

# **CHAPTER V**

# **COMPLIANCE AUDIT**



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#### **5.1 Misappropriation of Holding Tax**

**Holding Tax of ₹ 0.93 lakh received by the Tax Collector was misappropriated without depositing with the Cashier.**

As per Rule 194 of Orissa Municipal Rules 1953, each case of collection or remission is to be posted daily in the demand and collection register and Executive Officer (EO) is responsible for ensuring that postings of collection or remission of taxes in that register do not fall into arrears.

As per Rule 193 ibid, the tax collector is to deliver to the cashier at the end of the day during office hours all the money collected together with the daily collection register and the receipt book in his possession and all collections made on behalf of Municipality are to be entered in the Cash Book on the same day of the collection.

Scrutiny of the Demand Collection and Balance (DCB) Register of Kotpad Notified Area Council (NAC) in January 2016 showed that the holding tax collected by the Tax Collector was not deposited regularly with the Cashier. It was seen that the Bull Watcher (in-charge Tax Collector) of the NAC had collected holding tax of ₹ 93,047 as per details given in the table below:

**Table 5.1: Details of collection of holding tax by the In-charge Tax Collector**

Collected by	Date of Collection	Money Receipt Number	No. of money receipts	Amount (in ₹)
Bull Watcher (in-charge Tax Collector)	7.11.14 to 4.1.15	5055 to 5100	45	23546
	27.1.15 to 18.2.15	5126 to 5170	45	12264
	18.2.15 to 30.3.15	5171 to 5484	49	17554
	30.3.15 to 30.6.15	5485 to 5852	45	25003
	2.7.15 to 4.7.15	5853 to 5890	31	14680
<b>Total</b>				<b>93047</b>

*(Source:-Demand and Collection Register, Receipt Book and Cash Book of NAC)*

The amount collected by the Tax Collector against the above mentioned money receipts were not deposited with the cashier and the EO also did not check the Cash Book periodically, which resulted in misappropriation of revenue of ₹ 93,047. This indicated that the EO had not checked the DCB register to ascertain the postings of daily collection of tax by the Tax Collector. Audit further observed that the Tax Collector was issued nine Money Receipt (MR) books and the Cashier had never examined the exhaustion/non-submission of MR books before issue of new MR books, which facilitated the Tax Collector to misappropriate the amount.

The EO stated (January 2016) that the amount would be recovered from the defaulter under intimation to Audit. Thus, failure of internal monitoring mechanism resulted in misappropriation of ₹ 0.93 lakh.

The matter was referred (June 2016) demi-officially to the Commissioner-cum-Secretary, Housing and Urban Development Department; reply is awaited (November 2016).

## 5.2 Doubtful procurement

### **Doubtful procurement of electrical items worth ₹ 10.20 lakh due to absence of stock taking and non-availability of purchase records.**

Rule 100 of OGFR provides that all stores received should be examined, counted, measured, or weighed as the case may be, when delivery is taken, and these should be taken into stock by a responsible Government Officer who should see that requisite quality and quantities are correct. The officer receiving the stores should also be required to give a certificate that he has actually received the materials and recorded them in the appropriate stock register.

On scrutiny of the Cash Books, purchase files and stock records of Basudevpur Municipality for the period 2008-09 to 2014-15, Audit observed (January 2016) that the municipality had purchased electrical items worth ₹ 7.20 lakh from the L1 bidder in March 2007. The then Executive Officer (EO) recorded the certificate of receipt of materials on the body of the challan. However, after transfer of the then EO, the in-charge EO delayed the payment to the supplier. Based on a suit filed by the supplier, Hon'ble High Court of Odisha had directed (November 2008) the EO to release payment to the petitioner within two months. Accordingly, the EO paid (April 2009) ₹ 7.20 lakh to M/s Sanskruti Enterprises.

Audit observed that:

- Though the procurement was made at the fag end of the financial year 2006-07 (10 March 2007 and 19 March 2007), the balances of 2006-07 were not carried over to the next year's (2007-08) stock register and also the stock register of 2006-07 was not produced to Audit.
- The storekeeper stated (07 March 2011) to the EO that he was ignorant of the absence of necessary entry of materials received in the stock register, stating that he was not in-charge of the stores during the period of procurement.
- Scrutiny of supply order and delivery challan showed that out of 21 items, eight were not in the supply order and were shown as delivered. Out of the remaining 13 items, the agency did not supply two items<sup>1</sup>, while 10 items did not meet the specification (*Appendix-5.1*). Proper entry was not made in the stock register, except for certification by the then EO on the body of the challan.

The stock entry of the items received was not made in the stock register and full payment was made to the supplier. Thus, due to absence of stock-taking and details of utilisation, procurement of these items was doubtful.

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<sup>1</sup> Though 240 number of 36 watt CFL lamp was requisitioned, only 120 lamps were supplied whereas against requisition of 220 number of 36 watt CFL chokes, no choke was supplied. Similarly, 60 numbers of 250 watts Flood Light fittings without lamp were not supplied.

Further, an amount of ₹ 3 lakh was paid (July 2009) to the same agency towards supply of street lights. However, no voucher in support of the said payment was produced to Audit. Scrutiny of the purchase file and stock register further showed that the indent for purchase of materials, approval of the Executive Officer, Quotation/Tender for purchase were not kept in the concerned file and stock entry was not made after receipt of the material. In the absence of any material evidence in support of supply, payment of ₹ 3 lakh to the agency could not be vouchsafed.

