Chapter 5

Government Commercial and Trading Activities

Overview of State Public Sector Undertakings

5.1 Introduction

5.1.1 The State Public Sector Undertakings (PSUs) consist of State Government companies and Statutory corporations. The State PSUs are established to carry out activities of commercial nature keeping in view the welfare of the people. In Delhi, the State PSUs occupy an important place in the State economy. The State PSUs registered a Turnover of ₹ 4,678.90 crore for the year 2010-11 as per their latest finalised Accounts as of 30 September 2011. This Turnover was equal to 1.81 *per cent* of the State Gross Domestic Product (GDP) of ₹ 2,58,808.48 crore in 2010-11. Major activities of the Delhi State PSUs are concentrated in Power and Transport sector. The State PSUs incurred a loss of ₹ 1761.90 crore in aggregate as per the latest finalised Accounts as of 30 September 2011 and are employing 0.48 lakh employees as on 31 March 2011.

5.1.2 As on 31 March 2011, there were 13 PSUs (all working), which included 11 Government companies and two Statutory corporations. One Government Company viz. Delhi Transport and Infrastructure Development Corporation was incorporated in August 2010. None of these Companies was listed on any stock exchange.

Audit Mandate

5.1.3 Audit of Government companies is governed by Section 619 of the Companies Act, 1956. According to Section 617, a Government company is one in which not less than 51 *per cent* of the paid up capital is held by Government(s). A Government company includes a subsidiary of the Government company as well. Further, a Company in which not less than 51 *per cent* of the paid up capital is held in any combination by Government(s), Government companies and Corporations controlled by Government(s) is treated as if it were a Government company (deemed Government company) as per Section 619-B of the Companies Act, 1956.

5.1.4 The Accounts of the State Government companies (as defined in Section 617 of the Companies Act, 1956) are audited by Statutory Auditors, who are appointed by CAG as per the provisions of Section 619(2) of the Companies Act, 1956. These Accounts are also subject to supplementary audit conducted by CAG as per the provisions of Section 619 of the Companies Act, 1956.

5.1.5 Audit of Statutory corporations is governed by their respective legislations. Out of two Statutory corporations, CAG is the sole auditor for Delhi Transport Corporation. For Delhi Financial Corporation, the audit is conducted by the Chartered Accountants and supplementary audit is conducted by the CAG.

Investment in State PSUs

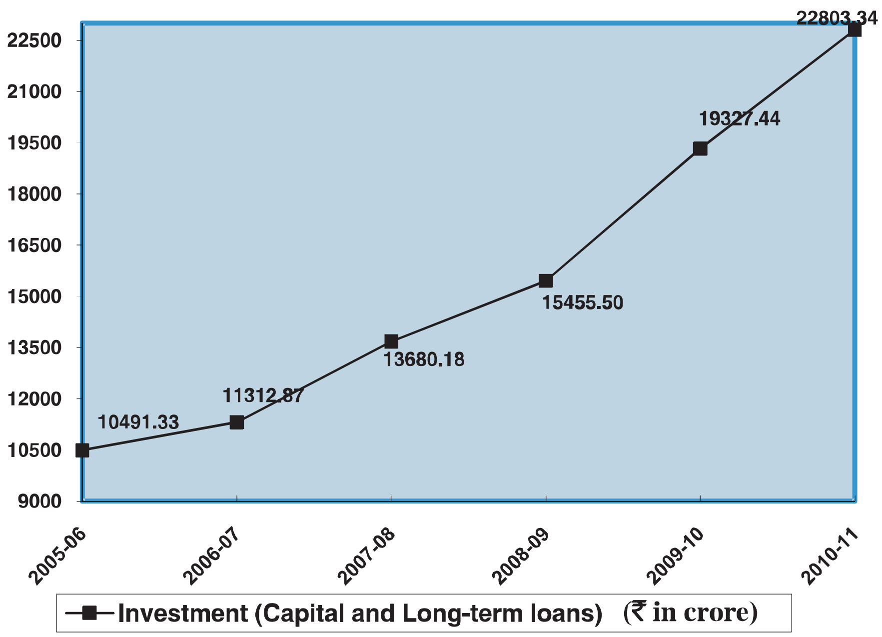
5.1.6 As on 31 March 2011, the total investment (capital and long-term loans) in 13 PSUs (all working) was ₹ 22803.34 crore as per details given below:

(₹ in crore)

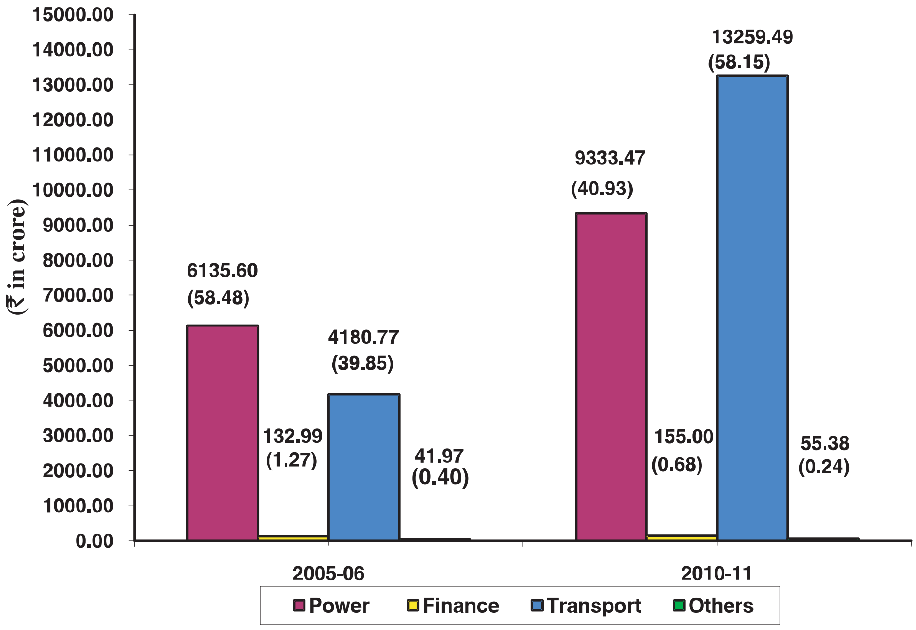
Government companies			Statutory corporations			Grand Total
Capital	Long Term Loans	Total	Capital	Long Term Loans	Total	
6104.22	3332.37	9436.59	1609.42	11757.33	13366.75	22803.34

A summarised position of Government investment in State PSUs is given in **Appendix 5.1.**

5.1.7 As on 31 March 2011, total investment in State PSUs consisted of 33.83 *per cent* towards Capital and 66.17 *per cent* in Long-term loans. The investment has grown by 117.35 *per cent* from ₹ 10491.33 crore in 2005-06 to ₹ 22803.34 crore in 2010-11 as shown in the following graph:



5.1.8 The investment in various important sectors and percentage thereof at the end of 31 March 2006 and 31 March 2011 are indicated below in the bar chart.



