

Chapter 3- Internal Controls for effective implementation of Policy, Monitoring and Reporting

3.1 Deficiencies in internal control for effective implementation of policy

Audit observed that the internal control for implementation of DFP had intrinsic deficiencies and some of the provisions were not incorporated /not enforced made with due diligence. The deficiencies noticed are as follows:

- 1) Railway Board had prescribed six documents for submission at the time of registration of each indent. However, the purpose and significance of their submission was not made clear. These documents, apart from proving the bonafide credentials of the consignee as manufacturers of Iron and Steel etc. could be utilised for ascertaining the manufacturing capacity of the Plant and actual utilization of iron ore for domestic purposes. However, Railway Board had not issued any guidelines to make use of the eight mandatory documents including Affidavit and Forwarding Note submitted by the customers for verification of the end use of the Iron ore.
- 2) Excise Returns (ERs) are important documents so far as the end use of material is concerned. The manufacturers of Iron and Steel are required to submit seven types of ERs to Excise Department in a year. Out of these ERs, three ERs i.e. ER 1, ER 4 and ER 6 are very much relevant/ useful in the effective implementation of DFP. ER 1, a monthly return indicates production of Iron and Steel, removal of raw material from manufacturing units. ER 4, an annual return, depicts stock position including purchase and consumption of raw materials and ER 6 depicts monthly stock position including receipt and consumption of raw materials. The actual use of Iron ore at manufacturing units and removal of material from manufacturing units could be known from these ERs. However, it was seen that
 - There were no instructions of the Railway Board to compare the quantum of Iron ore transported by Rail, with the monthly/yearly consumption of Iron ore for domestic use, as reflected in the ERs.
 - There was no advice to watch the removal of iron ore from manufacturing unit with the help of ERs which depict the quantities of raw material brought in the manufacturing unit, quantity used for domestic purpose and quantity removed from manufacturing unit as such etc.
 - Railway Board's orders were not categorical. Under the policy the submission of monthly ER was made mandatory. However, it was not specified as to which ER would fulfil the requirement. It was noticed that most of the consignees submitted only ER I.
- 3) The Annual Accounts of companies manufacturing Iron & Steel items disclose quantity of raw material received and consumed during the financial year. This document is authenticated by the Board of Directors and certified by the Auditors. Audit observed that SER Administration had issued demand notices on the basis of figures reported in Annual Accounts

by some consignees viz. Rashmi Metallic Limited, Ankit Metal & Power Limited. As such, Ministry of Railways could have prescribed the verification of the relevant portion of this document to ascertain the quantity of Iron ore consumed and sold by the manufacturers. However, this was not done. Audit compared the figures of receipt and consumption exhibited in the Annual Accounts of companies with the figures reported by them in the ERs. The exercise showed differences in the figures. Few examples are enclosed in **Statement F**. Reporting different figures to various Government agencies also hinted *mala fide* intention on part of the companies.

- 4) A unique identification code for each consignor is essential for deriving correct information of bookings of Iron ore made by each consignee and its comparison with actual use shown in ERs. Audit observed that:
 - a) Multiple names/codes of consignor/consignees are found in CRIS database for a single company booking iron ore from multiple loading points. This makes consignee wise analysis of CRIS data, very difficult. Some illustrative examples are given in **Statement G**.
 - b) The CRIS data was not complete to the extent that manual RRs had been issued and not incorporated in FOIS. Thus, the deficiencies in FOIS need to be addressed to ensure that data is complete and facilitates informed decision making.

Railway Board stated (January 2015) that the onus of conforming to the affirmed end use rested on the consignee as they did not have an in-built mechanism for ascertaining the end use to which iron ore was ultimately put after being delivered to the consignee.

Their contention is not acceptable as over the years almost 50 *per cent* of the iron ore produced was being exported which comprised mainly of iron ore fines. As such, after the implementation of the DFP, it was necessary for the Railway Board not only to enforce its own checks which were envisaged through submission of the mandatory documents, but also to strengthen the framework by plugging loopholes. This could have been done by prescribing certain checks for verification of the end use of Iron ore transported, which was the main criteria for making admissible the freight at domestic consumption rate.

