

Chapter-VIII :Defence Public Sector Undertakings

8.1 Delay in supply by Defence Public Sector Undertakings (DPSUs)

Defence PSUs failed in their objective of supplying critical weapons and equipment meant for modernisation and capability enhancement of Army. Of the capital contracts concluded with DPSUs during XI Army Plan (2007-12), inordinate delays were observed in contracts valuing ₹30,098 crore which constituted 63 *per cent* of the money value of total contracts concluded by ministry with DPSUs. Major reasons for delay were undue time taken in development, delay in successful evaluation of pilot sample, heavy dependence of DPSU on foreign vendors, ambiguity in contractual terms, etc. The delay had not only impacted the modernisation of Armed Forces, but also had financial implications towards accrued interest on payments lying unutilised by DPSUs.

8.1.1 Introduction

In order to achieve self-reliance in the field of defence, Defence Public Sector Undertakings (DPSUs) and Ordnance Factories (OFs) were set up in phases to assume the role of designer and integrator of defence weapons and equipment under the ambit of Department of Defence Production (DDP) in Ministry of Defence.

In May 2001, the Government took a decision to open defence industry for Indian private sector with an aim of creating a competitive defence technology edge and strengthen the defence industrial base in the country. In order to boost the domestic industry Government allowed 26 *per cent* Foreign Direct Investment (FDI) in defence sector in 2001, which was increased up to 49 *percent* in 2014. Defence sector being a subset of manufacturing industry, synergy between “Make in India”⁵⁵ policy and capability of our defence industry in terms of value addition, self reliance in critical technology, etc becomes crucial. Irrespective of the policy orientation of the Government, it is imperative for DPSUs to endeavour for continuous modernisation and up-gradation of their capabilities and widening their product range. As of September 2015 there were 40 OFs and nine⁵⁶ DPSUs to cater for the needs of

⁵⁵Make in India is an initiative of the Government of India (launched in September 2014) to increase share of manufacturing from the current level of 15 *per cent* of Gross Domestic Product (GDP) to 25 *per cent* and create additional employment opportunity of ten million per year by encouraging multi-nationals as well as domestic companies to manufacture their products in India.

⁵⁶Nine DPSUs are: 1. HAL – Hindustan Aeronautical Limited, 2. BEL - Bharat Electronics Limited, 3. BEML – Bharat Earth Movers Limited, 4.MDL – Mazagon Dock Limited, 5. GRSE – Garden Research Ship Establishment, 6. GSL – Goa Shipyard Limited, 7. BDL –

defence sector, either by productionising the technology developed by Defence Research & Development Organisation (DRDO) or by absorbing Transfer of Technology from foreign vendor so as to attain self-reliance.

In Army, procurement for all equipment valuing ₹15 lakh each or more with a life of seven years or more is called capital procurement. Capital procurements are made as per the provisions contained in the Defence Procurement Procedure (DPP). All capital acquisitions are initiated by users directorate in Army HQ with formulation of Qualitative Requirements and seeking Acceptance of Necessity (AON) of Defence Acquisition Council (DAC⁵⁷)/Defence Procurement Board (DPB⁵⁸)/ Categorisation Committee⁵⁹. Once approved, the same are processed by Acquisition Wing in the Ministry and Weapon and Equipment (WE) Directorate in Army HQ till conclusion of the contract in stages. In design and development cases, Army HQ, on being satisfied with the trials of the equipment, initiate the proposal for acquisition and seek approval of Defence Acquisition Council (DAC)/ Defence Procurement Board (DPB) thereon. While doing so, approval may also be taken on need for limited validation trials, in the form of First Off Production Model (FOPM) or waiver of trials.

Execution of contracts, including payment of advances and other payments, delivery, installation, commissioning, spares support, inspection, training etc. is to be carried out as per terms and conditions indicated in the contract. The evaluation of FOPM, where the equipment is developed and production is made at Defence PSU, is carried out and on successful evaluation of the same Bulk Production Clearance (BPC) is accorded.

8.1.2 Scope of Audit

During XI Plan (2007-2012) in respect of Army, 180 capital contracts were concluded, out of which 56 contracts were concluded with DPSUs, of which delay occurred in 18 contracts as shown in **Table -19**:

Bharat Dynamics Limited, 8. MIDHANI – Mishra Dhatu Nigam Limited and 9. HSL – Hindustan Shipyard Limited.

⁵⁷DAC is headed by RakshaMantri which approves the procurement proposal of money value more than ₹300 crore.