(Figures in brackets indicate the sector percentage to total investment) (₹ in crore)

The thrust of PSU investment was mainly in Transport and Power sectors. The investment in Transport sector increased from ₹ 4180.77 crore in 2005-06 to ₹ 13259.49 crore in 2010-11 with corresponding increase in percentage share in total investment from 39.85 *per cent* (2005-06) to 58.15 *per cent* (2010-11). In Power sector, though the investment increased from ₹ 6135.60 crore in 2005-06 to ₹ 9333.47 crore in 2010-11, its percentage share in total investment decreased from 58.48 *per cent* (2005-06) to 40.93 *per cent* (2010-11).

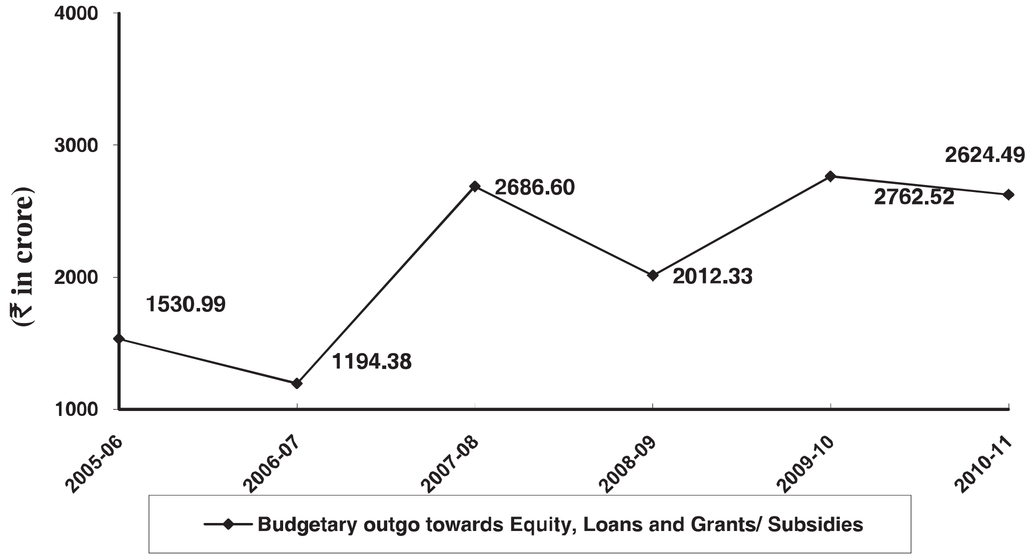
Budgetary outgo, Grants/Subsidies, Guarantees and Loans

5.1.9 The details regarding budgetary outgo towards Equity, Loans, Grants/ Subsidies, Guarantees issued and Loans converted into equity in respect of State PSUs are given in **Appendix 5.3**. The summarised details are given below for three years ended 2010-11.

(₹ in crore)

Sl. No.	Particulars	2008-09		2009-10		2010-11	
		No. of PSUs	Amount	No. of PSUs	Amount	No. of PSUs	Amount
1.	Equity Capital outgo from budget	3	260.82	3	626.06	3	222.89
2.	Loans given from budget	2	1651.55	1	1981.28	1	2128.60
3.	Grants/Subsidy received	5	99.96	6	161.18	7	273.00
4.	Total Outgo[1] (1+2+3)	8	2012.33	7	2768.52	8	2624.49
5.	Loans converted into equity	-	-	-	-	1	239.00
6.	Loans written off	-	-	-	-	-	-
7	Guarantee received during the year			1	633.22	-	-

5.1.10 The details regarding budgetary outgo towards Equity, Loans and Grants/ Subsidies for past six years are given in the graph:



The budgetary outgo towards Equity, Loans, Grants/Subsidy has shown a mixed trend during the six years period from 2005-06 to 2010-11 which was ₹ 2624.49 crore in 2010-11 in comparison to ₹ 1530.99 crore during 2005-06.

[1] Actual number of PSUs which received budgetary support.

Reconciliation with Finance Accounts

5.1.11 The figures of Equity, Loans and Guarantees outstanding as per records of State PSUs should agree with that of the figures appearing in the Finance Accounts of the State. In case the figures do not agree, the concerned PSUs and the Finance Department should carry out reconciliation of the difference. The position in this regard as at 31 March 2011 is stated below:

(₹ in crore)

Outstanding in respect of	Amount as per Finance Accounts	Amount as per records of PSUs	Difference
Equity	7138.23	7293.69	(-) 155.46
Loans[2]	249.96	160.19	89.77

5.1.12 It was observed that the difference occurred in Equity and Loan figures in respect of six[3] PSUs and some of the differences were pending reconciliation since long. The Government and the PSUs should take concrete steps to reconcile the differences in a time-bound manner.

Performance of PSUs

5.1.13 The financial results of PSUs, financial position and working results of working Statutory corporations are indicated in **Appendix 5.2, 5.5** and **5.6** respectively. The ratio of PSU Turnover to State GDP shows the extent of PSU activities in the State economy. Table below provides the details of working PSU Turnover and State GDP for the period 2005-06 to 2010-11.

(₹ in crore)

Particulars	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Turnover[4]	7734.21	8283.41	3019.71	3555.63	4188.32	4678.90
State GDP[5]	115374.25	135583.65	157947.18	184457.52	217851.12	258808.48
Percentage of Turnover to State GDP	6.70	6.11	1.91	1.93	1.92	1.81

The Turnover of PSUs increased upto 2006-07 but declined drastically by more than 63 *per cent* during 2007-08 as compared to 2006 -07 mainly because of transfer of one of the major activities of one power sector PSU

[2] Loan figure as per Finance Accounts has been received from one out of three Pay & Accounts Offices (PAOs) in respect of two out of six companies. Rest of the figures are awaited.

