

CHAPTER III

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3 Compliance Audit

Important audit findings arising out of test check of transactions made by the State Government Companies/Corporations are included in this chapter.

WEST BENGAL POWER DEVELOPMENT CORPORATION LIMITED

3.1 *Evacuation and disposal of ash at thermal power stations*

3.1.1 Introduction

About 70 *per cent* of total electricity generation in India¹ is from coal-based thermal power stations (TPS). Ash is generated by thermal power plants from combustion of pulverised coal. Average ash content of lower grades of Indian coal is 40 *per cent* in comparison to 10 to 12 *per cent* for imported coal². The quantum of ash generated depends on the quality of coal used and the operating conditions of TPS. Government of India (GoI) has projected³ that fly ash generation would reach 450 million tonnes (mt) by the year 2021-22. This poses problems⁴ for health and environment, if its generation is not minimised and ash not utilised. Recognising the threat posed by fly ash, the Ministry of Environment, Forests and Climate Change, GoI (MoEFCC) and Central Pollution Control Board (CPCB) have issued orders/ directives from time to time regarding utilisation and minimisation of generation of fly ash.

West Bengal Power Development Corporation Limited (WBPDC), is the largest state-owned power generating company in West Bengal and operates five⁵ TPS (aggregate installed capacity: 3,860 MW). WBPDC had generated 34.82 mt of ash in the past five years from 2010-11 to 2014-15, which was 4.37 *per cent* of total ash generated by all coal-fired thermal power stations in India.

3.1.2 Audit objectives

The audit was carried out to assess whether:

- adequate measures were taken to minimise generation of ash;
- its evacuation was managed efficiently as per norms; and

¹ Report of Journal of Scientific and Industrial Research Vol. 67, January 2008, pp.11-18.

² Paragraph 5.5, Page 58 of Report (Part 1) of the Expert Committee on Road Map for Coal Sector Reforms (December 2005).

³ Fly Ash Utilisation Programme.

⁴ International Journal of Innovative Research in Science, Engineering and Technology, Vol.2, Issue 10, October 2013.

⁵ Bandel Thermal Power Station (BTPS), Kolaghat Thermal Power Station (KTPS), Bakreswar Thermal Power Station (BkTPS), Sagardighi Thermal Power Station (SgTPS) and Santaldih Thermal Power Station (STPS).

- efficient mechanism was in place for disposal and utilisation of fly and bottom ash.

3.1.3 Scope and methodology of Audit

Audit of ash management system of all five TPS of West Bengal Power Development Corporation Limited (WBPDC) between 2010-11 and 2014-15 was taken up during April 2015 to July 2015. Audit examined records at WBPDC Headquarters, five TPS and West Bengal Pollution Control Board (WBPCB).

3.1.4 Audit criteria

The criteria for assessing the ash management system were derived from norms fixed by MoEFCC/ CPCB/ MoP⁶ / WBPCB/ CEA⁷; Environment (Protection) Act, 1986; Environmental Impact Analysis (EIA) Reports; Industrial best practices *etc.*

Audit findings

During 2010-15, WBPDC consumed 87.20 mt of coal and generated 34.82 mt of ash (39.93 *per cent*) against all India average of 33.18 *per cent*.

Audit observations with regard to minimisation, evacuation and utilisation of fly ash are discussed in subsequent paragraphs.

3.1.5 Planning for management of fly ash

As required by MoEFCC (January 1994/ September 2006), WBPDC prepared (September 2002 to May 2007) Rapid Environmental Impact Assessment (EIA) Study Reports for STPS⁸, BkTPS⁹ and SgTPS¹⁰. These reports provided for preparation of Environment Management Plans (EMPs) by the management to mitigate the effects of pollution arising from suspended particulate matter (SPM) in stack emissions as well as their effects on ambient air, fugitive ash¹¹, waste water from ash handling systems, leachates¹² from ash ponds, water and ash run-off, along with ash. The EIA also provided that WBPDC was to periodically test ambient air quality, stack emissions, water quality for discharges from ash water reservoir and ash slurry pond, ground water and soil. While issuing environmental clearance to WBPDC for implementation of TPS, MoEFCC had stipulated¹³ that effluents with regard to new plants should meet the prescribed standards which include safe ash dyke¹⁴ design to prevent ground water contamination, ash disposal within identified areas, limiting the amount of fugitive dust and complete ash utilisation within four years. Old thermal power stations are required to achieve 100 *per cent* use of fly ash within five years

⁶ Ministry of Power.

⁷ Central Electricity Authority.

⁸ Units 5 and 6.

⁹ Units 4 and 5.

¹⁰ Units 1 and 2.

¹¹ Fugitive dust is small airborne particulate matter emitted from open air operations.

¹² Water carrying dissolved solids that percolates into sub-soil and ground water.

¹³ September 2002, July/ November 2006, May 2007 and November 2009.

¹⁴ Raising of ash dyke in line with guidelines where alternate layers of ash and earth are to be compacted.

from the date of issue of the regulation. Further, the Bureau of Indian Standards requires (February 2005) every organisation to define an appropriate environmental policy with respect to the nature, scale and environmental impacts of the organisation's activities, products and services.