⁵⁸DPB is headed by Defence Secretary which approves the procurement proposal of money value from ₹150 crore to ₹300 crore.

⁵⁹Categorisation Committee is headed by Vice Chief of Army Staff (VCOAS) which approves the procurement proposal of money value less than ₹150 crore.

Table-19: Details of contracts concluded during 11th Plan (2007-12)

Sl. No.	Particulars	No. of Contracts	Money value (in ₹ crore)
1.	Total Capital contracts for Army during 11 th Plan	180	63,173
2.	Contracts with vendors other than DPSUs	124(69)	15,753(25)
3.	Capital contracts with DPSUs during 11 th Plan	56(31)	47,420(75)
4.	DPSUs contract where delay occurred	18(32)	30,098(63)

Note: The figures in brackets denote the percentage.

We examined 18 contracts valuing ₹30,098 crore (63 % of total value of DPSUs contracts) where supplies were not completed as of July 2015 by DPSUs despite lapse of probable date of completion (PDC) stipulated in the contracts as shown in **Annexure X**.

8.1.3 Audit Objective

- To assess whether contracts with DPSU were in congruence with user requirement;
- To assess the extent of planning and feasibility ensured before undertaking the project;
- To assess the extent of efforts made by the Ministry/DPSU towards indigenization/self reliance;
- To assess the efficiency, effectiveness, objectivity and transparency in the procurement process; and
- To ascertain the effectiveness of post contract monitoring mechanism in MOD and Army HQ.

8.1.4 Audit Methodology

The audit was conducted by Director General of Audit (Defence Services) (DGADS) with co-opted audit team from Principal Director Commercial Audit & Ex Officio Member Audit Board (MAB), Bengaluru. DGADS conducted audit at Department of Defence Production and Acquisition Wing of the Ministry of Defence, concerned directorates (Dte) at Army HQ viz. Users Dte, Weapons and Equipment (WE) Dte, Financial Planning (FP) Dte, Quality Assurance Dte and MAB, Bengaluru audited the selected four⁶⁰ DPSUs. The audit was commenced in April 2015 and completed in August

⁶⁰Four DPSUs selected in audit were: 1. HAL, 2. BEML, 3. BDL and 4. BEL.

2015. The findings were suitably updated up to December 2015, based on the replies furnished by Army HQ.

8.1.5 Audit Findings

Management of contracts is processed in two stages *viz.* pre-contract stage and post contract stage. In audit we examined the management of post contracts with DPSUs and observed that there was inordinate delay in execution at various stages by the DPSUs. The present status regarding supplies made by four DPSUs against 18 contracts *vis-à-vis* their Probable Dates of Completion (PDCs) and payment made till 31st July 2015 is shown in the **Annexure XI**.

We observed that in nine out of the 18 selected contracts, the supplies had been completed or almost in the process of completion, though after a delay ranging from 19 to 48 months. In the remaining nine contracts, which were of high value (₹24,459 crore) and meant for modernisation or capability enhancement of the Army, the supplies had either not commenced at all or were in the very initial stages. We examined the latter set of nine contracts in details and found that though in two contracts (Akash Missiles and Schilka Gun) the supply was commenced, yet there was a delay of more than two years and the completion, as per the approved delivery schedule, would take at least another four to five years. In remaining seven contracts, even the revised delivery schedule had not been finalised as of July 2015. This delay was despite the fact that advance payment to the tune of ₹4,067.78 crore and subsequent payments of ₹6,173.41 crore was made up to 31st July 2015 as per provisions of the contracts. Thus, despite making payment of ₹10,241.19 crore constituting 42 *per cent* of total value of the contracts, tangible supply against nine contracts did not materialize. We analysed these nine contracts and found the following major reasons for delay:

- non freezing of user requirement before conclusion of contract- (ALH-WSI, AKASH)
- placement of supply order/contract before completion of development/modification project- (ALH-WSI, SBS)
- delay in offer of pilot sample, i.e. First Off Production Model (FOPM) for accord of Bulk Production Clearance (BPC)- (AKASH, SCHILKA, BSS, SBS)
- delay in successful evaluation of FOPM, repeated numerous quality issues in product supplied- (SCHILKA, TST for Ku-Band, STSU)
- heavy dependence of DPSU on foreign vendors/local sub-vendors- (ALH-WSI, AKASH, SCHILKA)
- ambiguity in contractual terms-(ARV, BSS, CIDSS)
- non supply of Buyer Furnished Equipment (BFE) vehicles timely by Army-(BSS, TST for Ku Band)

The detailed analysis of delay as well as impact of delay is discussed in subsequent paragraphs:-

8.1.5.1 Procurement of Advanced Light Helicopter (ALH) - Weapon System Integrated (WSI)

Army planned to raise six Army Aviation Squadrons (three each in XI and XII Plan) each equipped with 10 ALH-WSI to carry out combat support and anti armour role and to provide close air support to Armoured and Mechanized Forces in mobile warfare including counter insurgency operations in the North-East.