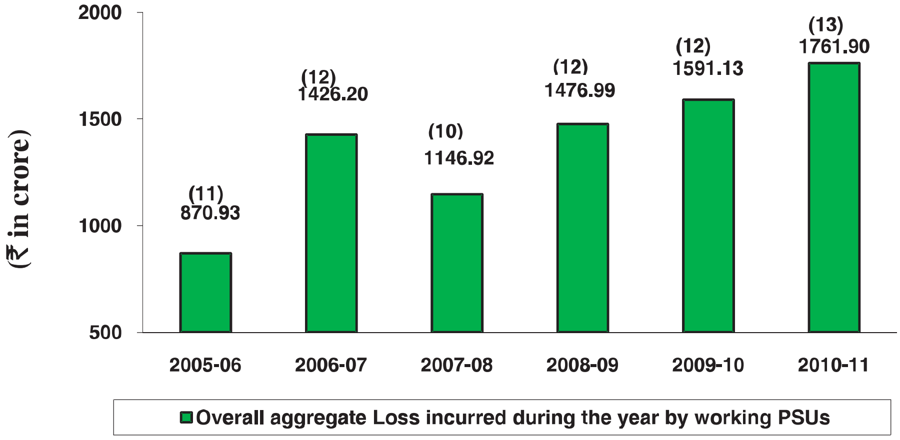
[3] Equity – Sl. No. 1, 3, 7, 10, 11 and 13 and Loan – Sl. No. 1, 2, 4, 6, 8, 13 in ***Appendix 5.1***.

[4] Turnover as per the latest finalised Accounts as of 30 September of the respective year.

[5] The base year for calculation of State GDP has changed from 1999-2000 to 2004-05 resulting in change in figures.

(Delhi Transco Limited) relating to sale of power to power distribution companies in private sector with effect from 1 April 2007. This has correspondingly caused significant decline in percentage of Turnover to GDP in subsequent years. However, Turnover of PSUs has shown an increasing trend from the year 2008-09 onwards.

5.1.14 Losses incurred by State working PSUs during 2005-06 to 2010-11 are given in the bar chart:



(Figures in brackets show the number of working PSUs in respective year)

The working PSUs incurred overall Losses which ranged between ₹ 870.93 crore to ₹ 1761.90 crore during 2005-06 to 2010-11. During the year 2010-11, out of 13 working PSUs, nine PSUs earned Profit of ₹ 310.80 crore and four PSUs incurred Loss of ₹ 2072.70 crore. The major contributors to Profit were Pragati Power Corporation Limited (₹ 127.21 crore), Delhi Transco Limited (₹ 93.09 crore) and Indraprastha Power Generation Company Limited (₹ 23.18 crore). The heavy Losses were incurred by Delhi Transport Corporation (₹ 2042.73 crore).

5.1.15 The Losses of PSUs are mainly attributable to deficiencies in planning, monitoring implementation of projects and financial management. A review of latest Audit Reports of CAG shows that the State PSUs incurred Losses to the tune of ₹ 1284.61 crore and infructuous investment of ₹ 176.48 crore which were controllable with better management. Year wise details from Audit Reports are stated below:

(₹ in crore)

Particulars	2008-09	2009-10	2010-11	Total
Net Profit (Loss)	(1476.99)	(1591.13)	(1761.90)	(4830.02)
Controllable Losses as per CAG's Audit Report	576.62	702.19	5.80	1284.61
Infructuous Investment	176.48	-	-	176.48

5.1.16 The above Losses pointed out by Audit Reports of CAG are based on test check of records of PSUs. The actual controllable Losses would be much more. The above table shows that with better management, the Losses could have been minimised. The PSUs can discharge their role efficiently only if they are financially self-reliant. The above situation points towards a need for professionalism and accountability in the functioning of PSUs.

5.1.17 Some other key parameters pertaining to State PSUs are given below:

(₹ in crore)

Particulars	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Return on Capital Employed (*Per cent*)	-	-	6.78	-	0.48	-
Debt	9639.21	10452.39	7857.61	8910.50	12155.74	15089.70
Turnover[6]	7734.21	8283.41	3019.71	3555.63	4188.32	4678.90
Debt/ Turnover Ratio	1.25:1	1.26:1	2.60:1	2.51:1	2.90:1	3.23:1
Interest Payments	791.64	964.81	1302.00	1474.21	1614.00	1578.67
Accumulated Profits/ (Losses)	(8104.09)	(8712.51)	(10851.79)	(12395.49)	(14266.66)	(14242.56)

(Above figures pertain to all PSUs).

5.1.18 The above parameters exhibit deterioration in the financial position of the PSUs. During 2005-06 to 2010-11, the percentage of Return on Capital Employed was negative for all the years except during 2007-08 and 2009-10. The Debt Turnover ratio has been deteriorating since 2005-06 and was registered at 3.23:1 during 2010-11. The Accumulated Losses have also increased steadily from 2005-06 to 2009-10 with a marginal decrease in 2010-11.

5.1.19 As per the recommendations of the Twelfth Finance Commission, the State must adopt a modest rate of return on the investment made in public enterprises at the rate of five *per cent* as dividend on equity. As per their latest finalised Accounts six[7] PSUs earned a profit of ₹ 171.16 crore but only two companies declared dividend of ₹ 25.55 crore viz, Pragati Power Corporation Limited (₹ 24.92 crore) and Delhi Tourism and Transportation Development Corporation Limited (₹ 0.63 crore).

[6] Turnover of working PSUs as *per* the latest finalised Accounts as of 30 September of the respective year.
[7] Serial No. 3, 6, 7, 9, 10 and 12 in ***Appendix 5.2*.**

Arrears in finalisation of Accounts

5.1.20 The Accounts of the Companies for every financial year are required to be finalised within six months from the end of the relevant financial year under Sections 166, 210, 230, 619 and 619-B of the Companies Act, 1956. Similarly, in case of Statutory corporations, their Accounts are finalised, audited and presented to the Legislature as *per* the provisions of their respective Acts. The table below provides the details of progress made by working PSUs in finalisation of Accounts by 30 September 2011.

Sl. No.	Particulars	2006-07	2007-08	2008-09	2009-10	2010-11
1.	Number of Working PSUs	12	10	12	12	13
2.	Number of Accounts finalised during the year	11	14	11	15	11
3.	Number of Accounts in arrears	14	10	11	8	10
4.	Average arrears per PSU (3/1)	1.17	1.00	0.92	0.67	0.77
5.	Number of working PSUs with arrears in Accounts	4	2	3	2	4[8]
6.	Extent of arrears	1 to 9 years	1 to 8 years	1 to 9 years	1 to 7 years	1 to 8 years

5.1.21 The average number of Accounts in arrears per working PSU decreased from 1.17 in 2006-07 to 0.77 in 2010-11. One PSU[9] had major backlog of eight years of Accounts mainly because of shortage of trained manpower whereas other PSUs had only one year's Accounts in arrear as on 30 September 2011.