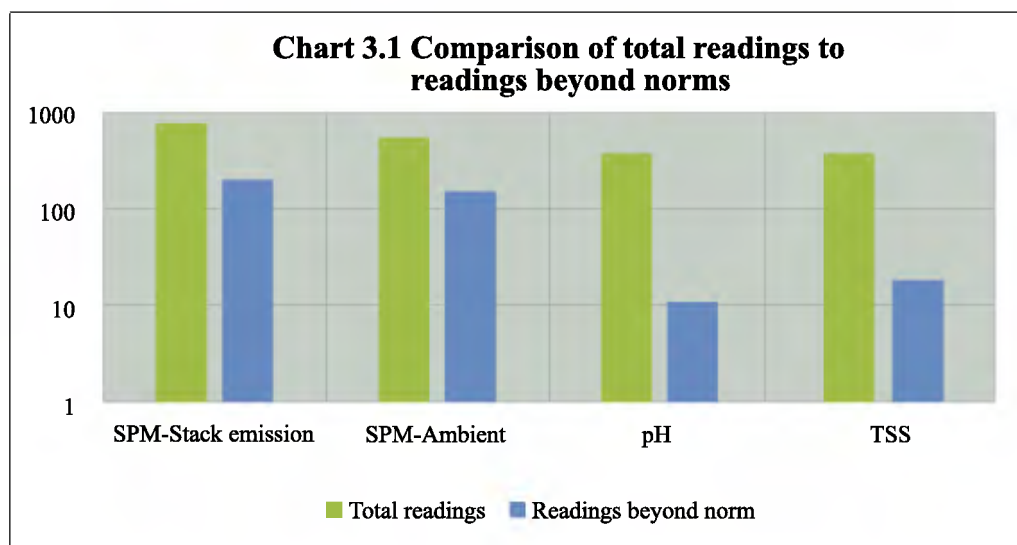
It was observed that WBPDCCL had not laid down an environmental policy so far (July 2015) during its 29 years of existence. It had, however, formulated an ash management policy only in May 2015. Further, it was observed that EMPs were not prepared for safe management of the effluents at any TPS, although prescribed in EIA reports for BkTPS (Unit Nos 4 and 5) and STPS (Unit No. 6). In the absence of EMPs, frequency and periodicity for testing of various environmental parameters had not been prescribed for any of the TPS.

Management in its reply stated that both WBPCB and WBPDCCL conducted tests by WBPCB-approved-laboratories as per scheduled frequency of sampling for monitoring of environmental parameters of stack, ambient air and liquid effluent of the thermal power plants on quarterly basis as well as water sampling on monthly basis.

Management's reply is not tenable as Audit has duly observed that the EMPs had not been prepared by WBPDCCL and included in the EIA reports. Further the frequency of testing of various environmental parameters was not specifically mentioned in the EIA reports, though management is conducting the test at regular, prescribed intervals.

3.1.6 Violation of Environmental parameters

WBPCB and empanelled agencies had taken readings of suspended particulate matter (SPM) emissions from stack, particulate matter (PM) for Ambient Air, Total Suspended Solids (TSS) and pH level of water discharged during the period 2010-15 at five power stations of WBPDCCL. **Chart 3.1** gives the total number of readings with regard to all five TPS *vis-à-vis* readings beyond norms of CPCB.



The Chart shows that in respect of SPM (Stack) and SPM (Ambient) 26.32 per cent and 27.19 per cent respectively of readings exceeded norms.

It was observed that due to failure to maintain SPM and PM emissions within permissible limits at KTPS, STPS and SgTPS, WBPCB recovered (May 2011 to July 2012) fines of ₹ 35 lakh from WBPDCCL. Further WBPDCCL paid (June 2010/ April 2011) an amount of ₹ 4.22 lakh as compensation to the farmers for damage of crops due to leakage in pipe line carrying the ash slurry and unplanned water discharged, apart from environment damage caused by violation of environment norms, the value of which cannot be quantified.

While accepting the audit observations the management stated (September 2015) that no fines were imposed in the last two years; further, KTPS and BTPS were old plants and electrostatic precipitators were not designed with stringent standards. Also, due to inferior quality of coal with higher percentage of ash content, it was difficult to maintain the environmental norms. They attributed the pollution level as negligible and impact on aquatic life was not so serious.

The fact remains that WBPDCCL did not take initiative to reduce emissions by adopting coal beneficiation technologies as discussed in the following paragraphs which would have reduced ash generation and consequent air pollution. Moreover, WBPCB had imposed penalty for violation of environmental parameters relating to air and water pollution, which showed that the violations were severe.

3.1.7 Minimisation of Generation of ash

Beneficiation of coal is processing of raw coal to improve quality by reducing extraneous matter from the mined coal or by reducing the associated ash or both. It includes sizing, handling and washing of the coal. MoEFCC had specified (November 1997) the use of beneficiated coal with ash content not exceeding 34 per cent with effect from June 2002 by any thermal plant located in an urban area. Among the **industry best practices**, Satpura Thermal Power Station of Madhya Pradesh State Electricity Board¹⁵ had used 100 per cent washed coal for a month. Among other benefits, this had led to reduction in emissions by 78.25 per cent.

To meet the MoEFCC norm and reduce incidence of ash, KTPS and BTPS (located in urban area) were required to use 38.09 mt¹⁶ washed coal. Instead, they used only 1.61 mt (5.22 per cent) and 0.25 mt (3.51 per cent) respectively of washed coal. Further, in November 2013, these two TPS, in violation of the requirement, had stopped using washed coal due to non-participation of the bidders in the tender process. No further efforts were made by WBPDCCL to purchase washed coal, despite being directed to do so by the Chairman and Managing Director. This resulted in generation of 39.93 per cent of ash during 2010-2015, which was higher than the norm set by MoEFCC.

¹⁵ Source : Highlights of Research COAL S&T PROGRAMME published by CMPDIL, Ranchi.

¹⁶ KTPS : 30.91 mt, BTPS : 7.18 mt.

Management in their reply stated that the washed coal which they had received from private washeries was not of proper quality. The moisture content was very high which caused operational problem and increased oil consumption. Accordingly, use of washed coal was stopped.

Management's reply is not tenable since use of washed coal was stopped due to non-participation of bidders in the tender process and now, Management is contemplating procuring washed coal from Mahanadi Coalfields Limited.

3.1.8 Evacuation and disposal of ash

Fly ash is transported by the flue gases¹⁷ and collected by electrostatic precipitators (ESP). It is transported to storage silos where it is kept dry, pending utilisation for further processing. A part of the ash (around 20 per cent) is collected as 'Bottom Ash' at the bottom of the furnace of the steam generator which is mixed with water and transported as slurry through pipe and disposed of in ash ponds or in specified dumping areas near the plants. Observations relating to evacuation and disposal of ash are discussed in the succeeding paragraphs.