To meet the requirement of Army, Ministry of Defence (MOD) concluded a contract with M/s HAL in December 2007 for supply of 60 ALH-WSI at a total cost of ₹6,295.54 crore. As per the contract;

- Delivery of 20 ALH-WSI was to be made from 2009-10 to 2011-12 (during XI Army Plan) and 40 ALH-WSI was to be made from 2012-13 to 2015-16 (during XII Army Plan). This was however subject to certification of the Shakti engine (under development) by August 2008. In the event of any change in certification of Shakti engine by planned date, delivery schedule would get modified correspondingly.
- ALH-WSI would deem to have been delivered from the date of certification by the Buyer's Inspector and acceptance by Board of Officers (completion of ferry to intended location).
- The advance/progressive payment for ALH-WSI to be delivered during XI Plan was to be made first and advance/progressive payment for deliveries during XII Plan was to be made 18 months prior to commencement of the Plan *i.e.* on 1st October 2010.

We observed that the HAL did not supply a single helicopter during XI plan (up to March 2012). While 17 ALH-WSI were supplied between March 2013 and June 2015, the same were not accepted by the Army (October 2015) citing repeated snags/deficiencies. Failure in timely supplies was despite an advance and progressive payment of ₹3,550.85 crore made to HAL between December 2007 and July 2015, which included an advance payment for the helicopters to be supplied during XII Plan. We further observed that payment made in terms of the contract, for 20 equipment to be delivered during XI Plan worked out to ₹1,916.27 crore. Hence the payment of ₹1,634.58 crore against supplies to be made during the XII Plan was made in the period when even supply relating to the XI Plan period had not commenced. This was against the spirit of the payment terms of the contract, which implied that advance for the 40 ALHs to be delivered during the XII plan, was to be paid only after satisfactory adherence to the delivery schedule for XI plan by HAL. Advance payment for deliveries scheduled for the XII Plan period made in October 2010 becomes

more critical in the light of the fact that even the engine (Shakti) of the aircraft had not been certified by that time.

Reasons for delay

Scrutiny of records revealed that following were the main reasons for delay:

- (a) Delay in development of Shakti Engine,
- (b) Delay in development of WSI version of ALH, *i.e.* Mark IV and
- (c) Prolonged procedure of acceptance by Army.

(a) Delay in Development of Shakti engine: HAL signed an MOU with OEM (Turbomeca, France) in August 2000 for co-development of high powered engine named Shakti to be used in ALH by December 2006. Shakti Engine developed by HAL did not meet operational requirement (February 2007), particularly in cold/hot climate at high altitude. Consequent redesign of the engine resulted in delay in certification which was finally done in October 2010, after a delay of 46 months.

(b) Development of ALH-WSI: Cabinet Committee on Security (CCS) in 1998 sanctioned development of ALH-WSI by HAL at a cost of ₹433.02 crore. The same was revised in July 2005 to cater for additional requirements of mission equipment, *viz.* Anti Tank Guided Missile (ATGM) and Sighting System, at the revised cost of ₹600.16 crore for completion in 36 months. Sanction also provided for constitution of a Steering Committee to monitor the progress of the project. As the development was not completed within the 36 months, in the 10th Steering Committee Meeting (August 2008), it was decided to split the WSI project in two phases *i.e.* phase-I where Qualitative Requirements (QRs) of weapons and systems were already identified⁶¹ and Phase-II where QRs of weapons and systems were yet to be identified⁶². It was further decided that PDC for Phase-I would be July 2010 and a separate proposal for Phase-II would be submitted by HAL once the QRs of weapons identified by Services.

However, development of Phase-I of the project was delayed and extensions were granted up to September 2014 with additional amount of ₹12.42 crore. Initial Operational Clearance (IOC) for ALH WSI was accorded by Centre for Military Airworthiness Certification⁶³ (CEMILAC) in February 2013. Final Operational Clearance (FOC) had not yet (July 2015) been accorded.