5.1.22 The State Government had invested ₹ 101.01 crore (Equity: ₹ 19.28 crore, Loans: ₹ 2.49 crore and Grants/Subsidy: ₹ 79.24 crore) in three PSUs during the years for which Accounts have not been finalised as detailed in **Appendix 5.4.** As a result of this, the net worth of these PSUs could not be assessed in audit. In the absence of Accounts and their subsequent audit, it cannot be ensured whether the investments and expenditure incurred have been properly accounted for and the purpose for which the amount was invested had been achieved or not. Further, delay in finalisation of Accounts may also result in risk of fraud and leakage of public money apart from violation of the provisions of the Companies Act, 1956.

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[8] Serial No. 1, 2, 5 and 13 of ***Appendix 5.2***.

[9] Delhi SC/ST/OBC/Minorities & Handicapped Financial and Development Corporation Limited.

5.1.23 The administrative departments have the responsibility to oversee the activities of these entities and to ensure that the Accounts are finalized and adopted by these PSUs within the prescribed period. The Principal Accountant General (PAG), Delhi took up the matter of arrears of accounts with the Chief Secretary, Government of NCT of Delhi in November 2011. The matter was also being taken up periodically with the Principal Secretary (Finance), Government of NCT of Delhi to expedite clearance of the backlog of arrears in Accounts in a time bound manner.

Accounts Comments and Internal Audit

5.1.24 Nine working companies forwarded their nine audited Accounts to PAG (Audit), Delhi during the period from October 2010 to September 2011. Of these, eight Accounts were selected for supplementary audit. The Audit Reports of Statutory Auditors appointed by CAG and the supplementary audit of CAG indicate that the quality of maintenance of Accounts needs to be improved substantially. The details of aggregate money value of comments of Statutory Auditors and CAG are given below:

(₹ in crore)

Sl. No.	Particulars	2008-09		2009-10		2010-11	
		No. of Accounts	Amount	No. of Accounts	Amount	No. of Accounts	Amount
1.	Decrease in Profit	3	41.21	4	17.48	3	7.90
2.	Increase in Profit	-	-	4	86.71	-	-
3.	Increase in Loss	2	658.29	1	7.52	1	381.88
4.	Decrease in Loss	-	-	1	1.00	-	-
5.	Non-disclosure of material facts	-	-	5	242.27	-	-
6.	Errors of classification	-	-	3	4.30	2	20.87

5.1.25 During the year, the Statutory Auditors had given unqualified certificate for four Accounts and qualified certificates for five Accounts. Additionally, CAG gave qualified certificate for two Accounts, unqualified certificate for six Accounts after supplementary audit and issued non review certificate to one Account. There were four instances of non-compliance with Accounting Standards during the year.

5.1.26 Some of the important comments in respect of Accounts of the Companies finalised during the year 2010-11 are stated below:

Delhi State Civil Supplies Corporation Limited (2010-11)

- The unauthorised adjustment of Subsidy recoverable from Delhi Government was made against Loan Funds and thus resulted in understatement of Loan Funds and Current Assets, Loan and Advances (Recoverable) by ₹ 2.14 crore.

- Recognition of Deferred Assets Tax was not in conformity with Accounting Standard 22 and thus this has resulted in overstatement of Deferred Tax Assets and Profit for the year by ₹ 1.67 crore.
- Hindustan Vegetable Oil Corporation had accepted the dues of ₹ 0.10 crore against recoverable amount of ₹ 2.14 crore, thus the balance amount of ₹ 2.04 crore was not recoverable and should have been provided for in the Accounts. This resulted in overstatement of Current Assets, Loans & Advances and Profit for the year by ₹ 2.04 crore.

Delhi Power Company Limited (2010-11)

- As per Accounting Standard – 13, Investments in Delhi Transco Limited and BSES Rajdhani Power Limited should have been shown as ₹ 10.66 crore and ₹ 92.86 crore instead of ₹ 260.00 crore and ₹ 225.40 crore respectively and decline in investment to the extent of ₹ 381.88 crore should have been charged to Profit and Loss Account. This resulted in overstatement of Investments and understatement of Loss by ₹ 381.88 crore.

Delhi State Industrial & Infrastructural Development Corporation Limited (2009-10)

- Non adjustment of deposit work completed with the amount received resulted into overstatement of Current Liabilities and Provisions and Current Assets, Loans and Advances by ₹ 18.73 crore.
- Valuation of 757 flats in hand remaining as stock was made on actual cost although the net realisable value was less than the actual cost. This had resulted into overstatement of Inventory and Profit by ₹ 1.07 crore.
- As per orders of the Government of National Capital Territory of Delhi (GNCTD) the Company reversed the provision under relocation scheme for payment of interest on earnest money deposit made till last year whereas no such provision was made for this year which resulted into overstatement of Profit by ₹ 0.63 crore.

5.1.27 Similarly, two working Statutory corporations forwarded two Accounts to PAG (Audit), Delhi during the period October 2010 to September 2011. Of these, Accounts of one Corporation i.e. Delhi Transport Corporation, was audited by CAG under Section 19 of DPC Act 1971 as the sole auditor and the Accounts of the other Corporation i.e. Delhi Financial Corporation was taken up for supplementary audit. The Audit Reports of Statutory Auditors and the supplementary audit of CAG indicate that the quality of maintenance of Accounts needs to be improved substantially. The details of aggregate money value of comments of Statutory Auditors and CAG are given below:

(₹ in crore)

Sl. No.	Particulars	2008-09		2009-10		2010-11[10]	
		No. of Accounts	Amount	No. of Accounts	Amount	No. of Accounts	Amount
1.	Decrease in Profit	1	1.68	-	-	1	0.05
2.	Increase in Profit	-	-	1	0.26	-	-
3.	Increase in Loss	-	-	1	543.05	1	1677.89
4.	Decrease in Loss	-	-	1	1.17	-	-
5.	Non-disclosure of material facts	-	-	1	19.43	-	-
6.	Errors of classification	-	-	1	3.82	2	15.99

5.1.28 During the year, out of two Accounts of two Corporations, one Account i.e. Delhi Financial Corporation for the year 2010-11 received unqualified certificate from Statutory Auditors and qualified certificate from CAG. In respect of the other Corporation viz Delhi Transport Corporation where the CAG is the sole auditor, audit of the Accounts for the year 2010-11 was in progress as of November 2011.