(i) Failure to evacuate ash from ash pond led to pollution of Chandrabhaga river

At BkTPS there was only one ash pond with capacity to store 13.20 mt ash. Till March 2010, no ash had been evacuated from the ash pond and accumulation of ash reached 12.04 mt. During 2010-15, 10.69 mt of ash was generated, of which 4.39 mt was utilised. The rest 6.30 mt flowed into the ash pond from which only 4.45 mt were evacuated. Meanwhile, during 2013-14, the ash pond was filled to 95 per cent of capacity. Thereafter, WBPDCCL increased the height of ash pond dyke at an expenditure of ₹ 1.33 crore during May 2014 to July 2015. Audit observed that since BkTPS had not installed any clarriflocculator (discussed in the next paragraph) so far, water from the ash pond flowed into the river Chandrabhaga carrying the ash particles, thereby polluting the river. It was observed that National Green Tribunal (NGT) issued a show cause notice to WBPDCCL asking them reasons for polluting the river and why they should not be charged ₹ 5 crore. In response to the show cause notice, WBPDCCL incurred an expenditure of ₹ 4.64 crore to clean up the confluence of Chandrabhaga and Bakreswar rivers (11 km).

(ii) Non-installation of ash water treatment plant led to increase in ash pond water

Ash water treatment plants called clarriflocculator have to be installed to treat the waste water from ash slurry for removing particulate impurities. After treatment, the ash water recovered can be reused in the TPS. Till March 2015, WBPDCCL had not installed clarriflocculators for ash water recovery at 13¹⁸ out

¹⁷ Combustion exhaust gas from steam generator that is released into the atmosphere through stack.

¹⁸ KTPS (Units 1 to 3), BkTPS (Units 4 and 5), SgTPS (Units 1 and 2), STPS (Unit 6) and BTPS (Units 1 to 5).

of 20 generating plants of the five TPS. As a result, the ash slurry flowed into the ash pond, causing increase in the accumulation of ash in the ash pond. In addition, due to non-installation of clarriflocculators, during 2011-15, STPS had to procure extra 2.39 million kilolitres (kl) of water at a cost of ₹ 1.24 crore¹⁹ since ash pond water could not be reused. Similarly, during November 2012 to December 2014, BkTPS procured 5.94 million kl for which additional water cess at the rate of ₹ 0.10 per kl amounting to ₹ 5.94 lakh was paid, due to non-completion of the clarriflocculator.

Management in its reply (September 2015) accepted the audit observation.

(iii) Failure to complete decantation pond led to higher TSS levels of water discharged from ash pond

Total Suspended Solids (TSS) are present in water discharged from ash ponds. To reduce pollution of the river Hooghly from discharged water carrying ash from BTPS, WBPDCCL placed (December 2005) a work order on a contractor for construction of Effluent Treatment Plant (ETP) including a decantation pond²⁰. The work order provided that quality²¹ of the final treated water would contain TSS below 20 mg per litre (mgl). Audit observed that construction of decantation pond did not take place as envisaged by the management. As a result, the TSS levels could not be brought down and ranged from 140 mgl to 526 mgl during December 2010 to August 2014, against the norm of 20 mgl. Consequently, WBPCB penalised (May 2012) WBPDCCL ₹ five lakh, for exceeding norms of TSS levels.

Management in its reply (September 2015) accepted the audit observation.

(iv) Non-installation of device led to failure in evacuating fly ash

Fly ash can be sold directly after collection from the silos by use of fly ash evacuation equipment like telescopic nozzles *etc.*, which are to be installed by TPS on the silos. It was observed that BTPS placed (March 2010) order on an exporter for sale of at least 2.70 lakh tonnes of fly ash²² by March 2011. Audit observed that during the period of contract, the contractor failed to lift even a single tonne of fly ash from the silos due to the fact that the silos were not fitted with requisite equipment (telescopic nozzles) for loading ash onto the contractor's trucks.

Thus, due to failure to install the requisite equipment, during this period, BTPS had to transfer this ash into the ash pond. This resulted in failure to realise ₹ 2.97 crore from the contracted sale of the fly ash. Further, BTPS had to pay ₹ 18.90 lakh on ash evacuation from ash pond which could have been avoided if the sale of fly ash during this period, had taken place as contracted.

While accepting the audit observation, Management stated (September 2015) that there was no telescopic chute at the silos in the original design but provided

¹⁹ STPS : 7,96,800 kl *per annum* × three years × ₹ 5.20 per kl.

²⁰ A structure for settlement of solids suspended in waste water.

²¹ Rule 50 of the Michigan Water Quality Standards (Part 4 of Act 451).

²² Upto a maximum of 3.60 lakh tonnes.

with NUVA feeder for loading of fly ash into open trucks, causing severe air pollution in the surroundings.

However, the Management was silent on non lifting of dry fly ash after construction of telescopic chute from October 2011 to January 2012.

3.1.9 Utilisation of fly ash by WBPDCCL

In West Bengal, there are 15 TPS, with seven in the state-sector, four each in the central and private sectors as of March 2015. **Table 3.1** below compares the performance of TPS run by WBPDCCL with the all India averages as well as the averages for West Bengal in terms of the percentage of fly ash utilisation.

Table 3.1 : Percentage utilisation of fly ash (2010-15)

Year	2010-11	2011-12	2012-13	2013-14	2014-15
All India	55.79	58.48	61.37	57.63	55.69
West Bengal	77.23	88.58	92.63	70.15	77.52
WBPDCCL	64.36	66.94	68.74	56.84	50.13

The table indicates that the percentage ash utilisation by WBPDCCL has been below that of West Bengal. Moreover, while WBPDCCL had improved utilisation of ash from 64.36 to 68.74 *per cent* during 2010-13, it had come down during the subsequent years. Fly ash is used as an ingredient for building materials such as fly ash bricks, cement, precast solid and hollow core slabs, doors, window frames/ doors, distemper as well as in agriculture, mine fills, road construction *etc.* Audit observations relating to utilisation of fly ash generated by WBPDCCL are discussed below.

Shortfall in brick utilisation

(i) MoEFCC stipulated (December 2009) that all TPS must supply 20 *per cent* of dry fly ash free of charge to manufacturers of bricks or blocks or tiles using fly ash. As per GoWB direction (August 2008) all TPS in West Bengal had to establish fly ash brick manufacturing units to utilise 25 *per cent* of fly ash generated by December 2010. However, WBPDCCL had not established any fly ash brick manufacturing unit so far, but supplied fly ash to brick industries. Audit observed that from 2010-11 to 2014-15, WBPDCCL supplied 1.80 mt of dry fly ash for brick manufacturing against the requirement of 5.80 mt, calculated at the rate of 20 *per cent* (69 *per cent* shortfall). Test check revealed that 199 out of 211 brick manufacturers in eight²³ blocks did not use fly ash despite being within 100 km of TPS, showing significant scope for utilisation of ash in the manufacture of bricks. Among the **industry best practices**²⁴, NTPC has manufactured more than 54 crore ash bricks in its various thermal power stations and utilised them in its construction activities.

