

# Chapter-III

## CHAPTER - III

### 3. Transaction Audit Observations

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

#### Jharkhand Hill Area Lift Irrigation Corporation Limited

##### 3.1 Loss due to non-claiming refund of tax deducted at source

**Non-claiming of refund of tax deducted at source due to late filing of income tax returns by the Company resulted in loss of ₹ 44.82 lakh.**

As per section 194A of the Income Tax Act, 1961 (Act), interest earned on fixed deposits is subject to deduction of Income tax at source (TDS) by the payee bank. The TDS is deposited by the bank with Income Tax Department and a certificate in this regard is furnished to the assessee organization under Section 203 of the Act. The assessee company should claim refund of TDS by filing income tax return by due date if its taxable income is nil or there is no/lesser tax liability. Further, Section 239 provides that no refund claim shall be allowed, unless it is made within the period of one year from the last day of assessment year.

Jharkhand Hill Area Lift Irrigation Corporation Limited (Company) had kept its funds in fixed deposits/flexi-fixed deposits with four scheduled banks. On the interest earned by the Company, the banks were deducting TDS for which TDS certificates were issued to the Company. During the financial years 2008-09 to 2013-14 the Company received TDS certificates for ₹ 44.82 lakh from the banks towards the amounts deducted as TDS. However, the Company did not claim the refund for the TDS by filing Income tax returns to which it was entitled since Company was incurring losses since 2003-04.

The Company finalised its annual accounts for 2008-09 and 2009-10 in June 2010 and August 2012 respectively and incurred losses in the both the years. The Company should have filed the Income tax return for the year 2008-09 by March 2011 i.e. prescribed time limit to claim refund of TDS, which was not done. This indicates negligence of the Company resulting in further loss. The annual accounts for the years 2010-11 to 2013-14 are yet to be finalised.

Thus, the Company did not file the Income tax returns for the financial years 2008-09 to 2013-14 and failed to claim the refunds of ₹ 44.82 lakh. The refund of ₹ 33.35 lakh has become time barred under Section 239 of the Income Tax Act, 1961 due to non-filing of the Income-tax returns within the prescribed time limit.

Despite having a Chief Finance Officer, Managing Director and Board of Directors in place the financial interests of the Company were neglected. The above loss clearly indicated absence of adequate internal control measures in the Company to ensure timely finalisation of annual accounts and filing of Income tax returns.

Thus, owing to failure in finalisation of its accounts and submission of the Income tax returns in time, the Company failed in claiming refund of TDS amount; consequently a loss of ₹ 33.35 lakh was suffered and it may suffer a further loss ₹ 11.47 lakh if the TDS refund for the year 2013-14 is not claimed by March 2016 as per provisions of IT Act.

The Company stated (September 2015) that it has engaged Chartered Accountants firm to prepare accounts so that the Income tax returns for the years 2008-09 to 2010-11 could be filed and TDS refunds are claimed. Further, the loss can be determined only when the Company's claim of refund is set aside by the Income Tax Department.

The reply is not acceptable as Section 239 of Income Tax Act, 1961 debars the assessee from claiming refunds beyond the stipulated period of one year from assessment.

The Company should therefore strengthen its internal controls to ensure timely finalisation of accounts and submission of income tax returns to avoid such losses in future.

The matter was referred to the Government (May 2015); their reply is awaited (November 2015) despite reminder dated 29 July 2015.

## **Jharkhand Urja Utpadan Nigam Limited and Tenughat Vidyut Nigam Limited.**

### **3.2 Irregular expenditure**

**Irregular expenditure of ₹ 21.70 crore was incurred in executing the drilling and exploration work by two agencies found unqualified in the tender.**

Ministry of Coal (MoC), Government of India (GoI) allocated (August 2006) Banhardi coal block to erstwhile Jharkhand State Electricity Board (JSEB) now Jharkhand Urja Utpadan Nigam Limited (JUUNL) and Rajbar coal block to Tenughat Vidyut Nigam Limited (TVNL), both para-statals of Government of Jharkhand (GoJ). In view of tardy progress in mining, the Department of Mines and Geology (Department), GoJ decided (November 2010) to outsource the drilling works on behalf of JSEB and TVNL through a tender.

In response to tender, four bids were received, of which two bids qualified after technical and commercial evaluation and their financial bids were opened, while two bids were declared unqualified due to non-compliance of some conditions<sup>1</sup> of the tender. The rates quoted by one firm (M/s Naresh Kumar & Co.) *i.e.* ₹ 2800 per meter for core drilling (NQ size) and ₹ 3500 per meter for core drilling (HQ size) including all taxes was the lowest. However, the Department empanelled (November 2010) all the four bidders for execution of drilling and exploration works at the L-1 rate including two

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<sup>1</sup> Non-deposit of cost of tender in full and submission of bank guarantee for earnest money from private bank in place of a nationalised bank as per the NIT condition.

unqualified bidders viz. South West Pinnacle Exploration Pvt. Ltd (SWPE) and Indu Projects Ltd (IPL) stating that they fulfilled the technical parameters. The empanelment of these two bidders was irregular being against the tender provisions.