5.1.29 Some of the important comments in respect of Accounts of the Statutory corporations are stated below:

Delhi Financial Corporation (2010-11)

- In compliance to Form "C" of Regulation 93 of the "The Delhi Financial Corporation (General) Regulations, 2006", Term Deposit for Pension Fund' and 'Pension Fund Account with Scheduled Bank' amounting to ₹ 1083.69 lakh and ₹ 0.09 lakh respectively had been shown separately under the head 'Other Assets' which should have been deducted from 'DFC Employee Pension Fund' under the head 'Other Liabilities'. Thus, this resulted in overstatement of Other Liabilities and Other Assets by ₹ 1083.78 Lakh.

Delhi Transport Corporation (2009-10)

- As per Accounting Standard-15, the gratuity liability should have been shown on the basis of actuarial valuation of ₹ 433 crore in the Accounts. However, the Corporation had shown the Gratuity fund to the extent of ₹ 58.63 crore only. This resulted in understatement of

[10] Impact of comments on Accounts is for the Accounts of the year 2009-10 in respect of Delhi Transport Corporation and for 2010-11 in respect of Delhi Financial Corporation

Liability and Gratuity fund by ₹ 374.37 crore each and consequent understatement of Accumulated Loss by the same amount.

- The Corporation had sold scrap of ₹ 24.35 crore whereas VAT @ four *per cent* was not paid nor any provision for the same was made. This resulted in understatement of Current Liabilities and consequent understatement of Accumulated Losses by ₹ 0.97 crore.
- Excess payment of Pay and Allowances made at the time of death/ premature retirement/ retirement was deducted from final payment of Gratuity and credited to Gratuity Fund Adjustment account instead of crediting the same to the Pay and Allowances head. This resulted in overstatement of Current Liabilities and Operating Expenses and consequent overstatement of Loss by ₹ 1.09 crore.
- The Corporation paid ₹ 1.93 crore on account of Dearness Allowance (DA) portion of Gratuity due to DTC Pension Trust after the due date in November/December 2008. However, interest on late payment was not paid nor any provision made in the annual Accounts. DTC pension Trust has been charging interest on late receipt of employer's contribution @ 12 *per cent* per annum, provision for ₹ 3.14 crore should have been provided in the books. This resulted in understatement of Operating Expenses, Current Liability by ₹ 3.14 crore and consequently understatement of Loss by the same amount.
- An amount of ₹ 1.56 crore was paid as advance to Delhi Development Authority for deposits made for purchase of land. The same should have been shown under Loans & Advances instead of Sundry Debtors. This resulted in overstatement of Sundry Debtors & Other Receivables and understatement of Advances and Deposits by ₹ 1.56 crore.
- As per finalised Accounts of the Pension Trust as on 31 March 2010, fund available with Pension Trust was ₹ 287.78 crore whereas the pension liability of employees assessed as per actuarial valuation as on 31 March 2008 was ₹ 1552.79 crore. The actuarial liability as on 31 March 2010 would be even more (after two years). Therefore atleast the minimum provision should have been made. As the Central or State Government has not given any consent for any contribution for shortfall in this regard to the trust, it is obligatory on the part of the Corporation to provide for the shortfall in Pension fund. This resulted in understatement of Pension Fund and Net Loss to the tune of ₹ 1265.00 crore.
- The fixed assets and Losses were understated by ₹ 22.67 crore due to charging of Depreciation at 8.33 *per cent* on buses instead of at applicable rate of 12 *per cent.*
- Interest Income Accrued but not due on Short Term Fixed Deposits with banks was ₹ 5.41 crore. The Corporation included the interest

beyond 31 March 2010 and shown as ₹ 10.43 crore instead of ₹ 5.41 crore which resulted into overstatement of Interest Income and Sundry Debtors by ₹ 5.02 crore each and further understatement of Loss by the same amount.

5.1.30 The Statutory Auditors (Chartered Accountants) are required to furnish a detailed report upon various aspects including Internal control/ Internal audit systems in the Companies audited in accordance with the directions issued by the CAG to them under Section 619(3)(a) of the Companies Act, 1956 and to identify areas which need improvement. An illustrative resume of major comments made by the Statutory Auditors on possible improvement in the Internal audit/Internal Control system in respect of one Company[11] for the year 2009-10 and four Companies[12] for the year 2010-11 are given below:

Sl. No.	Nature of comments made by Statutory Auditors	Number of Companies where recommendations were made	Reference to serial number of the Companies as *per* Appendix 5.2
1.	Non-fixation of minimum/ maximum limits of store and spares	3	A-2, 6, 7
2.	Absence of Internal audit system commensurate with the nature and size of business of the Company	4	A- 2, 7, 8, 9
3.	Non-maintenance of proper records showing full particulars including quantitative details, situations, identity number, date of acquisitions, depreciated value of Fixed Assets and their locations	3	A- 2, 8, 9
4.	Non maintenance of cost records	1	A-2

Status of placement of Separate Audit Reports

5.1.31 The following table shows the status of placement of Separate Audit Report (SAR) issued by the CAG on the Accounts of Statutory corporation in

[11] Sr. No. 2 in ***Appendix – 5.2.***
[12] Sr. No. 6, 7, 8 and 9 in ***Appendix – 5.2.***

the Legislature by the Government.

Sl. No.	Name of Statutory corporation	Year up to which SAR placed in Legislature	Year for which SARs not placed in Legislature		
			Year of SAR	Date of issue to the Government	Reasons for delay in placement in Legislature
1	Delhi Transport Corporation	2008-09	2009-10	24 May 2011	Reasons being ascertained.

Delay in placement of SARs weakens the legislative control over Statutory corporations and dilutes the latter's financial accountability. The Government should ensure prompt placement of SARs in the legislature.

Disinvestment, Privatisation and Restructuring of PSUs

5.1.32 The State Government had not undertaken the exercise of disinvestment, privatization or restructuring of any of the State PSUs during 2010-11.

5.2 Transaction Audit Observations

Government Companies

Delhi Power Company Limited

5.2.1 Undue favour to BRPL – a private DISCOM

Not obtaining security/escrow mechanism while granting loan under Power Stabilisation Fund and not charging penal interest to the tune of ₹ 3.67 crore resulted in undue favour to BSES – Rajdhani Power Limited (BRPL).

