



Chapter-III
Audit of Transactions



CHAPTER-III AUDIT OF TRANSACTIONS

Important audit findings emerging from test check of transactions made by the State Government companies / corporations are included in this Chapter.

GOVERNMENT COMPANIES

Himachal Pradesh State Civil Supplies Corporation Limited

3.1 Procurement and distribution of food items under State Subsidised Scheme

The Company distributed less quantity of food items to the retail shops / depots against the allocations made by the State Government. Samples of food items valued at ₹ 14.48 crore (April 2011 to March 2014) failed the tests and the reports were received with a delay ranging from three to four months. The delay in submission of claims by the Company coupled with delay in release of payments by the State Government resulted in interest loss of ₹ 8.80 crore to the Company during April 2010 to March 2014.

3.1.1 Introduction

The State Government extended additional benefits under Public Distribution System (PDS) to the consumers from 1st April 2007. Under the scheme, pulses, edible oils and iodised salt are supplied to all ration card holders as per prescribed scale¹ at subsidised cost. Allocation of food items under this scheme is made every month by the Director, Food, Civil Supplies & Consumer Affairs, Government of Himachal Pradesh, Shimla (DFCS&CA) to the Himachal Pradesh State Civil Supplies Corporation Limited (Company) on the basis of ration cards registered with DFCS&CA. The procurement of allocated items is being made by the Company for supply to Fair Price Shops (FPSs) for further distribution to the consumers. The difference between the procurement cost and the sale proceeds is reimbursed by the State Government to the Company.

Audit reviewed the implementation of the State Subsidised Scheme, 2007 by the Company during the period from 2010-11 to 2013-14 through test check of records of the Corporate Office, four² out of seven Area Offices, and 15 retail shops³ out of total 111 retail shops (selected randomly) of the Company between February to April 2014.

¹ Two family members: one Kg dal, one litre edible oil and one Kg salt; three and four family members: two Kg dal, two litres edible oil and one Kg salt; whereas five and above family members: three Kg dal, two litres oil and one Kg salt.

² Bhattakufer, Solan, Dharamshala and Mandi.

³ Kotwali Bazar, Civil Lines, Shamnagar, Brockhurst, Kasumpti, Sanjauli, Chotta Shimla, Slapper, Salgi, Kunnu, Mandi, Chatrokhri, Gopalpur, Ladhbharol and Tihra.

3.1.2 Audit findings

3.1.2.1 Allocation of subsidised items

Test check of records of 15 retail shops of the Company under the jurisdiction of the Area Offices, Dharamshala, Mandi and Shimla showed that the Company supplied 1,228 quintals (8.23 *per cent*) pulses, 1,26,478 litres (9.15 *per cent*) edible oil and 903 quintals (17.24 *per cent*) iodised salt short to the retail shops / depots. Thus the Company distributed less quantity to the retail shops /depots against the allocation made by the State Government.

The Government stated (September 2014) that the release orders are issued by the DFCS &CA on the basis of number of ration card registered with them but the stocks are lifted by the retail shops, keeping in view the stock holding at the last day of the month with them.

The reply of the Government was not acceptable as retail shops submit monthly feedback to DFCS&CA after considering the stock available with them and therefore the Company should have made purchases strictly as *per* the allocations.

3.1.2.2 Purchase / distribution of sub standard items

The terms and conditions of the purchase orders for supply of food items provided that the suppliers would ensure that the supplies were as *per* the requirement laid down under Food Safety & Standards Act, 2006 and regulations there under with respect to foreign matter, insect damage and other parameters. In case the supplied items were not found according to the approved samples, the suppliers were required to replace the items at their own cost within a period of one week and in case of non replacement due to sale of the same, 20 *per cent* penalty was recoverable from suppliers.

It was noticed in audit that during 2010 to 2014, samples of pulses (22,296 quintals), mustard / refined oil (2,50,213 litres) and iodised salt (12,568 quintals) valued at ₹ 14.48 crore⁴ failed the tests. This included the supplies of 3,309 quintals pulses valued at ₹ 1.77 crore found with insects (alive and dead) ranging between 2 to 290 *per* sample. The test reports of these samples were received after a delay ranging between three and four months, the entire consignments stood distributed amongst the consumers without replacement. The Company, however, recovered a penalty of ₹ 2.90 crore from the concerned suppliers which was not refunded to the State Government.

Thus, failure in getting replacement of sub-standard items the Company not only extended undue benefit to the suppliers but also compromised with the health of the consumers by distributing substandard items to them.