²³ Singur, Serampore, Chanditala - I and II, Jangipara, Chinsurah and Dhaniakhali in Hooghly district being within 100 km of KTPS and BTPS while Raniganj in Burdwan district is about 60 km from BkTPS.

²⁴ Source: NTPC Brochure: 'Fly Ash Bricks - A useful & Environment Friendly Building Product'.

MoEFCC notification of November 2009 also required development of infrastructure or facilities, promotion and facilitation for use of fly ash. In December 2014, WBPDCCL accepted need to promote use of fly ash bricks in construction and other public works. Audit observed that WBPDCCL did not undertake the required activities among brick manufacturers or prepare budget for such activities, although there was scope to increase ash utilisation.

Management in their reply (September 2015) stated that an initiative had been taken for establishing a model brick manufacturing unit at all its plants; however no timelines had been specified.

Lack of promotional activities for utilisation of fly ash

(ii) MoEFCC notified (November 2009) that the amount collected from sale of fly ash by TPS should be kept in a separate account head to be used only for development of infrastructure/ facilities, promotion and facilitation activities for fly ash, until 100 per cent fly ash utilisation is achieved. During 2011-12 to 2014-15, WBPDCCL realised ₹ 41.80 crore on sale of fly ash. Instead of putting the amount in a separate account, WBPDCCL had treated it as income under 'Other Operating Revenue'. Since WBPDCCL had not achieved 100 per cent fly ash utilisation, it cannot treat this amount as income.

Management had replied that they had spent ₹ nine crore on silos at SgTPS, ₹ 3.03 crore on restoration of ESP at Unit 5 of STPS (2010-11), manpower costs and maintenance of road to facilitate removal etc.

However, due to non maintenance of a separate account, as stipulated, the promotional activities for utilisation of fly ash viz. awareness programme/ campaign, advertisement etc. which were required to be undertaken as per rules, were not initiated.

3.1.10 Conclusions

WBPDCCL had -

- **Not framed an environment policy or prepared environment management plans. Ash utilisation policy was approved only in May 2015.**
- **Not used washed coal in adequate quantity.**
- **Not installed clarriflocculators and not constructed ash decantation pond which led to discharge of ash into adjacent rivers as well as high TSS levels of ash pond water.**
- **Not made adequate efforts to utilise fly ash generated.**
- **Not promoted use of ash and ash based products.**

WEST BENGAL STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED

3.2 Loss due to defective agreement with a private distribution company

West Bengal State Electricity Distribution Company Limited had entered into an agreement to supply power to a private distribution company without including availability based tariff clauses, in deviation of policies and regulations, leading to loss of ₹ 15.80 crore.

The National Electricity²⁵ and Tariff²⁶ policies notified (February 2005/ January 2006) by the Ministry of Power, Government of India (MoP) under section 3 of the Electricity Act 2003 provide that States would implement, by April 2006, Availability Based Tariff (ABT) in long term power purchase agreements (PPAs). ABT includes a two-part tariff structure for supply of power, comprising of fixed charges²⁷ and variable charges²⁸. ABT also involves clauses of penalty for short drawal/ non drawal and rebate for excess drawal from schedule for drawing of power. Accordingly, Regulations²⁹ of West Bengal Electricity Regulatory Commission (WBERC) issued instruction in February 2007 and April 2011 that every entity purchasing power from any other entity within the jurisdiction of WBERC should have PPAs.

CESC Limited, a private-sector distribution company in Kolkata entered (December 2010/ September 2011) into a long-term PPA with West Bengal State Electricity Distribution Company Limited (WBSEDCL) for purchase of 599.25 MW of power. With a view to plan WBSEDCL's scheduled supply to CESC Limited, the PPA stipulated that WBSEDCL was to receive from it, one year in advance, its daily requirement of power on each day for the next financial year. Further, the daily requirement of power for each day must again be communicated one day in advance. Accordingly, WBSEDCL determines its annual requirement of power after considering the CESC Limited's requirement. In the event of shortfall, WBSEDCL would meet the requirement through short term power purchases from other sources. However, while finalising PPAs in December 2010/ September 2011, the ABT concept was not considered by WBSEDCL and it did not include clauses of penalty for short drawal/ non-drawal of power.

It was noticed in audit that during the three years from April 2011 to March 2014, CESC Limited had drawn less power from WBSEDCL than the contracted quantity of power in all 36 months. It was also noticed in audit that in five³⁰ months, WBSEDCL had purchased³¹ power through short term agreements with

²⁵ Clause 5.7.1.

²⁶ Clauses 6.2 and 8.4.

²⁷ Interest on loan, return on equity, depreciation, O&M expenses, insurance, taxes, interest on working capital etc. which are generally fixed in nature.

²⁸ Fuel cost *i.e.* coal and oil in case of thermal plants which are always flexible/ variable.

²⁹ Clause 5.3.1 of West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2007 (No. 31/ WBERC dated 9 February 2007) and Clause 7.3.1 of West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2011 (No. 48/ WBERC dated 25 April 2011).

³⁰ March 2012, April 2012, March 2013, April 2013 and March 2014.

³¹ Agreements entered in November, December 2011, January, December 2012 and February 2014.

other³² power supply companies to supply the quantity of power required by CESC Limited. The rates at which WBSEDCL purchased short-term power ranged from ₹ 25.50 lakh to ₹ 56 lakh per million units (MU). As CESC Limited had drawn less power, WBSEDCL had to sell 232.579 MU of surplus power through Indian Electricity Exchange at average prevailing market rates that were less than purchase prices contracted one month to four months earlier. This led to loss of ₹ 15.80 crore in these five months.

Government replied (November 2015) that it was unable to revise its PPA with CESC Limited within the stipulated time as the latter had not agreed on the same.

