts collected during the day should be credited into the treasury on the same day or latest by the morning of the next working day.

After we pointed out the cases in May and July 2009, the department while admitting the facts of delay in remittances stated that delay in deposit was due to shortage of staff and deployment of staff on other emergent work. It further assured that in future the Government money would be deposited promptly in the treasury.

We reported the matter to the Government between June and July 2009. We have not received their replies (September 2010).

<sup>87</sup> Bhunter and Dalhousie.

<sup>88</sup> Bhunter: ₹ 5.95 lakh and Dalhousie: ₹ 5.18 lakh.

<sup>89</sup> Nohradhar and Padhar.

<sup>90</sup> Nohradhar: ₹ 1.26 lakh and Padhar: ₹ 10.36 lakh.



## E. PUBLIC WORKS DEPARTMENT

### 6.9 Non-deposit of royalty

#### PWD divisions<sup>91</sup>

As per standard agreement entered into by the State Public Works Department (PWD) with the contractors engaged in construction of centrally funded roads, contractors are required to hand over useful stones extracted in formation cutting of the roads at prescribed quantity. Failure to restore the useful stones to the department attracted levy of recovery at the rate of ₹ 170 per cubic meter which among other levies also included the element of royalty of stones.

We collected information from the records in seven divisions between June 2004 to

The department has fixed 2.24 metric tones as conversion factor for one cubic meter of building stones, masonry stone including boulders. The rate of royalty for one metric tonne was ₹ 10. Thus rate of royalty of useful stone per metric tonne was ₹ 22.40.

September 2008 and noticed that in 132 cases the contractors extracted 9,82,750.14 cubic meter of useful stones. The divisions collected ₹ 2.20 crore on account of royalty but instead of crediting to the revenue head the amount was utilised by the department for its expenditure.

Thus, the failure of the PWD to credit the element of royalty in the State Government account deprived the Government of legitimate revenue of ₹ 2.20 crore.

We reported the matter to the Government between September 2009 and February 2010. We have not received their replies (September 2010).

#### 6.9.1 Non-deposit of tax

##### Public Works Division Jubbal

We noticed in May 2009 that the division had deducted ₹ 26.82 lakh<sup>92</sup> at source

Under Rule 38 of Himachal Pradesh Value Added Tax Rules, 2005, tax deducted at source by public works department from the bills of the contractors was required to be deposited within 15 days of the close of the month of deduction. Failure to deposit the tax attracted levy of penalty upto twice the amount of tax so deducted.

from the contractor's bills during the year 2007-08 and 2008-09. The amount was required to be deposited under the revenue head "0040-VAT" account but was kept under "Public Works Deposit" and utilised unauthorisedly. For non-deposit of tax, the division was also liable to pay penalty

of ₹ 53.64 lakh.

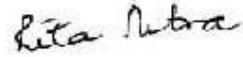
<sup>91</sup> Bhabanagar, Chopal, Kullu-I, Nirmand, Rampur, Sundernagar and Theog.

<sup>92</sup> 2007-08: ₹ 24.48 lakh and 2008-09: ₹ 2.34 lakh.



We pointed out the matter to the Division in May 2009. It admitted (May 2009) the audit observation and stated that the tax could not be deposited with Excise Department due to non-availability of funds in the previous years. This indicates that the receipts were utilised for departmental expenditure which is against the financial rules.

We reported the matter to the Department and the Government in June 2009. We have not received their replies (September 2010).



**(RITA MITRA)**

**Principal Accountant General (Audit)  
Himachal Pradesh**

**Shimla  
The**

**Countersigned**



**(VINOD RAI)**

**Comptroller and Auditor General of India**

**New Delhi  
The**