The Government stated (September 2014) that supplies of pulses are received by the units according to the approved samples provided to them after inspecting the stock visually and there was no such provision to stop its sale till the receipt of the report. Regarding refund of penalty amount into government account the matter was under consideration.

⁴ (Pulses: ₹ 11.96 crore; Edible Oil: ₹ 1.86 crore; Iodised salt: ₹ 0.66 crore).

The reply was not acceptable as the Company should have expedited the test reports before distributing so that substandard supplies could have been replaced.

3.1.2.3 Undue benefit to suppliers

During the period April 2011 to March 2014, 11 suppliers, had supplied 11,198 quintals of pulses valuing ₹ 5.59 crore. These suppliers were given repeated supply orders despite that their previous supplies had failed the tests. The Company did not have any mechanism to identify the firms whose supplies failed tests regularly so as to debar / blacklist them. Thus, the Company continued to extend undue favour to these suppliers by placing repeated purchase orders for substandard food items.

The Government stated (September 2014) that in case of non replacement of substandard quantities, a penalty equal to 20 per cent of the value of the consignment was recovered from the suppliers. So far as black listing of firms was concerned, blacklisting was not a good option since it restricts competition in future tenders.

The reply of the Government justifies the receipt of repeated supplies of substandard items on payment of 20 per cent penalty which every defaulter would like to accept.

3.1.3 Distribution of subsidised items

3.1.3.1 Loss due to prolonged storage of pulses

Terms and conditions of the supply order provide that the quality of pulses should remain the same for four months from the date of packing. Audit noticed (March 2014) that stock of pulses (*Channa* and *Urd*) valuing ₹ 5.56 lakh⁵ was lying in Company's wholesale godowns for the last two to six years. The scrutiny of records further showed that there was no demand for these pulses in the region due to which these could not be distributed. The Company had made no efforts to transfer / divert the same to other regions of the State. Resultantly, the entire stock valued at ₹ 5.56 lakh was rendered unfit for human consumption due to prolonged storage.

The Government stated (September 2014) that the said stocks were lying at tribal and snow bound areas as such it was fit for human consumption and will be distributed from October 2014 onwards.

The reply of the Government was not acceptable as pulses are best for use before four months from date of packing. Therefore, the stock lying for the past 2 to 6 years cannot be considered fit for distribution.

3.1.3.2 Avoidable expenditure on testing of sample

In order to provide adequate and timely testing facilities the Company empanelled (October 2013) five laboratories. The only evaluation criteria was

⁵ 23.30 Qtls dal channa valuing ₹ 0.64 lakh (whole sale godown, Kaza: 21.30 qtls and Tikar: 2.00 qtls) and 113.90 qtls. urd valuing ₹ 4.92 lakh (whole sale godown: Sach: 50.29 qtls, Kumar- 15.25 qtls, Sahli- 24.22 qtls and Saichu- 24.14 qtls).

the certificates issued by National Accreditation Board for Testing and Calibration Laboratories (NABL). No other evaluation criteria was mentioned in the notice inviting rates for testing of samples of different commodities. The Company approved the rates for testing *per* sample for pulses ranged between ₹ 1,500 and ₹ 9,450, refined / mustard oil between ₹ 2,300 and ₹ 9,450 and for iodised salt ₹ 2,500 and ₹ 11,250.

Audit scrutiny (April 2014) showed that notice inviting rates did not have any bench mark. Moreover, the parties were not asked to match the lowest quoted rates. The quoted rates of five laboratories were accepted as final. Further, while sending samples to these laboratories the lowest rates were not considered and the samples were sent for analysis irrespective of rates. On comparison of the rates paid to laboratories with the lowest rates of the empanelled lab; there was an avoidable payment of ₹ 18.86 lakh on testing of 775 samples during the period November 2013 to March 2014 as detailed in **Appendix 3.1.**

It can be seen that only 32.78 *per cent* sample of pulses, 30.07 *per cent* of oil and 42.17 *per cent* sample of iodised salt and 8.26 *per cent* samples of other items were got analysed at L-1 rates. Further, the reports were still being received after distribution of the items to the consumers. Thus, the very purpose of expediting the test reports before distributing the food items could not be achieved even after engaging private laboratories.

The Government stated (September 2014) that L-1 as sole criterion for selecting lab was not being followed as it would have defeated very objective of the establishment of the mechanism. The Government while appreciating the observation of the audit added that the provisions regarding furnishing of reports within 14 days from receipt of the sample and deduction of 2 *per cent* of testing charges *per* week for delay had been inserted in the Lab Empanelment Agreements for the year September 2014 to August 2015.