The reply was not acceptable due to the fact that WBSEDCL had failed to revise the agreement within the time stipulated by WBERC. Moreover, CESC Limited had also expressed its willingness in February 2014 and May 2015 to revise the agreement.

Thus, WBSEDCL's failure to incorporate ABT clauses of penalty for short drawal/ non drawal in the PPA for supply of power to CESC Limited led to loss of ₹ 15.80 crore. This has resulted in undue benefit to CESC Limited.

3.3 Non-realisation of outstanding dues

West Bengal State Electricity Distribution Company Limited sustained loss of ₹ 11.54 crore by supplying power even after termination of letters of credit in violation of statutory and regulatory provisions.

Under³³ the Electricity Act 2003 and regulations³⁴ made thereunder, conditions for supply of power by a power distribution company (Discom) to a consumer are, *inter alia*, as follows :

- Discom may require reasonable security from the consumer towards supply of power.
- If the security given by the consumer becomes invalid or insufficient, the Discom may serve a thirty days' notice, requiring the consumer to give reasonable security for payment of all dues towards power supplied. If the consumer fails to provide the requisite security, the Discom can discontinue power supply.
- If power is supplied to a High Voltage/ Extra High Voltage³⁵ (HV/ EHV) consumer, against a Letter of Credit (LC), no security deposit is required.

³² PTC India Ltd., NTPC Vidyut Vyapar Nigam Ltd., Tata Power Trading Co. Ltd. and National Energy Trading & Services Ltd.

³³ Sections 47 and 56 (1).

³⁴ West Bengal Electricity Regulatory Commission (WBERC) (Miscellaneous Provisions) Regulations 2005 and 2013 effective from 19 October 2005 and 2 April 2013 respectively.

³⁵ Supply of power directly to the consumer at 33 kilovolt/ 132 kilovolt.

The LC should be valid for at least 12 months and equivalent in value to one month's estimated bill. If the consumer does not extend validity of the LC three months prior to expiry, the Discom may refuse to supply power.

- The Discom can, after giving not less than fifteen clear days' notice in writing to the consumer, cut off power supply for non-payment of dues.

Therefore, the Discom should monitor both timely collection of dues from consumers as well as the validity and sufficiency of their security towards payment of power bills to avoid non-realisation of dues.

West Bengal State Electricity Distribution Company Limited (WBSEDCL), a Discom, renewed (May 2009/ July 2010) agreements for supply of power to two HV/ EHV private consumers viz. Devi Ispat Limited and Viswarupa Steel Limited. Both the consumers paid their power bills through LCs issued by State Bank of India³⁶ (SBI). WBSEDCL raised monthly bills on both consumers for power consumption and sent the bills to its banker, Punjab National Bank (PNB) for their collection from SBI against the LCs. It was observed in audit that -

(A) Till May 2013, one consumer had not paid WBSEDCL ₹ 3.35 crore towards power consumed from January to March 2013. But WBSEDCL had not ascertained from the Bank (*i.e.* PNB) the reasons for non-receipt of payments against LC. It was seen from the records that SBI³⁷ had advised (March/ May 2013) WBSEDCL to disconnect power supply to the consumer as the credit facilities to this consumer had turned into non-performing asset (NPA)³⁸ and SBI would not pay energy bills raised under the LC. WBSEDCL had continued supplying of power to the consumer without any security. It finally disconnected power supply in December 2013 and terminated the agreement in March 2014, but by that time, ₹ 9.53 crore had become outstanding from the consumer. It remained unrecovered (March 2015).

(B) Similarly, in respect of another consumer, SBI had intimated (October 2012) to WBSEDCL that it was withdrawing the LC facility. WBSEDCL did not communicate the outstanding dues as requested by SBI. Instead, it continued to supply power to this consumer in November and December 2012 without security and instructed (November 2012 to January 2013) PNB to recover the dues against the cancelled LC. Consequently, the power bills of this consumer from October 2012 to December 2012 aggregating to ₹ 2.01 crore also remained unrealised. Ultimately, WBSEDCL disconnected power supply in December 2012 and terminated the agreement in June 2013. The amount of ₹ 2.01 crore remained outstanding with no possibility of realisation (March 2015). Thus, failure to exercise proper monitoring over the security led to loss of ₹ 11.54 crore to WBSEDCL.

³⁶ Trade Finance CPC branch, Kolkata.

³⁷ Specialised Chowringhee SME branch, Kolkata.

³⁸ A credit facility that in respect of which the interest and/ or instalment of principal had remained unpaid for a specified period of time beyond due dates and ceased to generate income for the bank.

The matter was brought to the notice of Government/ WBSEDCL in June 2015, their replies are awaited (December 2015).

3.4 Undue delay in raising energy bills

Delay in raising monthly energy bills on centralised bulk consumers due to belated transmission of meter readings and other avoidable delays resulted in payment of avoidable interest amounting to ₹ 7.90 crore on cash credit.

The WBERC (West Bengal Electricity Regulatory Commission) Regulations³⁹ provide that West Bengal State Electricity Distribution Company Limited (WBSEDCL) should raise energy bills on centralised bulk consumers⁴⁰ every month. It allows staggering of the due dates for payment of bills, but these due dates have to be within 30 days of the close of the respective billing month. The bills have to reach the consumers at least seven days before due date of payment. All Regional Offices of WBSEDCL were instructed (July 2012) to take meter readings of the centralised bulk consumers in their area on the first day of each month and send them to the Chief Engineer (Commercial) on the following day, so as to raise bills as early as possible.

During April 2012 to March 2015, WBSEDCL raised 28,186 bills aggregating ₹ 14,455.04 crore on centralised bulk consumers. Out of these bills, 8,628 bills (31 *per cent*) aggregating ₹ 3,571.52 crore, were raised after delays of one day to 88 days (after allowing 30 days from the close of the billing month). The aggregate avoidable delay was 59,759 days.

To analyse the reasons for delay, audit reviewed 837 bills aggregating ₹ 433.14 crore for the period December 2013 to February 2015. There was a total delay of 4,954 days in raising these 837 bills, which was avoidable. The reasons for these avoidable delays were as follows :

- Belated transmission of meter reading data by eight⁴¹ Regional Offices – 3,115 days;
- Time lag in raising of bills after receipt of meter reading data – 1,655 days; and
- Extension of due dates (in violation of regulations) for payment of bills at the request of centralised bulk consumers – 184 days.