3.2 Training

Audit observed that there was no provision in DFP to train Staff deployed at various loading/ unloading points to deal with various important issues related to the policy. They were not adequately familiarised /sensitised with the importance of submission of documentary proof and other pre-requisites. Audit reviewed the extent of training imparted to train commercial staff who deal with the booking and receipt of iron ore consignments in SER at Zonal Railway Training Institute (ZRTI)/Sini in SER which is the main institute responsible for arranging various training programme for Gr. C and Gr. D staff of three Zonal Railways viz. SER, ECoR and SECR. Audit observed that

- No special training programme for Commercial Inspectors/ Chief Goods Supervisors/ Goods Clerks was conducted to familiarize them with the instructions/ procedure to be followed while booking of Iron Ore traffic as prescribed by the Railway Board through various circulars⁶¹.
- No refresher course for commercial staff could be organized since 2008 due to lack of nomination of trainees.
- There was an acute shortage of trainers as well and one post of ACM (Lecturer) and three posts of Commercial Instructors were lying vacant since May 2008 and Jan 2007 respectively.
- Chief Commercial Manager/ SER, in January 2014, requested the Principal, ZRTI, SINI to incorporate a subject on the required checks on documents submitted for booking of Iron Ore Traffic etc. in the training programme for Commercial Clerks (Booking, Parcel and Goods). However this was not done yet (January 2015).
- Chakradharpur Division Administration stated that a checklist had been issued in the month of June 2012 so that staff might not be misguided while accepting documents at the loading points.
- Chakradharpur Division also arranged a workshop for the consignor, consignee and booking clerks.

From the above it is evident that though the requirement of special training programme was felt, appropriate training programmes were not conducted either for regular work relating to Traffic (Commercial) at loading / unloading points or specifically for new policy guidelines issued in respect of Iron Ore freight traffic. As a result, concerned staff failed to exercise adequate checks and admitted invalid documents/ declaration/ affidavit for availing domestic rate and also could not detect cases involving large scale removal of iron ore from manufacturing units and short reporting of iron ore carried by Rail at domestic rate.

3.3 Monitoring and Reporting

Effective implementation of a policy can be ensured by effective enforcement of the guidelines, rules and provisions, to ensure achievement of laid down objectives of the policy, there should be clear communication of instructions to those who are responsible for its implementation at the field level and there should be continuous monitoring and control as well as timely reporting of the status of implementation. The monitoring and control mechanism that existed or was laid down for implementation of the DFP included-

- i. Appreciation Notes to be submitted by Zonal Railways to RB on monthly basis
- ii. Inspections by Commercial Inspectors
- iii. Inspections by Travelling Inspectors of Accounts

⁶¹ Rate Circulars No.24 of 2008,30 of 2008,54 of 2008,36 of 2009 and other corrigendum and addendums

3.3.1 Appreciation Notes

Paragraph 12 of the Rate Circular 36 of 2009 relating to the dual freight policy and subsequent addendums of this Rate Circular stipulated that monthly Appreciation Report should be sent to the Railway Board by the Zonal offices by 7th of the following month. It is the duty of Zonal headquarters (Commercial Department) to circulate this letter to all Divisions and field offices along with their instructions, if any.

In this regard, it was observed that

- No specific format had been fixed by the Railway Board for submission of Appreciation Report by Division and Zonal Railways.
- The purpose for which these Appreciation Reports were to be sent was not spelt out in the Rate Circular. As such the Zones as well as Divisions did not know what to send in these reports to Railway Board.