The reply is not acceptable as the company should have analysed the rates and given orders to the laboratory quoting L-1 rates or asked the laboratories to match the lowest quoted rates. Failure to get the tests done at the L-1 rates resulted in avoidable expenditure of ₹ 18.86 lakh. Further, in spite of establishing the mechanism there was no guarantee that the food items would be distributed only after receipt of test reports.

3.1.4 Loss in implementation of State Subsidised Scheme

3.1.4.1 Loss due to short claiming of tendering cost

On recommendation of DFCS&CA, the Government restricted (December 2007) the cost of tendering on procurement of food items under the scheme to ₹ 1.00 crore *per annum*.

Audit scrutiny (April 2014) showed that against the admissible amount of ₹ 7.00 crore the Company claimed ₹ 41.00 lakh only (2007-08 to 2013-14) resulting in short claiming of ₹ 6.59 crore.

The Government stated (September 2014) that after due consideration of all the pros and cons, reimbursement of tender cost only subject to ceiling of one crore was allowed.

The reply was not acceptable as the recommendations of the DFCS&CA (November 2007) approved by the State Government (December 2007) included other expenses on account of tendering as well which should have been claimed by the Company.

3.1.4.2 Loss of interest due to late settlement of Subsidy claims

As *per* the recommendation (October 2009) of the committee of DFCS&CA, the Department of FCS&CA had to ensure allocation of funds on or before 3rd week of the month so as to release the funds to the Company before 30th of the every month. Similarly the Area Manager of the Company had to submit the monthly reimbursement claims before 22nd of the month for payment before 30th of every month.

Audit scrutiny (March 2014) showed that the Company, though prepared subsidy claims on monthly basis did not submit claims to State Government by next month. The delay in submission of subsidy claims ranged between two and 71 days even after allowing one month for preparation / submission of claims for the previous month. The delay in submission of subsidy claims on the part of the Company resulted in interest loss of ₹ 1.67 crore⁶ during the period from April 2010 to March 2014.

Further, the Government also delayed the release of payment against these subsidy claims. The delay on the part of the Government in releasing payments after submission of monthly claims by the Company ranged between 5 days and 128 days with consequential interest loss of ₹ 7.13 crore.

Thus, delay in receiving payments by the Company on account of expenditure incurred on implementation of State Subsidised Scheme resulted in total interest loss of ₹ 8.80 crore during the period from April 2010 to March 2014.

The Government stated (September 2014) that subsidy claims were submitted by the Company as soon as possible but due to some unavoidable circumstances there were some delays. As regards, delay in receipt of payment from the state Government it was stated that due to non availability of budget, the Company could not receive payments.

3.2 Excess recovery from BPL families under TPDS

Non reduction of issue rates of food grains supplied under TPDS immediately after exemption of service tax on transportation of food grains from February 2010 resulted in excess recovery of ₹ 1.00 crore from BPL families during the period from April 2010 to December 2013.

The Government of India (GoI), Department of Food Civil Supplies and Consumer Affairs provides rice and wheat to BPL families in the state under

⁶ Interest loss calculated at an average rate of 8.5 *per cent per annum* on which the company had invested its surplus funds in Fix Deposits.

the Targeted Public Distribution System (TPDS). The TPDS is being implemented in the state of Himachal Pradesh through Himachal Pradesh State Civil Supplies Corporation Limited (Company). The state government while fixing the issue rate in January 2007 for wheat (₹ 525 per quintal) and rice (₹ 685 per quintal) under the TPDS considered service tax at the rate 3.06 per cent as applicable on transportation of food grains. The charges for transportation up to Fair Price Shop were fixed at ₹ 60 per quintal. These rates have not been revised since then. The GoI included food grains in the list of exempted goods from payment of service tax vide notification issued in February 2010.

Audit scrutiny (March 2014) showed that the Company did not reduce the rates after issue of exemption notification by the GoI in February 2010 so as to pass on the benefit of this exemption to the consumers and was continuously collecting this element of service tax from them. After issue of exemption notification, the Company distributed 54,47,063 quintals of rice and wheat under TPDS by collecting transportation charges of ₹ 32.68 crore⁷ for the period from April 2010 to December 2013. On these transportation charges, the Company also collected service tax amounting to ₹ 1.00 crore⁸ from the BPL consumers. The Company had also not deposited this amount of service tax with the tax authorities and had wrongly accounted as its income.