Government of NCT of Delhi (GNCTD) approved (January 2008) creation of Power Stabilisation Fund (PSF) which would be parked with all the dividends accruing to Delhi Power Company Limited (DPCL) from the Companies viz. North Delhi Power Limited (NDPL), BSES-Rajdhani Power Limited (BRPL), BSES-Yamuna Power Limited (BYPL), Delhi Transco Limited (DTL) and Pragati Power Corporation Limited (PPCL). The purpose for creation of the fund was to utilize the funds generated out of achievements of Power sector back into the same sector. Accordingly, a Committee was constituted to examine the modalities for creation of fund. The Committee's Report (17 April 2008) was accepted (May 2008) by the GNCTD. The fund was to be administered by DPCL and kept in a separate head created for this purpose and not to be linked with any regular activity of DPCL. The Board of Directors of DPCL accorded approval (12 June 2008) for creation of PSF.

The following deficiencies in the operation of PSF were noticed in Audit:

a. After creation of PSF in June 2008 DPCL received a dividend of ₹ 37.86 crore (NDPL: ₹ 32.46 crore and DTL: ₹ 5.40 crore) for the year 2008-09. We noticed that in violation of directions to keep the dividend income in separate bank account, DPCL diverted it to its bank account and used it to pay Central Public Sector Undertaking (CPSU) dues.

b. As per the modalities in the Committee's Report regarding allocation of funds worked out for operation of Fund, seventy *per cent* of the amount available under PSF could be loaned out to the DISCOMs in the ratio 29.18 *per cent*, 43.58 *per cent* and 27.24 *per cent* to NDPL, BRPL and BYPL respectively. The Report further stated that in case of non utilization of the respective allocation, it could be redistributed in the respective percentage defined above. It was however, observed that DPCL, in violation of above clause, gave entire short-term loan of ₹ 400 crore to only one Company viz BRPL.

The Management stated (August 2011) that the unutilized allocation could be redistributed to other groups i.e. Government utilities/DISCOMs *vice-versa*.

The reply was not acceptable as the redistribution was to be made in the prefixed percentage as mentioned above.

c. The Report of the Committee states that to secure the repayment of the loan amount and interest thereon, lender shall have a first charge on the moveable assets of the borrower-both present and future ranking *pari-passu* with the existing charge in favour of other lenders and by way of establishing Escrow Mechanism on receivables. Audit scrutiny revealed that DPCL during the period March 2009 to March 2011 disbursed short term loans under the loan agreement signed with BRPL incorporating a clause under which the borrower was given liberty to pay additional interest at one *per cent* per annum on loan amount till the creation of security. Thus not obtaining security by way of *pari-passu* charge from all the bankers/Financial Institutions of BRPL as well as non establishment of Escrow mechanism on receivables of BRPL rendered the outstanding short term loan of ₹ 400 crore to BRPL as unsecured.

The Management replied (August 2011) that the loan has security in the form of hypothecation over assets of BRPL, although it could not hand over *pari-passu* letters as they were facing difficulties from the existing lenders.

The reply was not acceptable as the hypothecation would be effective only after getting *pari-passu* letters from the existing lenders.

d. The maximum tenure of loan given by DPCL to the Companies was not to exceed one year as per the Report. It was observed that despite defaulting in repayment of loan, DPCL granted extension of time as sought by BRPL. Further, no firm commitment for repayment of loan was obtained from BRPL as decided by Board of Directors while sanctioning the loan. Due to non-payment of total loans of ₹ 400 crore before due date by BRPL, DPCL faced financial crunch and the State Government had paid Grants to DPCL to clear liability of CPSU dues , thus, putting extra burden on the State Exchequer.

The Management replied (August 2011) that the request of BRPL for loan contained the commitment of BRPL to repay the loan on or before 30 March 2011 and hence, no separate commitment was sought from BRPL.

The reply was not acceptable as the Board of Directors of DPCL while sanctioning the disbursement of loan directed to obtain firm commitment, which was, however, not complied to.

e. As per loan agreement signed between DPCL and BRPL, in case of default, interest at 2.75 *per cent* per annum over and above the applicable interest rate shall also be charged on the amount due from the respective due date till the date of actual payment. It was observed that DPCL did not charge penal interest of ₹ 3.67 crore at 2.75 *per cent* per annum on the unpaid loan of ₹ 200 crore for the last eight months with effect from 16 September 2010.

The Management stated (August 2011) that they cannot charge penal interest as it would affect the consumers.

The reply was not acceptable as the penal interest was to be levied as per the Report of the Committee and also in terms of the agreement signed between DPCL and DISCOM.

Thus, DPCL not only failed to safeguard its own financial interest but also extended undue favour to BRPL – a private Company by giving it the entire amount of loan overlooking the recommendations contained in the Report of the Committee for PSF.

The matter was reported to the Government in June 2011 and their reply was awaited (November 2011).

Delhi Transco Limited

5.2.2 Non-levy of compensation / penalty on the Contractor for delay in execution of work.

Non-levy of compensation / penalty for delay in completion of work led to excess payment of ₹ 80.91 lakh to the Contractor.

Delhi Transco Limited (Company) awarded (16 June 2008) a work contract to M/s Kamal Builders (Contractor) at the tendered cost of ₹ 838.25 lakh for supply and filling of fly ash and earth at 400 KV Sub-station, Mundka. The work started on 30 June 2008 and was required to be completed within six months i.e. by 29 December 2008. Clause-2 of the Contract signed with the Contractor stipulated that in the event of the Contractor failing to comply with the time schedule, he shall be liable to pay compensation of an amount equal to one *per cent* or such smaller amount decided by the Company on the awarded value of the whole work for every day subject to levy of maximum compensation of 10 *per cent* of awarded value of work.

The execution plan submitted by the Contractor (being part of the contract) stipulated the supply and filling of the total quantity of 3,49,414 cum fly ash in 125 days by executing 2,800 cum quantity per day. Scrutiny of records revealed that the progress of work was consistently slow and the Contractor could lift 76,000 cum of quantity till October 2008 and 87,591 cum till November 2008 against the planned quantity of 1,85,000 cum and 2,65,000 cum respectively. Since the work was not completed within the stipulated period, the Contractor applied (22 December 2008) for Extension of Time (EOT). While applying for EOT the Contractor indicated that out of the total available days between July to November 2008, he could lift only 87,591 cum (on an average 2170 cum of fly ash qty per day) in 41 days due to rain and requested for grant of EOT up to 26 March 2009 to complete the balance quantity of work. Accordingly, the Company granted EOT (January 2009) up to 26 March 2009 without prejudice to the right of the Company to recover levy of compensation in accordance with the Clause 2 of the agreement.