The system was checked by Audit in various Zonal Railways. It was observed that

- At Zonal headquarters of eight⁶² Zonal Railways no instructions to Divisional Offices for sending Appreciation Reports issued. As such, no Appreciation Report to the Railway Board was being sent.
- In WR, though data were collected from Divisions, no report was sent to the Railway Board.
- In SWR, Appreciation Notes containing number of rakes, total freight, concessional amount and net freight collected etc. were submitted from June 2009 to October 2010, in non-standardised format.
- In ECoR though instructions were issued by Zonal Headquarters to Divisions and field offices to submit the report, in absence of any particular format and purpose of the report, only informative data such as loading and unloading stations, rakes booked, chargeable weight, freight collected etc. was being collected from Divisions/field offices for submission to Railway Board.
- SCR Administration sent some reports to Railway Board containing information on booking of iron ore, loading, earnings etc. However, these were not Appreciation Reports, as they did not highlight any information regarding issues faced in smooth implementation of the dual freight policy.
- In none of the cases Railway Board had monitored the receipt of Appreciation Reports from Zonal Railways or sent reminders to the defaulters.

As such, the feedback mechanism was deficient and could not act as monitoring and control tool for effective implementation of the dual freight

⁶² SER, SECR, NCR, CR, NR, SR, WCR and ECR

policy and addressing problems by taking remedial measures to remove the deficiencies.

3.3.2 Inspections by Commercial Inspectors and Travelling Inspectors of Accounts

Commercial Inspectors (CIs) of Commercial Department are required to visit the booking terminals periodically⁶³ and inspect the working and report losses or leakages of railway revenue through evasion, misappropriation or abuse of rules to the Divisional Office immediately after completion of the inspection. Travelling Inspectors of Accounts (TIsA) of Accounts Department inspect the terminals periodically and check the basic records of traffic transactions and report leakage of revenues, if any. Audit observed that although there was high risk associated with use of iron ore transported, Railway Board did not assign to them special checks related to these transactions⁶⁴.

3.3.2.1 Inspections by Commercial Inspectors

Audit test-checked 52 loading and 108 unloading points in various Zonal Railways to verify whether, these were inspected by CIs. In 10 Zonal Railways⁶⁵ no norms for schedule for inspections by CIs were laid down due to which number of inspections undertaken over various Zonal Railways was not uniform. Position of frequency of CIs inspection per year at loading points during the years 2008 to 2013 was as under-

- Five to 12 loading points were not inspected at all.
- Seven to 16 loading points were inspected just once per year.
- Five to 11 loading points were inspected twice per year.
- In respect of five to 18 loading points, no records related to CIs inspections were made available to audit.

Similarly, position of frequency of CIs inspections per year at unloading points during the years 2008 to 2013 was as under-

- 23 to 28 unloading points were not inspected at all.
- Six to 18 unloading points were inspected just once per year.
- Five to 16 unloading points were inspected twice per year.
- In respect of 11 to 40 unloading points, no records related to CIs inspections were made available to audit.

⁶³ Rule 2903(xi), 2944 and 2945 of the Indian Railway Commercial Manual (IRCM) (Vol. II)

⁶⁴ To check whether all prescribed documents and certificates and endorsements were obtained before booking iron ore at domestic rate, whether any quantity is removed in unauthorized manner or in excess than due from manufacturing unit without using it for domestic use, whether the quantity booked was not in excess over manufacturing capacity or actual use for domestic purpose, whether iron ore carried by rail were accounted in Excise Returns, documents were valid etc.

⁶⁵ SECR, SWR, SCR, WR, ECoR, NCR, NER, CR, ECR, and ER

- Where inspections were undertaken, in only 18⁶⁶ cases, issues regarding deficiencies in procedures/documents pertaining to iron ore traffic were highlighted. The remarks by CIs included Rate Circular not followed by staff, non submission of IEM, non-submission of factory license, non-submission /submission of defective Affidavit/Indemnity Note, MER not submitted etc.
- In SER, the Zonal headquarter prescribed (January 2013) the inspection schedule as per which CIs would cover all loading and unloading points once in two months i.e. six times per year. However, in the cases test checked in audit the prescribed periodicity was not followed and inspections carried out were less than the prescribed norm.
- Review of 96 Inspection Reports of CIs in respect of 12 loading and 14 unloading points available at Zonal and Divisional level in SER revealed that there were 31⁶⁷ comments relating to iron ore traffic. The irregularities pointed out included non-submission of various documents such as IEM, Labour Contract Act Certificate, non submission of appreciation report, submission of defective documents, non-declaration of domestic use in forwarding note etc.
- In most of the cases, remedial action was not taken/not recorded properly. Only in one case where IEM was not submitted in SER at Jindal Steel Limited siding, undercharges were collected and freight charged at export rate in Oct 2011.