Thus, non-reduction of issue rates by the Company after exemption of service tax placed extra burden on the BPL families of the state besides attracting penal liabilities which the tax authorities may impose for not depositing the service tax so collected since March 2010 in term of the provision contained under Section 73 A (2) read with Section 75 and 76 of Chapter V of the Finance Act, 1994.

The Government (October 2014) stated that aforesaid amount of ₹ 1.00 crore has been deposited with tax authorities in May 2014. The reply was not acceptable as the Company had not still revised the issue rates to BPL families so as to pass on the benefit of exemption of service tax to them.

Himachal Pradesh State Electricity Board Limited

3.3 Loss due to non recovery of fixed demand charges

Failure of the HPSEBL to comply with the provisions of the Electricity Supply Code, 2009 resulted in non-recovery of fixed demand charges of ₹ 1.90 crore.

Chapter 3 (Clause 3.9) of the Himachal Pradesh State Electricity Supply Code, 2009 (applicable from May 2009) stipulates that in case of High Tension (HT) / Extra High Tension supply, where the licensee has completed the work required for supply of electricity to an applicant but the applicant is not ready or delays to receive supply of electricity or does not avail the full

⁷ Transportation charges on 54,47,063 quintals x ₹ 60 per quintal = ₹ 32.68 crore.

⁸ Service tax on ₹ 32.68 crore x 3.06 per cent = ₹ 1.00 crore.

contract demand, the licensee shall, after a notice of sixty days, charge on *pro rata* basis, fixed / demand charges on the sanctioned contract demand as *per* the relevant tariff order.

Audit noticed (between February 2012 and December 2013) that in 39 cases though the Company had completed the works required for supply of electricity to the applicants, the field units of the Company failed to intimate / issue notices as *per* the provisions of the Supply Code *ibid* within the specified period, to the consumers concerned, regarding completion of required works / its readiness to supply the desired load. Due to non issue of such notices, the Company could not recover fixed demand charges as *per* the relevant Tariff Orders. Thus, failure of the Company to issue notices / intimation to the consumers resulted in non recovery of fixed demand charges of ₹ 1.90 crore during the period February 2010 to December 2013 (after allowing 60 days period of notice) as detailed in **Appendix 3.2**.

In reply Electrical Division, Mandi stated (July 2012) that the accounts of five consumers have been debited with ₹ 21.08 lakh through Sundry Charges Register but the actual recovery was still awaited. In case of other consumers, the reply / compliance was still awaited (March 2014).

The matter was reported to the Government in April 2014; their reply was awaited (November 2014).

3.4 *Infructuous expenditure on work charged staff*

Failure of the Himachal Pradesh State Electricity Board Limited either to get the daily waged workers repatriated from deputation with SJVNL or to settle their deputation terms and conditions after upgrading them to work charged cadre resulted in infructuous payment of ₹ 1.77 crore.

Himachal Pradesh State Electricity Board (HPSEB) had deployed daily waged workers on the construction of Nathpa Jhakari Hydro Electric Project from 1990-91 *i.e* prior to transfer of the project to Satluj Jal Vidyut Nigam Limited (SJVNL). After transfer of project to SJVNL by the state government these daily waged workers were retained and adjusted against deposit work arrangement as agreed between both the organisations.

Subsequently, in pursuance of state government policy, HPSEB brought these workers on work charged cadre between December 1997 and October 2000. But the SJVNL authorities refused to bear the impact of increased wages as a result of their up gradation to work charged cadre and after intervention of the state government (August 2000), the SJVNL agreed to retain them (64 number) on the condition that the differential amount on account of the increased rates of salary would be borne by HPSEB. HPSEB agreed (January 2001) to settle payment of above said difference of pay against monthly bills raised by SJVNL.

The SJVNL authorities, however, introduced (March 2002) a policy to adjust regular non-executive employees of HPSEB from April 2001 on usual

deputation terms and conditions subject to their option to continue on secondment basis. The employees not opting for deputation within a stipulated period were to be repatriated. After this, an agreement was entered (October 2004) between the state government and SJVNL for execution of Rampur Hydro Electric Project. Clause 7 and 8 read with clause 38 of the agreement provided to retain all employees of HPSEB who were on deputation with the SJVNL as on date as well as in future. Despite this, HPSEB continued to release the payment of the above said differential amount to SJVNL till 31 May 2008 without taking up the matter in accordance with the above said provisions and changes. However, the SJVNL agreed not to raise bill towards differential amount after November 2008 and HPSEB discontinued releasing payment of differential amount to SJVNL from May 2008 onwards. HPSEB after conversion (June 2010) into a Company (HPSEBL) took up (October 2011), the matter for refunding the payment of ₹ 1.77 crore released on account of enhanced salaries of 64 workers from September 2001 (actual date of regularisation) to May 2008 with SJVNL. SJVNL, however, refused (February 2012) to entertain the claim on the ground that the issue has already been settled and decided in view of the circumstances prevailing at that time.