Despite EOT up to 26 March 2009 the Contractor could not complete the work on various grounds such as fog at night, inadequate supply of diesel by petrol pumps, labour not available due to *Holi* festival etc., and again requested (23 March 2009) for EOT for a further period of 62 days. The Company this time also granted EOT (March 2009) for the period up to 27 May 2009 without prejudice to the right of the Company to recover levy of compensation in accordance with the Clause 2 of the agreement. While granting this EOT it was decided that suitable amount shall be withheld against levy of compensation as per agreement clause.

It was observed in audit that on both occasions, while considering EOT, the Company had ignored the completion programme submitted by the Contractor according to which he had to lift on an average 2,800 cum quantity of fly ash/earth per day. Further during the later part of the completion programme i.e. during October to December 2008, the Contractor had to lift a large quantity i.e. 2,34,414 cum of fly ash and earth. During this period no hindrances were recorded. This aspect had also not been considered while granting EOT and on both the occasions EOT was granted as desired by the Contractor.

Further, while taking final decision for EOT (July 2009), the Company attributed the delay of 31 days during October 2008 to November 2008 to the Contractor. A scrutiny of Hindrance Register maintained by the Company revealed that there were 33 days of hindrances recorded during December 2008 to 26 March 2009 on account of fog, transporters strike and republic day celebration etc. Even after considering and allowing the above hindrance further EOT should only have been granted up to 6 April 2009. The work was completed on 25 May 2009 after a delay of 49 days for which penalty of ₹ 83.83 lakh (10 *per cent* of contract value) was to be imposed on the Contractor. Audit observed that the EOT was approved by the Company (November 2009) without considering the quantity of 2800 cum (as per completion programme) to be lifted per day and without imposing any compensation/penalty on the Contractor for delay in completion of work. Further, the contract did not fix any limit for hindrances allowed to the Contractor. It was surprising to note that for a 180 days contract, EOT of 147 days was approved without levy of penalty.

The Management stated (June 2011) that 30 days hindrance during 1 February to 26 March 2009 due to likely closure of IP Station was considered and the delay of 31 days from October to November 2008 was inadvertently fixed on account of the Contractor and should not be taken into cognizance. Thus, there was no loss to the Company during execution of work due to delay in execution of work.

The Government, while endorsing the Company's views, further stated (July 2011) that entire project was completed within the stipulated time of extension and besides 1080 cum extra filling area was executed by the Contractor within the tendered price.

The reply of the Management/Government was not tenable as IP station had not prohibited the lifting of ash during February 2009 to March 2009. The Management's response for delay of 31 days as recorded on the part of Contractor seems to be an afterthought. Though the Company saved ₹ 2.92 lakh on account of 1080 cum extra work it extended undue benefit to the Contractor by not imposing penalty of ₹ 83.83[13] lakh for delay in completion of work as per agreement resulting in excess payment of ₹ 80.91 lakh to the Contractor.

The Company should fix responsibility for extending unintended benefit to the Contractor and also issue instruction to strictly adhere to the term of the agreements in regard to levy of penalty/compensation.

Indraprastha Power Generation Company Limited

5.2.3 Loss due to delay in award of contract

Loss of ₹ 22.68 lakh due to delay in award of contract for sale and lifting of Dry Fly Ash

In accordance with the Notification of Ministry of Environment & Forest (MoEF), Government of India dated 14 September 1999, utilization of Dry Fly Ash for the purpose of manufacturing ash based products such as cement, bricks, panel, etc by the end user, free of cost, was permitted by supplying Dry Fly Ash produced by the Power Stations. The said clause of Notification was valid / applicable for a period of ten years upto 13 September 2009 and thereafter the Power Stations were free to sell Dry Fly Ash on commercial basis. The MoEF circulated draft Notifications on 03 April 2007 and 6 November 2008 for modification of Notification of 1999 and invited suggestions/ objections. These draft Notifications envisaged disposing of the ash through competitive bids to the best advantage of the owners i.e. Thermal Power Companies. IPGCL (Company) awarded Letter of Intent (16 October 2009) and contract (23 October 2009) to M/s Shree Cement Ltd. for sale and lifting of tentative quantity of 156800 MT of Dry Fly Ash for one year at a rate of ₹ 315 per MT.

It was observed in audit that the Company was well aware that the MoEF's Notification for lifting of Dry Fly Ash by end user free of cost was for a period of 10 years upto 13 September 2009 and thereafter the Company was free to dispose off the Dry Fly Ash on commercial basis for their financial

[13] Worked out as per clause of the Contract stipulating compensation at rate of one *per cent* on the awarded value of whole work for delay of every day subject to maximum of 10 *per cent* for 49 days

benefit. The Company took almost six months to decide and start the process for inviting bids for sale and lifting of Dry Fly Ash after the approval of competent authority. Though the approval was accorded on 26 March 2009, the tenders were invited in September 2009 and the contract was finally awarded only on 23 October 2009, applicable with effect from 16 October 2009.

During the period from 14 September 2009 to 15 October 2009, 12512.10 MT of Dry Fly Ash was generated at the Rajghat Power Plant and out of it, 7200 MT of Dry Fly Ash was lifted by a private party (to whom the contract was later awarded for lifting Dry Fly Ash on chargeable basis) on free of cost basis. Thus due to delay in decision making and finalization of tender and contract, the Company lost the opportunity to earn an additional revenue of ₹ 22.68 lakh (7200 MTs @ ₹ 315 per MT) on account of sale of Dry Fly Ash for a charge.

The Management stated (November/December 2011) that the Notification dated 14 September 1999 was for a period of 10 years which was completed on 13 September 2009 and fresh Notification/ order for sale of ash on payment was expected. Thus, keeping this in view, the Company had started the tendering procedure for sale of ash well before 13 September 2009, which was completed in October 2009. They further added that in the interest of the Company, sale of Ash was started before the final Notification dated 3 November 2009.

The reply of the Management establishes the audit's contention that the Company could sell Dry Fly Ash on commercial basis immediately after completion of ten years of the MoEF's Notification of 1999 and earn additional revenue.

The matter was reported to the Government (September 2011) and their reply was awaited (November 2011).

Delhi State Industrial and Infrastructure Development Corporation

5.2.4 Interest loss due to delay in filing Income Tax Return

Avoidable interest loss of ₹ 0.76 crore due to delay in filing of the Income Tax Return.

Section 139 (1) of the Income Tax Act 1961 (Act) provides that where the assessee is a Company, it should file its Income Tax Return (ITR) by the 30th September of the Assessment Year. Section 244A (1) provides that where refund of any amount becomes due to the assessee under this Act, he shall, be entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of 0.5 *per cent* for every month or part of the month comprised in the period from the 1st day of April of the Assessment Year to the date on which the refund is granted. Further, Section 244 A (2) of the Act provides that if the proceedings resulting in the refund are delayed for reasons attributable to the assessee, the period of the delay so attributable to him shall be excluded from the period for which such interest is payable.