Railway Administration needs to lay down periodicity of inspections by Commercial Inspectors while drawing and approving Inspection Programme/Schedule to facilitate complete coverage of all loading/unloading points in a given time frame.

3.3.2.2 Inspections by Travelling Inspectors of Account

As per Paragraph No. 3302 of Indian Railway Accounts Code Volume II, the periodicity of inspections prescribed for TIsA inspections is once in four months for 'Large' stations. Review of status of inspections of 52 loading and 108 unloading points done by TIAs over various Zonal Railways showed that: position of frequency of TIsA inspections per year at loading points during the years 2008 to 2013 was as follows:

- One to five loading points were not inspected at all,
- Two to 10 loading points were inspected just once per year
- Five to 13 loading points were inspected twice per year.

⁶⁶ SER-9, SWR-3, ECoR-3, KR-3

⁶⁷ 24 at loading points and seven at unloading points

- For four to 16 loading points, no records were made available to audit in respect of inspections conducted by TIAs.

Similarly, position of frequency of TIA inspections per year at unloading points during the years 2008 to 2013 was as follows:

- Nine to 19 unloading points were not inspected at all,
- Three to 15 unloading points were inspected just once per year
- Fifteen to 25 unloading points were inspected twice per year.
- For four to 28 unloading points, no records were made available to audit in respect of inspections conducted by TIAs.
- Where inspections were undertaken, in only 13⁶⁸ cases, issues regarding iron ore traffic were highlighted. The adverse remarks included non-submission of Affidavits/Indemnity Note, Rate Circular not followed by staff etc.
- In SER, review of 20 Inspection Reports pertaining to nine loading points available at Zonal and divisional level revealed only one comment relating to iron ore traffic at Jaroli. The irregularities pointed out included non-declaration of domestic traffic in forwarding note and non-submission of documents to avail domestic rate.
- Follow up action taken on issues raised by TIAs in the above cases could not be produced to audit.

Thus, norms laid down for inspection by TIAs in which all transactions including the iron ore traffic were to be covered were not strictly followed. Where inspections were undertaken issues regarding iron ore traffic were highlighted only in few cases.

3.4 Checks introduced/steps taken by Railways

3.4.1 System Improvement Suggested by Vigilance Department of IR and status of follow up action

Audit observed that for improving the system of monitoring and control, Vigilance Department of SER gave a number of suggestions to the Operating and Commercial departments in October 2012. The list of suggestions is as follows:

- i) Inclusion of commodity code in FOIS to enable railways to keep track of the commodity wise loading effected against a party.
- ii) To allot each transporter in FOIS a unique identifier and capture Excise Registration number of the consignee as a second unique identifier, so as to enable Railways to use the data as and when required or when asked for by other authorities.

⁶⁸ SER-5, ECoR-5, SCR-3

- iii) Collecting details of principal inputs such as iron ore lumps or iron ore fines and their utilization in manufacturing activity through Monthly Excise Return ER 6.
- iv) To explore possibility of sharing electronic database of ER 6/ER 4 with Central Excise Department.
- v) Periodical comparison of cumulative loading figures from FOIS with 'certified' plant capacity.
- vi) Submission of ER 6 along with ER 1 by the consignees.
- vii) Ensure genuineness, legality and enforceability of loading documents.
- viii) Keep watch on heavy loaders especially who are loading iron ore fines, because only a few iron and steel manufacturers have the capacity to make sinter or pellets out of iron ore fines.
- ix) Introduction of new commodity code for iron ore fines and align FOIS with the national system followed by Mining, Central Excise, and Customs Departments.
- x) To get Iron Ore Utilization Certificate (IOUC) from Central Excise Department to watch the use of iron ore by consignees for domestic purpose.