Thus, the payment of differential wages in respect of 64 work charged staff while on deputation to SJVNL was unprecedented as staff can be deputed on deputation only if the entire liabilities on account of their pay and allowances are acceptable to the borrowing organisation or else all workers should have been repatriated and deployed on its own works.

In reply, the Government stated (October 2014) that the matter was taken up with SJVNL in October 2010 but was turned down by the SJVNL during February 2012 and the matter has been taken up again (October 2013) but nothing had been heard from SJVNL so far.

The reply was not acceptable as this situation could have been avoided either by settling the deputation terms clearly with the borrowing organisation in time or by their repatriation, in case the terms and conditions were not acceptable to them.

3.5 *Avoidable expenditure*

Failure to take the benefit of negotiated rates of VPNoBB-512 Kbps bandwidth connectivity provided to the Company by the Department of Information and Technology, Government of Himachal Pradesh from BSNL under IT package, resulted in an extra payment of ₹ 1.07 crore on account of annual rent of 109 connections for the period from September 2011 to March 2014.

The HPSEBL awarded (October 2011) the work for implementation of IT Package to the Department of Information and Technology (DIT), Government of Himachal Pradesh. The award letter *inter alia* included the connectivity for 270 connections of VPNoBB-512 Kbps bandwidth. The

connectivity rates to be paid to DIT for VPNoBB-512 Kbps were ₹ 54,000 *per annum per* connection. Further, as *per* para 4 (b) of the general terms and conditions of the award letter the rates for VPNoBB connectivity were to be negotiated by the DIT with BSNL and the benefit of the same was to be passed on to the Company. The DIT had provided 109 connections to various units of the Company at different locations during the period from September 2011 to April 2013 and the remaining connections were yet to be provided.

The DIT had raised the bills for ₹ 4.28 crore in January 2014 on account of connectivity provided at different locations of the states under this IT package. The Company after adjusting ₹ 1.50 crore on account of advance payments and ₹ 1.07 crore in respect of units where connectivity was yet to be provided passed balance amount of ₹ 1.71 crore for payment.

Audit noticed (April 2014) that above amount included annual rent of ₹ 1.60 crore in respect of 109 connections at the rate of ₹ 54,000 *per annum per* connection up to March 2014. The DIT had arranged VPNoBB-512 Kbps bandwidth connectivity from BSNL at an annual rent of ₹ 17,800 *per* connection as against ₹ 54,000 *per annum per* connection. Though the benefit of these negotiated rates was to be passed on to the Company by the DIT as *per* the terms and conditions of the award letter *ibid* but the same has not been passed on to the Company. The Company never took up the matter for reduction in rates with the DIT before passing the bill for payment. This resulted in extra payment of ₹ 1.07 crore on account of annual rent of 109 VPNoBB-512 Kbps connections for the period from September 2011 to March 2014.

The Superintending Engineer (IT) stated (June 2014) that it had earlier received a financial proposal from the BSNL at the rate of ₹ 54,000 *per* connection *per* year for these connections but, DIT offered 5 *per cent* additional discount on other (MPLS 512 Kbps) connections and there was no reference with the Company for payment of ₹ 17,800 by the DIT to BSNL. The reply was not acceptable as the company should have enquired from the DIT about the negotiated rates in terms of the award letter before releasing the payments.

The matter was reported to the Government/Management (June 2014); their reply was awaited (October 2014).

3.6 *Undue favour to Contractors*

The Company extended undue favour to three contractors by not including the clause of VAT in the award letter resulting in non deduction of VAT at source for works contract amounting to ₹ 80.66 lakh as *per* the provisions of Himachal Pradesh Value Added Tax Act, 2005.

Section 17 (1) of Himachal Pradesh Value Added Tax Act, 2005 read with Rule 38 of the Himachal Pradesh Value Added Tax Rules, 2005 *inter alia* provides that every person in a department of any Government, a Corporation

or Government undertaking *etc*; discharging any liability on account of valuable consideration payable for transfer of property in goods, whether as goods or in some other form, involved in the execution of works contract or for carrying out any works, shall, at the time of payment thereof, deduct an amount equal to 2 *per cent* of such sum towards the tax. 'Works contract' is defined in the Central Sales Tax, 1956 as a contract for carrying out any work which includes assembling, construction, fabricating, erection, installation fitting out, improvement or commissioning of any movable or immovable property.