The Company calculated its estimated income, for the purpose of payment of advance tax, for the financial year 2008-09 as ₹ 77.23 crore and paid advance tax of ₹ 26.25 crore (excluding advance tax of ₹ 6.15 crore paid for relocation schemes) on it as required under Section 209 of Income Tax Act 1961. The Company also paid TDS of ₹ 36 lakh. The Company filed its ITR in March 2010 and claimed a refund of ₹ 25.31 crore (including ₹ 6.15 crore paid for relocation schemes) from the Income Tax Department after finalization of Accounts for the financial year 2008-09. The Department refunded the amount claimed (including interest under section 244A (1) of the Act) in March 2011.

It was observed that the Company filed ITR in March 2010 instead of by 30 September 2009 as required under Section 139 (1) of the Act. As a result, the Department paid interest on the refund amount only for the period of 18 months from 1 October 2009 to 31 March 2011 instead of 24 months from 1 April 2009 to 31 March 2011. Thus, the Company suffered an interest loss of ₹ 0.76 crore for the period from 1 April 2009 to 30 September 2009[14] due to delay in filing of return.

The Company should develop a mechanism and issue necessary guidelines for ensuring filing of Income Tax Return as per the existing statutory requirement to avoid such losses. In the absence of such a mechanism, the Company defaulted in the timely filing of the ITR and has suffered an interest loss of ₹ 0.76 crore.

The matter was reported to the Management and Government in December 2011 and their reply was awaited.

Statutory Corporations

Delhi Transport Corporation

5.2.5 Loss of Revenue due to delay in handing over Shelters

The Corporation lost potential revenue of ₹ 33.14 lakh due to delayed action in handing over the 157 Bus Queue Shelters to the concessionaire

Delhi Transport Corporation (DTC) floated (5 August 2010) tender for display of advertisement rights on 135 Modern Stainless Steel Bus Queue Shelters (BQSs) with the reserve price of monthly licence fee fixed at ₹ 75,000 per BQS per month. The tender was short-closed due to lack of response. Subsequently, fresh tender for display of advertisement rights on 157 (earlier 135) BQSs was floated on 10 January 2011 with reduced monthly licence fee

[14] Worked out as 0.5 *per cent* of ₹25.31 crore per month for six months from April to September 2009.

of ₹ 50,000 which was also short-closed due to lack of response. As a result, a Committee was constituted (1 February 2011) to decide the fresh reserve price in view of failure of the earlier two tenders. The Committee revised the reserve price to ₹ 20,000 per BQS per month apart from giving other recommendations regarding lowering of EMD and relaxation in eligibility criteria for bidders. Accordingly, the tender was again floated (4 February 2011) with reserve price of ₹ 20,000 per month. In response, four parties participated in the tender. The techno-commercial bid for 157 BQS was opened on 25 February 2011. Price bids of the technically-qualified three parties were opened on 8 March 2011. M/s Prabhatam Advertising Limited (agency) was found highest bidder (H-1) with a quoted rate of ₹ 26,611 per BQS per month. DTC awarded the contract to H-1 as per offer letter signed on 14 March 2011 and asked the party to complete the requisite formalities within ten days. While submitting security deposit of ₹ 50.13 lakh the agency pointed out (24 March 2011) certain shortcomings (such as broken and chipped tiles, absence of electrical fittings, electrical stand alone posts, timers, absence of dust bins etc.) noticed at the time of joint inspection of BQSs by DTC and agency's officials. In view of the shortcomings, the Publicity Department asked (24 March 2011) the agency as well as Civil Engineering Department, DTC (CED) to rectify/remove all the deficiencies by 31 March 2011 so that the contract could be awarded with effect from 1 April 2011. However the CED failed to remove shortcomings by 31 March 2011. Further, the CMD in consultation with all the parties gave a time limit of one week to the Chief of Engineering Department of DTC to remove all the shortcomings from the 80 BQSs and to M/s Ozone (construction contractor) for the remaining 77 BQSs in co-ordination with Delhi Integrated Multi-model Transit System (DIMTS) (Project Management Consultant for the project) by 13 April 2011 so that the BQSs can be handed over to M/s Prabhatam Advertising. It was, however, observed that the needful was not done within the stipulated time.

As per clause 4 of the Contract with M/s Prabhatam signed on 6 May 2011 effective from 15 April 2011 to 14 April 2014, the Corporation was to issue monthly licence fee bills for the all 157 BQSs or those which were physically in existence on the date of issue of bill. The Corporation could, however, allot only 25 BQSs from 15 April 2011 onwards which were ready for use and finally allotted the remaining 131 to the advertiser by 27 July 2011. One BQS was dismantled due to an accident.

Thus, due to delayed action on the part of the Corporation in repairing/ handing over the BQSs, the Corporation and the State Government[15] each lost income of ₹ 33.14 lakh[16].

[15] fifty *per cent* of the income from Bus Queue Shelter (BQS) was to be deposited to the NCT of Delhi.

[16] worked out from the date of signing of contract with effect from 15 April 2011 at the rate of ₹ 26,611 per month till all the 156 BQSs were actually handed over to the advertiser

The Management replied (August 2011) that the project was completed on 11 June 2011 whereas the tender was published well in advance on 4 February 2011. The BQSs were handed over to the advertisers free from defects prior to the date of actual completion of the project and hence no loss has been incurred. The Management further stated that due to vandalism also, it was difficult to hand over BQSs to the advertisers free from defects.

The reply was not tenable in view of the fact that as per Letter of Acceptance (LoA) issued to M/s Ozone (the agency to whom the work of construction of 157 BQSs was entrusted) on 28 January 2010, completion time was seven months from the date of issue of letter of award. The work was to commence immediately within 15 days of issue of letter. Thus, in all respects, the work of construction of 157 BQSs was to be completed by the mid of September 2010. Further, the minor deficiencies noticed in the BQSs were not rectified in spite of specific directions from the CMD to complete the same within the prescribed time frame.

The Corporation should take action against the construction agency/concerned officials for the lapse and also streamline the monitoring mechanism.

The matter was reported to the Government in June 2011 and their reply was awaited (November 2011).

New Delhi
Dated: 03 May 2012

(S. NANDKEOLYAR)
Principal Accountant General (Audit), Delhi

Countersigned

New Delhi
Dated: 04 May 2012

(VINOD RAI)
Comptroller and Auditor General of India