### **5.3 Loss of revenue**

#### **Non-collection of rent ₹ 1.74 crore from the retired officials at revised rate along with penalty**

As per Gazette Notifications made by Finance Department in January 1999 and January 2011, if the officer allotted with a government residential building died, retired, resigned or dismissed, discharged or removed from service, then the provisions of Rules 107 and 107(A) of the Orissa Service Code should be followed which stipulate that:

- (a) When a Government employee on retirement is allowed to retain the quarters occupied by him for a maximum period of four months, he is to pay in advance the Flat Licence Fee for the said period.
- (b) The Licence Fee at the rate of five times of Standard License Fee is to be charged for the period of occupation of the quarters beyond the permissible period, followed with eviction proceedings as per rules in force.

Scrutiny (December 2015) of records in Sambalpur Municipal Corporation (SMC) and information furnished (December 2015) to Audit showed that there were 63 residential quarters at different locations of SMC, out of which 23 quarters were occupied by employees in service, 39 quarters were under unauthorised occupation by retired employees and one was used as office store. These 39 officials retired from service on different dates and they retained the government quarters beyond the permissible period (four months from the month of retirement) ranging from 5 to 49 years without depositing the penal rent. In case of seven occupants, the date of retirement was not available due to which rent due to them could not be calculated. In the remaining 32 cases, the rent due was ₹ 1.74 crore and the dues per individual varied from ₹ 0.20 lakh to ₹ 18.38 lakh.

Though the Orissa Civil Services (Pension) Rules, 1992 envisage adjustment of outstanding license fee from the Death-cum-Retirement Gratuity (DCRG) of the retired employee, the rent due from the retired employees was not adjusted from their DCRG by the Commissioner, SMC.

The incumbent Municipal Commissioners had not taken any action against the unauthorised occupants to collect penal rent at the rates prescribed under the rules or to evict them. Further, the occupants were not paying the rent at the revised rate prescribed by the Government from time to time. Out of 32 occupants, two have not paid any licence fee for their occupation and the remaining 30 occupants paid licence fee at old rates, while they were in service. Since the penal rent at the rate of five times the standard licence fee with arrears was not collected, the Corporation incurred a loss of ₹ 1.74 crore, calculated at the rates revised from time to time during 1998-2010, as detailed in *Appendix-5.2*.

The matter was referred (March 2016) demi-officially to the Commissioner-cum-Secretary, Housing and Urban Development Department; reply is awaited (November 2016).

#### **5.4 Avoidable expenditure**

**Non-remittance of EPF dues with the Regional Provident Fund Commissioners (RPFCs) resulted in payment of penalty and interest of ₹ 1.47 crore in addition to committed liability of ₹ 34.04 lakh.**

The provisions of Employees' Provident Fund and Miscellaneous Provisions Act, 1951 (EPF & MP Act) apply to industrial and other establishments employing 20 or more employees or class of such establishments. As per Rule 30 of EPF Scheme 1952, the employer shall, in the first instance, remit both his contribution and employees' share without any delay. For every period of delay, penal interest at 12 *per cent* per annum u/s 7Q of EPF & MP Act is to be charged and penal damages are also leviable u/s 14B of the said Act. The employer's contribution shall be credited to the subscriber's account each month at the rate of 13.61 *per cent* (including administrative cost of 1.61 *per cent*) against employees' share of 12 *per cent*.

Audit observed (December 2015 to March 2016) from the records relating to recovery and remittance of Employees' Provident Fund (EPF) of six<sup>2</sup> ULBs for the period 2009-15 that the respective RPFCs had levied interest, penal interest and penal damage of ₹ 1.81 crore (*Appendix-5.3*) on these ULBs due to non-recovery of employees' share and non-payment of EPF dues alongwith their contribution. While the RPFCs realised ₹ 1.47 crore from the ULBs, Berhampur Municipal Corporation (BeMC) and Angul Municipality had committed a liability of ₹ 34.04 lakh as on the date of audit. Timely payment of EPF dues could have saved the expenditure of ₹ 1.81 crore on penal charges.

Chief Finance Officer, BeMC, Executive Officer (EO), Jharsuguda Municipality and EO, Barpali accepted the audit observation while the Commissioner, Sambalpur Municipal Corporation stated that steps would be taken to recover the employees' share. Similarly EO, Angul Municipality replied that the payment would be made in installments. However, the fact remains that the ULBs did not follow the EPF Act and Rules, as a result of

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<sup>2</sup> Two Municipal Corporations (Sambalpur and Berhampur), Two Municipalities (Jharsuguda and Angul) and two NACs (Barapali and Aska)

which there was avoidable payment of ₹ 1.47 crore apart from committed liability of ₹ 34.04 lakh.

The matter was referred (June 2016) demi-officially to the Commissioner-cum-Secretary, Housing and Urban Development Department; reply is awaited (November 2016).

Bhubaneswar  
The 23 JAN 2017

  
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Countersigned

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The 25 JAN 2017

  
(Shashi Kant Sharma)  
Comptroller and Auditor General of India