Audit noticed (March 2014) that HPSEBL awarded works relating to design, supply, install networking equipment and integration of infrastructure items in the Data Centre, Shimla and Disaster Recovery Centre, Paonta Sahib, to three firms with total cost of ₹ 42.95 crore⁹ between October 2010 and March 2012. The Company had released total payments amounting to ₹ 40.33 crore (M/S HCL: ₹ 34.23 crore, Wipro: ₹ 2.22 crore and Hewlett Packard ₹ 3.88 crore) to these contractors till March 2014 without deducting any VAT as applicable for works contracts. The company did not deduct the VAT at source as the necessary clause for deduction of VAT was not specified in the letter of award. The amount of VAT deductible at source at the rate of 2 *per cent* works out to ₹ 80.66 lakh on total payments of ₹ 40.33 crore released to these contractors up to March 2014.

Thus, the Company extended undue favour to the three contractors by not including the clause of VAT in the award letter resulting in non deduction of VAT at source for works contract amounting to ₹ 80.66 lakh, besides attracting liability for imposition of penalty as *per* the provisions of HP VAT Act, 2005.

The matter was reported to the Government/Management (June 2014); their reply was awaited (October 2014).

3.7 Undue favour to the supplier

Failure of the HPSEBL in verifying the credentials of the firm before placement of supply order resulted in non-recovery of advance payment of ₹ 32.73 lakh besides generation loss of ₹ 7.18 crore due to non-arrangement of runners during October 2011 to May 2014.

The HPSEBL (Company) after evaluating the bids (October 2009) for supply of runners for Binwa Hydro Electric Project (BHEP) declared the joint venture (JV) of M/s Technip Ganz Machinery India Private Limited, Nehru Place, New Delhi (TGMIPL) and M/s Ganz Engineering & Energetics Machinery Limited, Hungary (GE&EML) as L1. The JV requested the Company to place two separate orders, one on Hungarian partner (GE&EML) for the supply and another for services on its Indian partner (TGMIPL).

⁹ M/S HCL Info System Limited: ₹ 36.76 crore in March 2012, M/S Wirpo Limited ₹ 2.32 crore in March 2011 and M/s Hewlett Packard India Private Limited ₹ 3.87 crore in October 2011.

The Company held negotiations (May 2010) which was attended by a representative of another firm M/s Ganz Energetics India Private Limited, Mohali (GEIPL). The representative while reversing the earlier conditions of placing the supply orders on Hungarian partner proposed that the runners shall be imported by them and would be offered for testing at Mohali. The Company, without ascertaining the credentials of GEIPL which was necessary as the Company had evaluated the bids of the JV (TGMIPL and GE&EML) accepted his proposal.

The letter of award (August 2010) for supply and commissioning of two Runners for BHEP was placed on GEIPL for ₹ 2.59 crore including one additional spare runner to meet the immediate requirement. The agreement was signed with GEIPL (September 2010) with completion period of 12 months for supply and commissioning. The Company released interest bearing advance of ₹ 58.67 lakh in December 2010 against Bank Guarantee (BG) valid up to 12 September 2011 as per the terms of the agreement. The Contractor furnished (September 2010) another BG as Contract Performance Security (CPS) for ₹ 25.94 lakh valid up to 12 September 2012.

Audit scrutiny (December 2013) showed that the firm did not supply the runners even after revising the delivery schedule up to August 2012. The BG which was valid up to September 2011 expired as the Company did not initiate timely action to extend the validity period. However, the BG of ₹ 25.94 lakh in lieu of CPS was extended up to September 2014 which was encashed by the Company in January 2014. Further, on initiating the matter, GE&EML intimated that they were not in business relationship with GEIPL. This clearly showed that the Company negotiated and placed purchase order on the firm which had not participated in the bids.

Thus, negotiation and placement of purchase order on a firm without verifying its antecedents coupled with failure to initiate timely action to encash the BG before its expiry resulted in loss of ₹ 32.73 lakh besides interest loss of ₹ 22.10 lakh up to March 2014 and generation loss of ₹ 7.18 crore during October 2011 to May 2014.