The Department awarded (January 2011) the work for core drilling, geophysical logging and geophysical survey of 10 Sq. KM of Rajbar coal block jointly to the unqualified bidders at the approved rate. TVNL paid ₹8.67 crore to these agencies after certification of the bills by the Department.

For drilling and exploration of Banhardi coal block, the department proposed (January 2011) to engage SWPE but the MoC cancelled (June 2011) the allocation of the coal block due to delay in operationalisation only to subsequently reallocate it to JSEB in February 2013. JSEB approached (March 2013) the Department for carrying out drilling work through SWPE, which declined to execute the work at the approved rates and demanded additional payment for the amount of service tax (12.36 per cent). However, we observed that the approved rate was inclusive of service tax and was valid upto November 2013.

JSEB accepted the enhanced rate demanded and accordingly, the Department awarded (03 May 2013) the work to SWPE at the approved rate plus service tax. JSEB paid ₹13.03 crore to the agency which included an additional amount of ₹1.43 crore on account of service tax. The payment to SWPE was against the provisions of tender and thus irregular.

The Government stated (August 2015) that selection of outsourcing agencies and payment of service tax was done with approval of the competent authority but no justification or details were furnished. The JUUNL stated (September 2015) that they were not in a position to comment or rectify the procedure adopted before placing the work order by the Department. However, in regard to irregular payment of service tax it was stated that amount may be recovered.

The reply of Government is not acceptable as disqualified bidders in techno commercial bid were empanelled. Further, the reply of JUUNL is also not acceptable as JSEB Board gave an ex-post facto approval to an agenda item for award of contract to SWPE, who was not qualified for empanelment and award of the work.

Thus, irregular expenditure of ₹ 21.70 crore (₹ 8.67 crore + ₹ 13.03 crore ) was incurred for execution of drilling works by two agencies that were empanelled without being technically and commercially qualified.

## Jharkhand Bijli Vitran Nigam Limited

### 3.3 Avoidable expenditure

**The Company incurred avoidable expenditure of ₹ 2.53 crore due to non-adherence to the provisions of the contract.**

The Electric Supply Area (ESA), Ranchi of erstwhile Jharkhand State Electricity Board (JSEB), now Jharkhand Bijli Vitran Nigam Limited (Company), outsourced (December 2010) spot billing, computerized billing, bill distribution and allied works to a firm under its Electric Supply Divisions for a period of two years from January 2011 to December 2012.

The Company's Board of Directors approved six extensions of the contract at the same rates during the period January 2013 to December 2015, despite Central Vigilance Commission guidelines for periodic tendering of works. The contract value paid was ₹ 14.47 crore till November 2015.

As per clause 1(1.1)(m) of the contract, the agency was to submit a monthly abstract of the bills of consumers in duplicate with each page of the abstract containing details of minimum 24 consumers; and one copy each of various reports viz. daily collection report, list of disconnected consumers, report of defective meters, zero and average consumption report, category-wise energy sold/assessment/collection/arrears report and meter reading sheet. The payment for preparation of abstract and reports was fixed at ₹ 3.285 per page.

Test check of records revealed (August 2014) that the agency generated three to four copies of the abstract instead of two copies as per scope of work. Further, each page of monthly abstract contained details of only 15 consumers against stipulated number of minimum 24 consumers. Therefore, number of pages in the abstract increased for which an additional amount of ₹ 0.59 crore was paid to the agency. Similarly, the agency supplied two to three copies of other reports instead of one copy as per scope of work.

The Chief Engineer (Commercial and Revenue) instructed (January 2014) to obtain only one copy of the reports and to make photo copies, if required. But these instructions were not complied. The Company paid ₹ 1.94 crore for the additional copies of the reports generated for the period January 2011 to July 2014 that were out of the scope of contract. Thus, additional expenditure of ₹ 2.53 crore (₹ 0.59 crore + ₹ 1.94 crore) was incurred which could have been avoided, if the terms and conditions of the contract were enforced.

Since pointed by Audit in August 2014, the Company started paying only for the contracted number of copies of the reports and monthly abstract taking into account 24 consumers per page and the amount so disallowed has been kept in abeyance.

The Government stated (September 2015) that three to four copies of the reports supplied by the agency were accepted as per requirement for the purpose of monitoring of revenue collection and that details of 24 consumers

could not be accommodated as the size of the pages of bills abstract as per work order was not adequate to accommodate details of 24 consumers.

The reply is not acceptable as in the case of reports photo copies could have been taken as earlier instructed by Chief Engineer. In relation to the abstract, if the work order was to be revised for accommodating required information in one page then the fresh award of work was the correct option. However instead, six extensions for the contract period were granted by the Company while irregularly paying for work outside the scope of contract.

Thus, avoidable expenditure of ₹2.53 crore was incurred by the Company due to non-adherence to the provisions of the contract.

