CHAPTER V: MINISTRY OF EXTERNAL AFFAIRS

5.1 Failure to purchase Chancery building in Rome

The Mission and the Ministry failed to purchase building for Chancery in Rome despite requisite permission by the Committee on Non-Plan Expenditure in July 2011 and availability of funds resulting in a committed liability of ₹ 41.71 crore due to continued hiring of the property without an exit clause.

The Public Accounts Committee (108th Report of 1987-88) and the Standing Committee of Parliament on Ministry of External Affairs had emphasized the need for gradual reduction of rental expenditure of MEA with sound investment in suitable properties. The Standing Committee also recommended that MEA should devise a well-defined long term policy with continuous planning, monitoring, evaluation and control for efficient long term cost management of properties abroad.

During the audit of Embassy of India, Rome (Mission) in August 2013, it was noted that the Chancery was located at a Via XX Settembre, 5, Rome, since 1977. A legal notice was received by the Embassy from M/s Leonidi 3 Srl, landlord of the building, in December 2006, for vacating the premises on expiry of the lease on 30 November 2008.The Mission signed an agreement for out-of-court settlement with the landlord (February 2008) to continue occupation of the premises till 30 June 2011 and penalty of €1500 per day for any stay beyond that date. While approving the agreement, Ministry directed the Mission to look for appropriate alternate premises for relocation, not later than May 2011 in view of the agreed heavy penalties. Accordingly, Mission shortlisted a property located at Via dei Villini 2, Rome.

The Committee on Non Plan Expenditure (CNE)[1] considered the proposal of the Ministry for purchase of this property on 18 July 2011.

[1] CNE – is Committee on Non Plan Expenditure headed by Secretary (Expenditure), Government of India to consider the all Non-Plan proposal involving expenditure of over ₹ 75.00 crore recurring or non-recurring, on a new service or for expansion of existing services.

The Committee recommended the proposal of purchase of property at a total cost of € 23 million.

Audit noted that Mission not only failed to purchase and occupy the property, it executed (December 2012) a lease deed for continued leasing of the existing premises for six years and five months from 1 August 2012 at an annual rent of € 850000 *plus* taxes without an exit clause.

Ministry in its reply (May 2014) explained that since the report submitted by the Structural Engineer (Projects) on Via dei Villini 2, Rome mentioned that the structural stability of the building seemed to be doubtful and also because the owners of the property indicated that they were unwilling to go with the requirements of the Mission, it was decided to drop the proposal for purchase of the property. Ministry also asserted that the financial interest of the Government of India and the requirement of structurally safe office environment was also kept in view while taking the decision. Ministry further stated that before taking the decision they had examined the reasonableness of the enhanced rental of € 850000 *per annum* based on Mission's inputs including the options for hiring alternative Chancery premises. Ministry, however, accepted that the Mission erred in not including an exit clause which is a routine/standard clause in all lease agreement executed by GoI.

The reply of the Mission / Ministry highlights poor planning in view of the fact that the Structural Engineer (Projects) was deputed after a considerable delay (March 2012) from the date of approval of the proposal (July 2011). The seller had clearly shown his interest in concluding the deal on several occasions and backed out due to delay on the part of Ministry/Mission. The issue of structural soundness was raised at a much later stage, whereas it should have been ensured before sending the case to CNE. The time between identification of property (December 2010) and CNE's approval (July 2011) should have been used for fine tuning the SPA to cover all the aspects including requirement of structurally safe office environment.

It thus emerges that despite having obtained approval from the CNE in July 2011 and availability of funds, the Ministry/Mission failed to purchase property for the Chancery in Rome till September 2014 due to pre-mature processing and failing to satisfy themselves about suitability of premises from all angles. Further, omission to include the exit clause in the current lease agreement may result in continuance of present agreement till December 2018 and payment of rent of INR 41.71 crore[2].