The Government stated (September 2014) that both New Delhi and Mohali based firms were invited for price negotiation (April 2010) but the negotiations were attended by Mohali based firm. Regarding non renewal of BG, the Government stated that the matter has been taken up with the Reserve Bank of India for issuing necessary directions, if possible, to the erring bank and the generation loss would be claimed in the counter claim to be submitted before the arbitrator.

The reply was not acceptable as there was no justification to call the firm for negotiations which had not participated in the bidding process. Further, the company failed to initiate timely action for renewal / encashment of BG and there was no fault of the bank as alleged in the reply.

Himachal Pradesh Tourism Development Corporation Limited

3.8 Avoidable payment of interest

Failure in releasing the payment of revised pay scale arrear to its employees within the prescribed time as allowed by the Hon'ble High Court of Himachal Pradesh resulted in avoidable payment of interest of ₹ 37.51 lakh.

The Hon'ble High Court of Himachal Pradesh (High Court) allowed pay scale of ₹ 1200-2100 against the existing pay scale of ₹ 1025-2100 to the drivers of the Company from January 1986 *vide* its judgement dated 6 July 2009 delivered in a Civil Writ Petition No. 2031/2008 titled Sukh Ram Chandel *versus* State of Himachal Pradesh and others. The Company filed an appeal¹⁰ against this judgement before the Division Bench of the High Court. The Division Bench while refusing to interfere in its earlier judgement directed the Company (May 2012) to ensure that the amount due to all drivers in terms of the Judgement of the learned Single Judge be released latest by 30 September 2012 failing which the Company shall be liable to pay interest at the rate of 9 *per cent per annum* from the date when the amount fell due till the amount was paid. The High Court, further, observed that in case the amount was not paid within the time granted then this would be deemed to be an aggravation of the contempt.

It was noticed in audit (January 2014) that the Company neither filed an appeal against this judgment in the Supreme Court of India nor implemented the same by 30th September 2012 as *per* the directions *ibid*. The Company released the amount of total arrear of pay to 29 drivers amounting to ₹ 51.58 lakh between December 2012 and January 2013. Since the payment of revised pay scale to each driver was released after the permitted time (September 2012), the Company had to pay interest at the rate of 9 *per cent per annum* (from January 1986) on this arrear. An interest of ₹ 37.51 lakh on this account was released by the Company in August 2013 to its 29 drivers.

Thus, failure of the Company in releasing the arrear of revised pay scale to its employees by September 2012 as directed by the Hon'ble High Court resulted in an avoidable payment of interest of ₹ 37.51 lakh.

The State Government stated (June 2014) that the case file was handed over to the Advocate for filing a special leave petition (SLP) in the Supreme Court to explore all legal options / remedies available before implementation. The learned Advocate informed (October 2012) that it was not a good case for SLP. Thus, the payment of interest had to be made to avoid contempt proceedings which were still pending in the High Court.

¹⁰ Letter Patent Appeal (LPA No. 108 of 2009).

The reply (June 2014) of the State Government was not satisfactory as the Company should have explored all legal options before the dead line of September 2012 which could not only have saved the payment of interest but also avoided the contempt proceedings stated to be pending in the High Court.

3.9 Avoidable payment of electricity contract demand charges

Failure to reduce the contract demand of electricity during the inoperative period of the Central Heating System resulted in an avoidable payment of demand charges of ₹ 15.88 lakh.

The Himachal Pradesh State Electricity Regulatory Commission approved (October 2004) two part tariff structure for consumers having connected load above 20 KW. As *per* this tariff structure, contract demand (CD) charges at notified rates were leviable from time to time on the CD entered into with the Himachal Pradesh State Electricity Board Limited (HPSEBL) by the consumer. Further, as *per* instruction number 39 of the Sales Manual (amended August 2007) of HPSEBL, the consumers had the liberty to revise the CD twice in a year on the basis of their actual requirements. There was no limit for reduction of the CD up to June 2013 and after this as *per* tariff notification issued in May 2013, the reduction in CD below 50 *per cent* of the total CD was not permissible from July 2013. The Himachal Pradesh Tourism Development Corporation Limited (Company) had a power connection (connected load of 1,084 KW) for running Central Heating System (CHS) of Hotel Peterhoff, Shimla with Contract Demand (CD) of 373 KVA.