⁶¹Phase I - 20 mm Turret Gun, 70 mm rocket, Air to Air Missile, sighting system, Helmet Pointing System (HPS), EW suite, Flare & Chaff Dispenser, Digital Video Recording system and Armour panels.

⁶²Phase II - Anti Tank Guided Missile (ATGM), data Link, IR Jammer, Nuclear Biological & Chemical Sensors and Obstacle Avoidance System/Wire Cutter.

⁶³CEMILAC – Centre for Military Airworthiness and Certification is an agency which clears the ongoing Military aircraft projects, products and components for flight safety.

We observed that the delay in completion of the development project was mainly due to delay in placement of orders by HAL on sub vendors, repeated requirement of certification, delay in availability of indigenous NAG missile from Defence Research and Development Laboratory (DRDL) and sighting system from Instruments Research and Development Establishment (IRDE). Further, since QRs of weapons envisaged for Phase II were yet to be finalised (July 2015), the phase II would be delayed considerably.

(c) Delay in acceptance of delivered ALH-WSI despite certification: As per the terms of the contract, after certification by buyer's inspector *i.e.* Customer Resident Inspector (CRI) at production site, acceptance of helicopters would be carried out by a Board of Officers (BoO) constituted by the Army for ferry out to consignee location. Upon satisfactory completion of physical inspection and verification of all documents related to tests, CRI issues Signal-out Certificate. Subsequently, Army HQ informs the concerned squadron to collect the helicopters which in turn constituted a BoO on case to case basis to accept each helicopter. As stated by HAL, while helicopters are produced in batches and offered for acceptance, the BoO takes up the acceptance of helicopter one by one, which takes time.

We observed that such condition of subjecting the CRI inspected helicopter to verification by a BoO, was not in other contracts with HAL for supply of ALH to the Services.

Impact of delay

- The delay in supply of ALH-WSI had affected the raising plan of 06 Army Aviation Squadron thereby compromising the operational capabilities of the ground forces
- One Army Aviation Squadron ALH WSI unit raised in 2013 with 509 personnel and authorization of 13 ALH WSI was not holding any fleet even after three years of its raising (March 2016).
- Advance payment to the tune of ₹1,634.58 crore for deliveries relating to the XII Plan was made to HAL against the spirit of the terms of the contract involving loss of interest worth ₹670.07 crore to the Government.

8.1.5.2 Procurement of Armoured Recovery Vehicles (ARVs)

Armoured Recovery Vehicles (ARVs) are authorised to Mechanised Forces in Army to provide repair and recovery support to disabled Combat Vehicles such as Tanks, Trawls, Bridge Laying Tanks (BLTs), Air Defence Platform, *etc.* during field operations. Against total authorised quantity of 1,030, Army was holding 826 ARVs of different types and vintages (October 2011). Of these, 352 ARVs were of latest vintage *i.e.* WZT-3 class and were procured

from BEML in phases between March 1999 and March 2004. The ARV WZT-3 is meant for recovery of Combat Vehicles based on Tank T-72 chasis.

To meet the deficiency of 204 ARVs (1,030 - 826), MOD concluded a contract with BEML in October 2011 with minimum 30 *per cent* indigenous content at a total cost of ₹1,400.85 crore. An advance payment of ₹280.17 crore was made to BEML in December 2011.

As per the contract, BEML was to commence the delivery of the ARVs in August 2012 and to complete within 36 months of signing of contract *i.e.* by October 2014. However supply could not commence so far (July 2015).

Reasons for delay

Subsequent to signing of contract, BEML entered into a contract in January 2012 with a foreign firm *i.e.* M/s Bumar sp. z.o.o., Poland (BUMAR) for first eight ARVs in Fully Formed (FF) and remaining 196 in Semi Knocked Down/Completely Knocked Down (SKD/CKDs) conditions enabling BEML to effectively indigenise 35.44 *per cent* on an average. However on the insistence of Department of Defence Production (DDP) for 30 *per cent* indigenisation from the very first ARV, BEML got the contract amended with BUMAR in February 2012 wherein the BUMAR agreed for 30 *per cent* indigenisation from the first ARV with average indigenisation level unchanged at 35.44 *per cent*.