5.2 Short collection of Business Visa fees

Short collection of Business Visa fees amounting to ₹ 10.20 crore in Missions and Posts abroad due to non-implementation of Ministry's instructions on issue of business visa

The Ministry of External Affairs (MEA) prescribes varying visa fee rates for different types of visas to be issued by Indian Missions/Posts abroad. The Ministry on 10 June 2008 revised all types of visa fees other than tourist visa fees including business visas for nationals of all countries except those with which India had bilateral arrangement. The MEA, while revising the visa fees, specifically instructed that business visa should be issued for a minimum validity of one year.

Audit Report No 13 of the Comptroller and Auditor General of India for the year 2012-13 pointed out cases of short recovery of business visa fee in contravention to Ministry of External Affairs' instructions of June 2008 (effective from 1st July 2008) which require that the business visas should be issued for a minimum validity of one year. The Ministry had accepted the initial audit observation and stated (November 2010) that the instructions on business visa fee had been reiterated to all the Missions and Post abroad. The Ministry issued (November 2010) a further clarification that the Missions and Posts may issue visas valid for less than one year if desired by the applicants, but the fees must be charged for one year.

Audit noted cases of short recovery of business visa fees in the following Missions and Posts;

[2] Rent for a period of 6 years and 5 months @ €850000 *per annum* amounts to €5454167 which is equal to INR 417134692.16 at current exchange rate of 1 € = ₹ 76.48

Mission/Post	Business visa fee for one year in local currency	Business visa fee for six months in local currency	Difference	Number of six month business visas issued	Loss of revenue	
					In local currency	INR
HCI Ottawa	CAD 183	CAD 123	CAD 60	819	CAD 49140	2722356
CGI Toronto	CAD 183	CAD 123	CAD 60	7778	CAD 466680	25854072
CGI Vancouver	CAD 183	CAD 123	CAD 60	2593	CAD 155580	8619132
EOI Mexico	MXN 1680	MXN 1120	MXN 560	3940	MXN 2206400	10325952
EOI, The Hague	EURO 148	EURO 99	EURO 49	13152	EURO 644448	54521718
Total						**102043230**

In reply, the HCI Ottawa accepted the audit observations and stated that due to error in interpretation of the Ministry's instruction of June 2008, HCI Ottawa and its Posts in Canada continued to issue business visa for six months which had a lower prescribed fees but started issuing one year business visa in December 2012. The EOI, Mexico stated that the Ministry's letter dated 10 June 2008 regarding issue of one year business visa was not received in the Mission. On being pointed out in audit, the Mission started issuing business visa for one year at the prescribed rate from March 2014 as per Ministry's instructions after audit had pointed out. The Mission at Hague agreed (October 2014) and stated that they had started charging business visa fee for minimum one year since 31st March 2014.

The Ministry (December 2014), while accepting the audit observations, endorsed the reasons for non-implementation of Ministry's instruction on issue of business visa and stated that discrepancy in collection of business visa fees was due to misunderstanding of the Ministry's circular and different interpretation of the instructions leading to genuine confusion in the minds of the consular officials. Consolidated instructions on the subject are being issued to put an end to the confusion definitively.

The fact, however, remains that due to issue of six months business visas which had a lower prescribed fee instead of for one year with a higher prescribed rate in line with instructions of the Ministry, the Missions and Posts had foregone revenue which would have otherwise accrued to Government of India. As a result, there was a short collection of revenue of ₹ 10.20 crore. Moreover, in the above cases, when audit pointed out the short collection of business visa fees, the Missions and Posts took corrective action immediately.

The Ministry should therefore ensure that all instructions issued by it to the foreign missions and posts have adequate clarity and single interpretation and that these also reach in time. A follow-up mechanism to ensure compliance of its instructions by all Missions and Posts is also required as the possibility of short collection of visa fees in some Missions and Posts, which were not covered in test check by audit, can not be ruled out.

5.3 Unauthorised expenditure of ₹ 429.81 lakh on engagement of contingency staff without sanction

The Consulate General at Houston and Chicago engaged contingency staff in violation of rules and instructions of the Ministry.