While suggestion i) regarding introduction of separate commodity code for iron ore lump and fines was partially implemented in June 2013, audit observed that most of the RRs continue to be issued under commodity code 'iron ore', instead of 'lump' or 'fine'. The suggestions at ii) and iii) have not been implemented so far. Remaining suggestions (iv to x) were sent by GM, SER to Chairman Railway Board in October 2012. However, final decision in this regard from Railway Board is still awaited (November 2014).

3.4.2 Issue of show cause/demand notice to the parties and position of court cases

The issue of misuse of provision under the DFP were also pointed out by the Vigilance Department of the railways and Zonal Administrations subsequently issued demand notices against the defaulting parties. Some of the parties went to court against the demand notices issued by the railways. The position of issue of demand notices in SER, ECoR and SWR are as follows:

In SER, during the period August 2011 to September 2013, demand notices were served to 17⁶⁹ consignees for an amount of ₹ 1993.24 crore as the amount of penalty leviable on removal of iron ore from manufacturing units i.e. not used for domestic purpose. Out of those 17 companies of SER, 11 companies have gone to court. In respect of remaining six companies, Railway Administration has not filed money suit (29th September 2014). Besides, two demand notices issued to M/s Electrosteel Casting Limited (at HLZ and SEP) amounting to ₹ 118.42 crore were withdrawn. In respect of recovery an amount of ₹ 31.50 crore out of ₹ 117 crore has been recovered from M/s Essar Steel India Limited.

⁶⁹ Initially show cause notices were issued to 19 companies, of which two were withdrawn in May 2014

In ECoR, demand notice was served to KIOCL for ₹ 414.46 crore being the penalty on export of pellet prepared out of the iron ore fines move from EcoR during the period from 06 June 2009 to 30 September 2011. Subsequently in October 2013, ECoR Administration received ₹ 51.81 crore leaving a balance of ₹ 362.65 crore. Another demand notice was served on M/s Essar Steel Limited for ₹ 104.88 crore towards the penalty charges for mis-declaration at the time of booking of iron ore. Against these amounts, ECoR had realised ₹ 4.5 crore leaving a balance of ₹ 100.38 crore.

In SWR, demand notices for an amount of ₹ 261.17 crore has been issued against KIOCL by Sr.DCM/Mysore and Sr. DCM/Hubli. An amount of ₹ 76.18 crore has been deposited by the company so far (Jan 2015).

During audit only two cases of blacklisting of companies were noticed in SER. Railway Administration blacklisted Vishal Sponge Private Limited in December 2013 and blacklisting of Maa Chinnamastika is under process (May 2014). Reasons for the same were called for. The reply is awaited (January 2015).

In this regard, the Division bench of Kolkata High Court dated 24 Dec 2014 in the case between SER and Rashmi Metaliks Limited opined that no mechanism has been formulated to ascertain the ultimate end use of such iron ore after delivery. The Division bench directed that at the time of booking of each consignment, the Railway Administration will realize freight rate at class 180 along with DBC and will ultimately decide the actual freight payable by the consignor/consignee on being satisfied about the actual end use of the iron ore. For recording such satisfaction about end use of the iron ore the railway authority may take inspection at the factory's site for ascertaining the actual end use of such iron ore by the consignees. The above modality will be applicable henceforth so far as the appellant (Rashmi Metaliks Limited) is concerned.

The judgement further stated that if the consignee submitted a false, incorrect and misleading declaration on Affidavit under Para 3 of the Rate Circular about the end use of iron ore consignment, then the consignee will be liable to pay freight at class 180 along with DBC as well as penalty. As regards imposing penalty by way of blacklisting the judgement opined that if at all, it can only be exercised after the adjudication of the dispute in the pending suit is concluded before the Civil Court.

Railway Board during Exit Conference (January 2015) stated that a decision has been taken to take up all the pending court cases in the Supreme Court.