### 3.4 Loss of revenue due to non-conversion of consumers' category

**The Company failed to realise revenue of ₹ 55.15 lakh due to non-billing of the consumers as per applicable High Tension Services (HTS) tariff.**

The Tariff Orders<sup>2</sup> approved by Jharkhand State Electricity Regulatory Commission (JSERC) provide that Low Tension Supply (LTS) tariff for Non-Domestic Service (NDS) and Low Tension Industrial and Medium Power Service (LTIS) categories are applicable for supply of electricity to LT consumers having connected load upto 100 Kilo Volt Ampere (KVA) or 85.044 Kilo Watt<sup>3</sup> (kW) or 114 Horse Power (HP). The load of above 100 KVA comes under High Tension Service (HTS) category. The tariff for HTS category is higher in comparison to the tariff applicable for NDS and LTIS categories.

Test check of records (March 2015) of Electric Supply Divisions at Ramgarh, Ranchi Central and Doranda of Jharkhand Bijli Vitran Nigam Limited (Company) revealed that seven NDS/LTIS consumers were drawing electricity in excess of connected load as noticed in load inspection of the consumers' premises. Based on inspection, the connected load of the consumers was enhanced, however the billing continued to be done under NDS and LTIS tariff instead of HTS tariff which was in violation of the tariff orders. As a result the Company suffered loss of revenue of ₹ 55.15 lakh as detailed in **Annexure-3.1**.

As the Company was aware of the supply of electricity in excess of permissible load to these consumers, it was incumbent on its part to convert the consumers' category from NDS and LTIS to HTS. Further, recovery of the electricity charges as per applicable tariff is required under Jharkhand (Electricity Supply Code) Regulations, 2005, failure in compliance of which indicates deficient internal control mechanism to enforce the tariff orders issued by JSERC.

<sup>2</sup> Tariff Order 2003-04 (effective from January 2004), Tariff Order 2010-11 (effective from May 2010), Tariff Order 2011-12 (effective from August 2011) and Tariff Order 2012-13 (effective from August 2012).

<sup>3</sup> For NDS category connected load up to 75 KW with effect from January 2004 and connected load up to 85.044 KW (100 KVA) with effect from August 2012.

While accepting the audit observation, the Company stated (September 2015) that the demands for ₹ 55.15 lakh as per HTS tariff has been raised along with the energy bills of the consumer. It further stated that the category of two consumers has been changed to HTS and notice has been served to change the category of remaining five consumers.

Fact however, remains that the Company sustained the revenue loss which has not been recovered so far (August 2015).

Thus, due to failure on the part of the Company to apply higher tariffs as applicable, revenue of ₹ 55.15 lakh remained unrealised. This also tantamounts to extension of undue benefit to the consumers.

The matter was referred to the Government (July 2015); their reply is awaited (November 2015) despite of reminder dated 17 August 2015.

### **3.5 Loss of revenue due to incorrect application of multiplying factor**

**Incorrect application of multiplying factor in billing of High Tension (HT) consumers resulted in undue benefit to the consumers and non-realisation of revenue of ₹ 2.05 crore with consequential loss of interest of ₹ 73.17 lakh.**

When customer load is more than the rated capacity of a meter, the consumption recorded by the meter is resultantly less than actual consumption by the consumer due to a process of transformation that is applied. The meter readings registered by a meter are multiplied by a proportionality factor which is called 'multiplying factor (MF)' for arriving at the actual number of units consumed (KWH) that is billed to the consumer. The MF is fixed at the time of installation of connection, enhancement of load and replacement of meter/current transformer by Metering Relay and Testing (MRT) Division of the Company.

Scrutiny of records of MRT Division, Electric Supply Circle, Jamshedpur of Jharkhand Bijli Vitran Nigam Limited (Company) revealed (February 2015) that in case of five HT consumers, bills continued to be raised by applying old MF even after MF had been revised on file. The new MF was much higher than the old MF, resulting in lower billing to the consumers. Billing of these consumers at old MF for the periods varying from two to 29 months during the period from August 2012 to January 2015 resulted in short-billing of revenue of ₹ 2.87 crore (**Annexure-3.2**).

On being pointed out (February 2015) by audit, the Company raised (March 2015) supplementary bills for the above amount for the five HT consumers of which ₹ 82.17 lakh was realised (July 2015). Thus, balance amount of ₹ 2.05 crore remained unrealised on which the Company has suffered loss of interest amounting to ₹ 73.17 lakh up to July 2015 at the rate of 13 *per cent* at which the Company was borrowing funds from GoJ.

Thus, undue benefit was extended to the consumers by applying incorrect MF in billing for which responsibility may be fixed. Further, the unrealised revenue of ₹ 2.05 crore and interest of ₹ 73.17 lakh may be actively pursued for recovery.

The Government accepted the audit observation and stated (September 2015) that action for realisation of the short charged amount has been taken. Fact remains that the above amount has not been recovered so far (November 2015).

**Ranchi**  
**The 05 February 2016**



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