During the period 2012-13 to 2014-15, WBSEDCL had availed cash credit facilities bearing interest rate of 11 to 12.25 *per cent per annum* from 12 banks to meet its working capital requirements. Due to delays in raising the bills, the due dates for receipt of payments were also extended which delayed the realisation of income. This delayed realisation meant that WBSEDCL had to pay avoidable interest⁴² of ₹ 7.90 crore on cash credit availed from the banks. The payment

³⁹ WBERC (Electricity Supply Code) Regulation no. 36 of 2007 and 55 of 2013.

⁴⁰ High voltage (HV) and extra high voltage (EHV) consumers.

⁴¹ Howrah, Midnapore, Hooghly, Burdwan, 24-Parganas (N), Bidhannagar, Bankura and Jalpaiguri.

⁴² Interest at the rate of 11 *per cent per annum*.

of interest could have been avoided if bills were raised on time and also staggered as stipulated in the Regulations. Further, interest on working capital claimed by WBSEDCL was disallowed by WBERC in its tariff orders⁴³ for the years 2006-07 to 2012-13⁴⁴. Thus, WBSEDCL could not realise this expenditure in its tariff. It should have been more proactive in raising and collecting dues from centralised bulk consumers to maximise its revenue so as to avoid undue payment of interest on cash credit.

While accepting the audit observation, Government stated (September 2015) that the bills were delayed as a result of communication problem leading to belated receipt of meter readings. WBSEDCL had assured that it would take suitable corrective action. However, the loss incurred in past years cannot be recovered.

Thus, WBSEDCL's failure to raise bills in time as per the Regulations led to payment of avoidable interest of ₹ 7.90 crore on cash credit during 2012-15.

3.5 Additional Expenditure on purchase of power

West Bengal State Electricity Distribution Company Limited had not included any clause in the long term power purchase agreement with Power Trading Corporation Limited to prevent short/ non-supply of power in violation of the Government of India guidelines, resulting in avoidable expenditure of ₹ 7.55 crore on purchase from other sources at higher rates.

The Ministry of Power, Government of India (MoP) revised⁴⁵ (July 2010) the standard power purchase agreement for procurement of power by distribution companies (Discoms). Accordingly, any standard agreement between Discom and seller has to include clauses providing that -

- Discom shall have the exclusive right to purchase the entire contracted quantity of power from the seller. The seller shall not sell the contracted quantity of power to any third party, unless the Discom foregoes the contracted quantity of power.
- If the seller is unable to provide power to the Discom up to the contracted quantity, the seller is free to supply power up to the contracted quantity from an alternative generation source. Such power shall be supplied to the Discom at the same rate specified in the agreement. In case the transmission and other incidental charges are higher than the contractually applicable charges, the seller would be liable to bear such additional charges.

West Bengal State Electricity Distribution Company Limited (WBSEDCL) entered (January 2011) into a 25 year agreement to purchase 100 MW power

⁴³ WBERC had issued Tariff orders (Annual Performance Review) till 2012-13.

⁴⁴ Except for the year 2010-11.

⁴⁵ Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees along with Standard Bidding Documents of January 2005 and March 2009 respectively, modified in July 2010, issued under the provisions of Section 63 of the Electricity Act 2003.

each hour through Power Trading Corporation Limited⁴⁶ (PTC). According to the agreement, PTC would procure power from Adhunik Power and Natural Resources Limited, a private power generating company, for supply to WBSEDCL starting from April 2013. The agreement provided that if WBSEDCL did not avail the contracted quantity, it is liable to pay capacity charges⁴⁷ to PTC. But the agreement did not stipulate that in case PTC was unable to provide power to WBSEDCL up to the contracted quantity, it would have to supply power from alternate sources and bear any additional charges incurred, as was stipulated in the revised standard power purchase agreement issued by MoP in 2010.

It was observed that PTC commenced supply of power from July 2013. During 2013-14 and 2014-15 (upto November 2014), it supplied power at rates ranging from ₹ 3.125 per unit to ₹ 3.154 per unit. Thereafter, till April 2015, one of the two units of the private power generating company was under shut down.

It was noticed that from April to November 2014, PTC had failed to supply the agreed quantity of power to WBSEDCL. The shortfall ranged between eight and 75 per cent as given in *Annexure 3*. To meet this shortfall, WBSEDCL had to purchase 70.57 MU⁴⁸ of short-term power from Indian Energy Exchange at higher rates and it incurred additional expenditure of ₹ 7.55 crore on these purchases.

The Government accepted (August 2015) the observation and stated that the private generating company had agreed to schedule additional power to WBSEDCL to make up for short supply up to 30 MU from March 2015.

The reply of the Government needs to be seen in the light of the fact that between March and July 2015, no additional power was supplied by the private power generating company through PTC which led to non recovery of losses already incurred. Also the reply did not explain the reasons for non inclusion in the power purchase agreement of standard clauses prescribed by MoP.

Thus, due to non-inclusion of a clause for reimbursement by PTC of additional expenditure incurred in the event of short/ non-supply of power, WBSEDCL had to incur additional expenditure of ₹ 7.55 crore on power purchases.

⁴⁶ A Central PSU.

⁴⁷ Capacity charge is towards recovery of fixed costs.

⁴⁸ Million units or million kilowatt hours.

MACKINTOSH BURN LIMITED**3.6 Additional outgo towards income tax**

Mackintosh Burn Limited paid additional income tax of ₹ 1.25 crore by not claiming admissible expenditure of ₹ 3.85 crore towards interest on advance.

Mackintosh Burn Limited (MBL) entered (November 2008) into two agreements with Damodar Valley Corporation⁴⁹ (DVC) for supply and construction of plant water system for Raghunathpur Thermal Power Project at total contract price of ₹ 196 crore. Under these agreements, MBL received (February 2009) mobilisation and material advances of ₹ 18.92 crore⁵⁰, carrying interest at 12 per cent per annum from DVC. DVC was to proportionately recover these advances from the progressive payments payable to MBL. As per agreements, DVC would also recover interest on advances from these payments, to be calculated from the date of release of advance payments upto either the actual date of release of payments or expiry of the contractual time frame for release of the payments, whichever was earlier. Between November 2009 and December 2014, DVC had recovered ₹ 7.85 crore towards interest on advances from MBL.