3.5 Conclusion

There was no system of furnishing feedback by the divisions to Zonal Railway and Zonal Railway to Railway Board and monitoring corrective measures. Though a system of checks by Travelling Inspectors of Accounts and Commercial Inspectors has been prescribed in the railways codes and manuals, the norms laid down for inspection by TIsA were not strictly followed. Norms for schedule of inspection by CIs were not laid down in most of the Zonal Railways. Where inspections were undertaken issues regarding iron ore traffic

were highlighted only in few cases. Important measures suggested for improvement in the system are yet to be acted upon (January 2015). Thus, overall monitoring and control for the implementation of the dual freight policy was deficient.

Statement F

Statement showing instances where iron ore used, sold etc. depicted in Annual Accounts are at variance with the position reported in Excise Return

1. In respect of Rashmi Metaliks Limited, the receipt of Iron Ore as shown in Annual Accounts was almost 1.5 to five times that of figures in *Excise Return 6*. The figures of consumption for the year 2010-11 were 139 *per cent* more in Annual Accounts.
2. Vision Sponge Iron India Private Limited disclosed the receipt figures in Annual Accounts which were 37 to 63 *per cent* less than that of Excise Return 6 between 2008-09 to 2010-11.
3. In respect of Rashmi Cement Limited the figures in Annual Accounts were 10 *per cent* less in 2009-10 and 54 *per cent* more than that of Excise Return 6 in 2010-11. On the other hand, the consumption was shown as 18 to 229 *per cent* more during 2009-10 and 2010-11 in Annual Accounts.
4. In respect of SPS Steel Limited for 2010-11, the consumption shown in Annual Accounts was 57 *per cent* more than that shown in Excise Return 6.
5. However, Visa Steel Limited showed the consumption as 22 to 30 *per cent* less than Excise Return 6 for 2008-09 and 2009-10 respectively.
6. Similarly, Kalyani Steel Limited showed consumption as 104 to 149 *per cent* less than Excise Return 6 from 2008-09 to 2012-13.
7. It was also seen that in respect of Rashmi Cement Ltd. and Rashmi Metaliks Ltd, above figures which were disclosed in Annual Accounts as additional information in the schedules as per the requirements of the Companies Act, 1956, were not disclosed from the year 2011-12 onwards as the mandatory requirement was withdrawn from 2011 onwards.

Statement G

Statement showing name of the parties having more than one code in Freight Operation Information System			
<i>S. no.</i>	<i>Name of the Parties</i>	<i>Code Provided</i>	<i>Numbers of code operated</i>
1.	Adhunik Alloys & Power Limited	AML, AAPL	2
2.	Adhunik Group	AML, ADNK	2
3.	Uttam Galva Metaliks Ltd.	UGMD, UGML	2
4.	Ankit Metal & Power Ltd.	AML, AMPD	2
5.	Aryan Ispat & Power (P) Ltd.	ARPL, ARYN	2
6.	Calaster Sponge Ltd.	CSL, CSLR	2
7.	Devi Iron Pvt. Ltd.	DEIL, DEVI	2
8.	Essel Mining & Industries Ltd.	ESSM, ESSL, EMI, EMIL	4
9.	Electrosteel Steel Limited	ESLD, ESST	2
10.	Gallant Ispat Ltd.	GALI, GALL GILT	3
11.	GR Metaliks and Industries (P) Ltd.	GRMI, GRML	2
12.	Howrah Gasses Ltd.	HGL, HGSL	2
13.	Jai Durga Iron Pvt. Ltd.	JDIP, JAID	2
14.	Kunj Behari Steels (P) Ltd.	KBSL, KBSP	2
15.	KIC Metaliks Limited	KIC, KICM	2
16.	Maheswari Ispat Ltd.	MHWI, MAIL	2
17.	MSP Steel & Power Ltd.	MSP, MSPJ	2
18.	MSP Metaliks	MSPM, MSML	2
19.	Rashmi Metaliks Ltd.	RMLD, RSMI, RSM	3
20.	Super Smelters Ltd	SUPR, SUPS	2