As per Rule 22 of General Financial Rules (GFR), no authority may incur any expenditure or enter into any liability involving expenditure unless the same has been sanctioned by a competent authority. Further, as per item No.12(2) of Schedule-I of Financial Powers of Government of India's Representatives Abroad, contingency staff could be employed by the Missions/Posts subject to the condition that the staff so employed were not for a regular nature of work or against vacant posts borne on the regular establishment. The Ministry of External Affairs (MEA) issued various instructions to Missions/Posts not to engage contingency staff in violation of laid down rules and regulations. The Ministry had reiterated its advice in January 2009 to the Missions and Posts to disengage all contingency staff and that on failing to do so responsibility would be fixed on the officers responsible for engaging contingency staff without proper authority.

A scrutiny (March 2014) of records in Consulate General of India (CGI), Houston for the period April 2011 to February 2014, and in CGI, Chicago (October 2013) from April 2012 to September 2013 revealed that an expenditure of ₹ 211.02 lakh and ₹ 218.79 lakh was incurred by these Consulates respectively for engagement of contingency staff without the sanction of the competent authority and in violation of the extant rules and the Ministry's instructions.

CGI, Houston

Audit observed that the CGI, Houston engaged nine contingency staff without sanction of the competent authority during the period from April 2011 to February 2014 for consular work and two of the staff were utilized as messengers. The unauthorised expenditure incurred by the CGI, Houston for engagement of contingency staff was ₹ 211.02[3] lakh.

In response, the CGI, Houston stated (May 2014) that contingency staff were engaged to overcome the problem of increased work load relating to issue of OCI and PIO cards. Further, two messengers were engaged by the Consulate under the delegated powers and two posts were sanctioned by the MEA in August 2011 (Q/CCP/576/09/10) and January 2012 (Q/CCP/576/12/2010).

The reply of the CGI, Houston is not tenable as under the extant rules the Consulate cannot employ contingency staff for regular nature of work. Moreover, the sanctions of the MEA cited by the Consulate were not for engagement of contingency staff but for appointment of local employees for a period of one year each. Hence, engagement of contingency staff by the CGI, Houston was in violation of rules and instructions of the Ministry.

CGI, Chicago

Audit also observed that the CGI, Chicago engaged 7 to 18 contingency staff at different point of time during the period 2012-13 to 2014-15 (upto September 2014) without the sanction of the competent authority for consular work and one staff was utilized as messenger and incurred an

[3] ₹ 72.03 lakh during 2011-12; ₹ 52.32 lakh during 2012-13; and ₹ 86.67 lakh during 2013-14 (upto February 2014).

unauthorised expenditure of ₹ 218.79[4] lakh. Audit further observed that during 2012-13, three contingency staff were engaged against vacant posts borne on regular establishment in violation of extant rules.

In response (October 2014), while accepting the audit observations, CGI, Chicago stated that engagement of contingency staff was unavoidable as the work relating to grant of visa and OCI cards was quite substantial in the Consulate. Contingency staff were hired as qualified candidates were not desiring to be considered for regular appointment due to low pay scale offered by the Consulate. The Ministry had been requested to approve the engagement of contingency staff.

The Ministry stated (December 2014) that the audit observation is being addressed by processing the expenditure incurred for post facto approval of the competent authority in MEA.

The fact, however, remains that expenditure of ₹ 429.81 lakh incurred on the contingency staff by the Consulates was unauthorized and in violation of Ministry's instructions. Addressing the issue by way of post facto approval only indicates weak control on validation and authorization process of expenditure in the MEA and Missions/Consulates. Moreover, granting post facto approval by the Ministry in a routine manner would encourage repeated violations by the Missions/Consulates in future.

[4] ₹ 110.92 lakh during 2012-13; ₹ 69.01 lakh during 2013-14; and ₹ 38.86 lakh during 2014-15 (upto September 2014).