Notification⁵¹ of the Government of India under the Income Tax Act 1961 (Act) clearly stipulated (October 1970) that no tax should be deducted on interest paid to any corporation established by a Central, State or Provincial Act. Hence, no deduction of tax at source was required on interest recovered by DVC, since it was a corporation established under a Central Act.

It was noticed in audit (December 2012) that MBL filed (September 2012) return under self-assessment⁵² for the financial year 2011-12 (assessment year 2012-13), in which it had not claimed deduction of ₹ 3.85 crore towards interest on advance from DVC on the ground that no tax had been deducted at source. As a result, MBL paid additional income tax of ₹ 1.25 crore⁵³ on the interest amount.

The Act also stipulates⁵⁴ that a revised return may be filed within one year from the end of assessment year or the completion date of initial assessment for the said assessment year, whichever was earlier. In this case, since MBL did not file a revised return within the time limit specified in the Act, *i.e.* 31 March 2014, for claiming refund of ₹ 1.25 crore, it had to pay additional income tax of ₹ 1.25 crore.

⁴⁹ A corporation established under a Central Act, *viz.* Damodar Valley Corporation Act, 1948.

⁵⁰ ₹ 10.17 crore for supply and ₹ 8.75 crore for construction.

⁵¹ Notification No. 3489 dated 22 October 1970 under Section 194A (3)(iii)(f) of the Act.

⁵² Section 139.

⁵³ At 32.445 per cent on ₹ 3.85 crore.

⁵⁴ Sections 139(5) and 143(1).

MBL stated (November 2015) that deduction of tax at source on interest paid to DVC is not exempt under the provisions of Income Tax Act 1961 since DVC was not established under any State/ Provincial Act, but by a Specific Act. The reply does not address the fact that DVC being a Corporation established under a Central Act is also exempt from TDS on interest payable to it.

Thus, by not claiming admissible expenditure of ₹ 3.85 crore towards interest on advances, MBL had paid additional income tax of ₹ 1.25 crore which was a loss to the Company.

SARASWATY PRESS LIMITED AND WEST BENGAL MINERAL DEVELOPMENT AND TRADING CORPORATION LIMITED

3.7 Payment to Chief Minister's Relief Fund in violation of statutory provisions

Two public sector undertakings had contributed ₹ 1.25 crore to the Chief Minister's Relief Fund without obtaining prior approvals of the shareholders in General Meetings in violation of the provisions of the Companies Act 1956 and Companies Act 2013.

According⁵⁵ to the Companies Act 2013, the Board of Directors (BoDs) of all classes of companies may contribute, in any financial year, to *bona fide* charitable and other funds an aggregate amount not exceeding the prescribed statutory limit. The prescribed limit is five *per cent* of the company's average profit during the three financial years immediately preceding. If the aggregate amount exceeds the prescribed limit, prior permission of the shareholders in a General Meeting is required.

Audit noticed that during the financial year 2013-14, Saraswaty Press Limited (SPL), a public sector undertaking (PSU) had contributed ₹ 75 lakh to Chief Minister's Relief Fund (CMRF), a fund established for charitable purposes. SPL's contribution was in excess of the prescribed statutory limit of ₹ 40.19 lakh. The BoD of SPL had decided⁵⁶ to contribute to CMRF, but did not obtain⁵⁷ prior permission of the shareholders for donation of the amount.

Government in its reply stated (June 2015) that SPL donated the amount as part of Corporate Social Responsibility⁵⁸ (CSR). It also stated that the General Meeting was not called as ownership of SPL was vested fully in the Government of West Bengal and the BoD comprised Government representatives only. Further, the donation would be taken up in the next General Meeting for *post-facto* approval of shareholders.

⁵⁵ Section 181 applicable from 12 September 2013.

⁵⁶ SPL – November 2011, March 2013 and September 2013.

⁵⁷ Annual General Meetings - 25 AGM (24 December 2012) and 26 AGM (20 January 2014).

⁵⁸ Activities undertaken in pursuance of normal course of business of a company are excluded.

The reply of the Government is not acceptable since SPL's BoD had not constituted requisite Corporate Social Responsibility Committee or formulated CSR policy. Moreover, prior approval of the shareholders was required for donation exceeding ₹ 40.19 lakh with no provision of *post facto* ratification.

Similarly, another PSU, West Bengal Mineral Development and Trading Corporation Limited (WBMDTCL) had contributed ₹ 50 lakh to CMRF. Since, WBMDTCL incurred losses in the two preceding years, the prescribed limit was nil. Yet the BoD of WBMDTCL had decided⁵⁹ to contribute to CMRF, but had not obtained⁶⁰ prior permission of the shareholders for donation of the amount.

WBMDTCL in its reply stated (August 2015) that it was constituted as private limited company and there was no necessity to obtain shareholders' approval. The reply, however, did not address the observation that WBMDTCL having incurred losses in two of the three preceding years, was not eligible to donate. Moreover the reply is not acceptable, since it is mandatory for all classes of companies including private limited companies to obtain shareholders' approval.

Thus, the decision of the BoDs of these two PSUs to contribute ₹ 1.25 crore to CMRF without obtaining prior approval of shareholders in General Meetings was in contravention of the provisions of the Companies Act 2013. In respect of WBMDTCL, the matter was reported to Government (June 2015); their reply is still awaited (December 2015).

WEST BENGAL MINERAL DEVELOPMENT AND TRADING CORPORATION LIMITED

3.8 *Payment of avoidable interest*

West Bengal Mineral Development and Trading Corporation Limited paid avoidable interest of ₹ 75.24 lakh on short/ non-deposit of advance tax and self assessment tax due to lack of mechanism for quarterly computation of taxable income.