Audit scrutiny showed (January 2014) that during the period from April 2008 to December 2013 (69 months), maximum recorded demand on the meter installed for CHS remained zero KVA for 30 months, less than 10 KVA for 34 months and greater than 10 KVA for five months. The CHS was operated only during December to March and remained inoperative from April to November each year, but the Company paid demand charges for the entire period at full CD of 373 KVA. The Management had an option to revise the CD twice in a year as *per* heating requirement, it failed to reduce the same when the CHS was not operated and instead continuously paid the demand charges for the entire period as *per* the agreed CD which ranged between ₹ 33,600 and ₹ 46,998 *per* month during the period from April 2008 to December 2013.

Considering the operational pattern of the CHS, the Company could have reduced the CD up to 10 KVA during the period from April to November when the CHS was not in operation and opt for full CD during the winter months of December to March. Had the Company availed the benefit of this reduction in CD, it could have saved ₹ 15.88 lakh (as detailed in the **Appendix 3.3**) on account of demand charges paid during the period from April 2008 to November 2013.

Thus, the failure of the Company in reducing the CD as *per* the actual requirement resulted in an avoidable payment of ₹ 15.88 lakh.

The State Government stated (June 2014) that Hotel Peterhoff is being used as a State Guest House apart from commercial usages. The heating system and other facilities are required to be kept ready for the comfortable stay of state guests and other customers.

The reply (June 2014) of the State Government was not acceptable as maximum recorded demand for CHS had never exceeded 10 KVA during April 2008 to November 2013 (excluding winter months of December to March). This clearly indicates that there was much scope for saving by revising the CD for the lean months from April to November every year.

Himachal Pradesh Road and other Infrastructure Development Corporation Limited

3.10 Avoidable payment of land compensation

Failure of the Company in initiating action to withhold the payment of land compensation in respect of land demarcated outside the construction limit area of road resulted in avoidable payment of ₹ 29.33 lakh to the land owners.

The Government of Himachal Pradesh took up (August 2008) the up-gradation and improvement of Una-Ner Chowk Road portion through World Bank assistance. This work was assigned to the Himachal Pradesh Road and Other Infrastructure Development Corporation Limited (Company). The land required for the construction of this road was to be acquired as *per* the procedure laid down in the Land Acquisition Act, 1894 (Act) on payment of compensation to the concerned land owners.

To acquire land for the construction of this road, necessary land acquisition proceeding under the Act was started (February 2007) by the Land Acquisition Officer, Mandi to notify the required land. Out of notified *Khasra* numbers (KNs), KN. 408, (Village Har), KN. 144/2/1 and KN. 662 (Village Mundkher Gainda) were not to be acquired as they were outside the construction limit area. Therefore, it was proposed to delete these KNs. from the acquisition list during joint verification and demarcation of site conducted by the Land Acquisition staff, Company officers and officers of the Public Works Department (March 2009, May 2009 and January 2010). However, no action was initiated by the Company to get these KNs. deleted from the acquisition list. The Government of Himachal Pradesh approved the draft awards in respect of up gradation / improvement of Una - Ner Chowk road in Village Har for ₹ 98.80 lakh (December 2009) and Mundukhar Gainda for ₹ 248.23 lakh (February 2010).

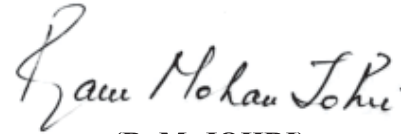
Audit noticed (November 2011) that the awards included compensation of ₹ 1.78 lakh for private land comprising KN. 408 and ₹ 27.55 lakh for KN. 144/2/1 and KN. 662 which were proposed for deletion from the award. The Company though aware that the award included above mentioned KNs. did not initiate any action to withhold the amount and released (February 2010)

the total awarded amount to LAO Mandi for further distribution to private land owners. The compensation amounting to ₹ 1.22 lakh (KN. 662), ₹ 1.78 lakh (KN. 408) and ₹ 26.33 lakh (KN. 144/2/1) was released to the concerned land owners in February 2010, March 2010 and November 2010 respectively.

Thus, the failure of the Company in initiating timely action for the deletion of these KNs. from the acquisition list before announcement of award as *per* the recommendations of the joint verification and land demarcation team resulted in avoidable payment of compensation amounting to ₹ 29.33 lakh to the concerned land owners. Further, the Company had also not initiated any action to de-notify these KNs. for initiating recovery of this amount from the landowners as *per* the Land Acquisition Act, 1894 so far (November 2014).

The matter was reported to the State Government / Management (May 2014); their reply was awaited (November 2014).

Shimla
The



(R. M. JOHRI)
Principal Accountant General (Audit)
Himachal Pradesh

Countersigned

New Delhi
The



(SHASHI KANT SHARMA)
Comptroller and Auditor General of India