According to provisions of Sections 208 and 211 of Income Tax Act, 1961 (Act), every company is required to pay for each financial year, quarterly instalments of advance tax within their due dates at rates⁶¹ prescribed in the Act, if the amount of income tax payable during the financial year is ₹ 10,000 or more. If instalments of advance tax deposited are less than the prescribed percentages, the assessee company is liable to pay interest under provisions of section 234B⁶² and 234C⁶³

⁵⁹ WBMDTCL – February 2014.

⁶⁰ Annual General Meeting - 40 AGM (27 September 2013).

⁶¹ 15 per cent, 45 per cent, 75 per cent and 100 per cent of assessed tax by 15 June, 15 September, 15 December and 15 March respectively.

⁶² If advance tax paid was less than 90 per cent of the assessed tax, interest was payable at the rate of one per cent per month or part thereof on the amount by which the advance tax paid falls short of assessed tax.

⁶³ Interest at the rate of one per cent per month or part thereof on the amount short deposited against cumulative instalments of advance tax for the period of three months.

of the Act. This interest is to be calculated and deposited with the balance tax determined on self-assessment. Therefore, to avoid payment of interest, an assessee company is required to prepare quarterly accounts to compute advance tax payable in each quarter.

It was, however, noticed in audit that West Bengal Mineral Development and Trading Corporation Limited (WBMDTCL) paid aggregate avoidable interest⁶⁴ of ₹ 75.24 lakh on total income tax⁶⁵ of ₹ 14.50 crore (net of tax deducted at source) for the Assessment years 2013-14 and 2014-15, due to its failure to institute an effective mechanism for preparing quarterly accounts to compute taxable income. Consequently, it could neither assess nor deposit any advance/self-assessment tax instalments in the six quarters from June 2012 to September 2013. For the quarters ending December 2013 and March 2014, it deposited only 37 and 75 per cent of tax payable⁶⁶ against the requirement of 75 and 100 per cent respectively under the Act.

WBMDTCL in its reply has accepted (August 2015) the audit observation.

Thus, absence of a mechanism for quarterly estimation of taxable income resulted in short/ non-deposit of advance tax in eight quarters during 2012-13 and 2013-14, which led to payment of avoidable interest aggregating to ₹ 75.24 lakh by WBMDTCL.

This matter was brought to notice of Government in June 2015, their reply is awaited (December 2015).

SUNDARBAN INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED

3.9 Excess expenditure of ₹1.05 crore due to incorrect adoption of rates

Sundarban Infrastructure Development Corporation Limited incurred excess expenditure of ₹ 1.05 crore for construction of five Industrial Training Institutes due to incorrect adoption of rates.

Guidelines for public works⁶⁷ require that estimates be prepared on the basis of Schedule of Rates (SOR) maintained by public works organisations.

Audit observed that Sundarban Infrastructure Development Corporation Limited (SIDCL) had prepared (September 2008 to April 2010) estimates for construction of five Industrial Training Institutes (ITIs) buildings in four districts outside Kolkata, based on the SOR for Kolkata (Presidency) circle which did not apply to those districts. This resulted in excess rates for 18 items of work in all the five ITIs and payment according to those rates, leading to excess expenditure of ₹ 1.05 crore as follows:

⁶⁴A.Y. 2013-14 : ₹ 12.84 lakh, A.Y. 2014-15 : ₹ 62.40 lakh.

⁶⁵A.Y. 2013-14 : ₹ 1.16 crore, A.Y. 2014-15 : ₹ 13.34 crore.

⁶⁶Calculated on actual advance tax deposited divided by tax payable(net of tax deducted at source).

⁶⁷ Issued in August 2006 by the Ministry of Finance, Government of India.

Table 3.2 : Details of excess expenditure on ITIs

Sl No.	I.T.I.	CIRCLE	NIT Date	Net Excess Payment (₹ in lakh)
1	Rampurhat	Western - I	19.04.10	0.68
2	Malda	Central	15.09.08	20.42
3	Egra	South Western	01.01.09	25.52
4	Birsingha	South Western	19.05.09	26.04
5	Bankura	South Western	16.02.09	31.96
	Total			104.62

SIDCL accepted the audit observation in its reply (October 2015). The reply from the Government was awaited (December 2015).

WEST BENGAL INFRASTRUCTURE DEVELOPMENT FINANCE CORPORATION LIMITED

3.10 Loss of interest

West Bengal Infrastructure Development Finance Corporation Limited had delayed in communicating instructions to banks for credit of maturity value of deposits to overdraft accounts, leading to payment of avoidable interest of ₹ 77.05 lakh.

West Bengal Infrastructure Development Finance Corporation Limited (WBIDFCL) had raised their funds through bonds floated from time to time, besides securing overdraft (OD) facilities. It obtained OD facilities from five banks⁶⁸ which carried interest of 10 to 10.25 *per cent* on their outstanding balances. To repay the maturity value of the bonds, it opened term deposits (TDs) and recurring deposits (RDs) with banks. On maturity of the deposits, WBIDFCL credited their net proceeds⁶⁹ to the OD accounts.

During 2013-14, WBIDFCL had credited net maturity proceeds of 15 TDs/RDs for total amount of ₹ 1,104.96 crore⁷⁰ to OD accounts. It was observed that there were avoidable delays for periods ranging from one to 23 days in crediting the maturity proceeds for eight of these deposits. This led to avoidable payment of interest of ₹ 77.05 lakh.

WBIDFCL replied (July 2015) that these delays in credit of maturity proceeds of TDs/ RDs occurred due to procedures to be followed for creation of fresh deposits on maturity of existing deposits.

The reply is not acceptable since maturity and renewal of deposits are normal business activities of WBIDFCL and it should have taken steps to avoid delays in the credit of maturity proceeds.

⁶⁸Bank of Baroda, Union Bank of India, Bank of India, Indian Bank and Punjab National Bank.

⁶⁹Principal and interest *less* of tax deducted at source.

⁷⁰Ten TDs (₹ 730.09 crore) and five RDs (₹ 374.87 crore).

Thus, lack of monitoring over timely credit of maturity proceeds led to payment of avoidable interest of ₹ 77.05 lakh.

This matter was brought to notice of Government in June 2015, their reply is awaited (December 2015).



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KOLKATA

The 25 February 2016

Countersigned



(SHASHI KANT SHARMA)

Comptroller and Auditor General of India

NEW DELHI

The 29 February 2016