After signing the amendment, Board of company of BUMAR underwent changes in May 2012 and new management declined in August 2012 to execute the amended contract. Subsequently on the directions of DDP (September 2012) to resolve the issues, BEML discussed the same with BUMAR. During discussions it emerged that BUMAR did not own all intellectual property rights and was not entitled to provide the transfer of technology to BEML. Therefore, BEML had to approach another Polish company *i.e.* Bumar Labedy, which was the Original Equipment Manufacturer (OEM) and competent to transfer the technology. Resultantly, BEML requested Army HQ (January 2014) for approval in extension of delivery period (42 months from issue of amendment) along with retention of Exchange Rate Variation⁶⁴ (ERV) clause for extended delivery schedule and waiver of liquidated damages (LDs). Army HQ submitted (February 2014) the proposal of BEML to MOD (Acquisition wing) for approval. The proposal of BEML was not accepted by MOD (July 2015) and asked BEML to honour the contract for supply of 204 ARVs on existing terms *i.e.* with imposition of LD for delayed supply and without ERV benefits failing which the contract may lead to termination. No further progress against the contract had been made till date (September 2015).

⁶⁴ ERV clause is applicable to Indian vendors to protect them from impact of variation in Foreign Exchange rate. ERV clause is applicable during original delivery schedule of the contract as per Defence Procurement Procedure

We observed that

- ❖ As Army was holding 826 ARVs against total authorised quantity of 1,030, with the current procurement of 204 ARVs there was no further requirement of this type of ARVs which are based on a chassis similar to T-72 chassis. Without future requirement of ARVs, decision to procure it with minimum 30 *per cent* indigenisation from the first vehicle was unwarranted, which ultimately led to non execution of the contract.
- ❖ BEML signed the contract with BUMAR which was not the Original Equipment Manufacturer (OEM) and hence was not competent to transfer the technology to BEML for indigenisation. Thus BEML's failure to sign the contract initially with OEM had made them unable to honour the contract for supply of ARVs.
- ❖ Advance payment of ₹280.17 crore was made to BEML in December 2011 against which no progress towards supply of ARVs was made by BEML. As of July 2015, BEML has not even finalised the contract with OEM for Transfer of Technology, which was the first stage to meet its contractual obligation towards MoD. Therefore, the advance of ₹280.17 crore was lying with BEML resulting in loss of interest of ₹138.68 crore as of July 2015.

8.1.5.3 Procurement of AKASH Weapon System

The AKASH Missile System is a supersonic, surface-to-air Missile (SAM) system developed by DRDO with the capability to engage a wide variety of aerial threats up to a maximum range of 25 km. The system has a multi directional and multi target engagement capability.

Due to increased severity and lethality of the Air Threat scenario, the existing L-70 gun system of 1960's vintage is unable to provide the requisite Air Defence, therefore, the requirement of induction of Missile Systems was felt. Defence Acquisition Council (DAC) accorded Acceptance of Necessity (AON) in June 2010, for procurement of AKASH systems for two Regiments during XI and XII plans. Accordingly, a contract was concluded with M/s BDL in March 2011 at a total cost of ₹14,180.46 crore which inter-alia included deliverables as shown in **Table-20** below along with their supply status as of July 2015:-

Table-20: Details of deliverables with PDCs and delivery status of Akash Weapon System

Sl. No.	Items	Nos.	Total value (in ₹ Crore)	Year-wise PDC as per contract and Qty in bracket	Supply status (July 2015)
1.	Missiles	2,040	8,156.93	2013-14 (152) 2014-15 (242) 2015-16 (436) 2016-17 (462) 2017-18 (540) 2018-19 (208) Total (2040)	32 50
2.	Ground Support Equipment (GSE)	332(28 types)	3,387.50	March 2013 (33) May 2015 (149) Dec 2016 (150)	21 49
3.	Infrastructure	22 missile storage buildings 3 missile preparation buildings and other equipment	548.81	June 2013 (1/3 ⁶⁵ portion) June 2015 (1/3 portion) March 2017 (1/3 portion)	NIL
4.	Spares and Special Tools	NA	1,150.93	For 1 st Regiment by June 2015 For 2 nd Regiment by December 2016	NIL
5.	Training including Literature and Aggregates	NA	338.63	NA	NIL
6.	GPS & Lashing Equipment	2 sets each	5.00	NA	NIL
7.	Army Specific Validation	NA	160.98	1 st April 2011 to 31 st March 2013	January 2015
8.	Installation & Commissioning	NA	359.68	1 st Regiment- July to December 2015 2 nd Regiment- January to December 2017	NIL
9.	Project Support	NA	72.00	Up to 31 st December 2016	NIL
Total			14,180.46		

⁶⁵The infrastructure for missile storage was to be created in phases i.e. one third by June 2013, two third by June 2015 and complete by March 2017.

Since the contract was concluded as repeat order of Air Force contract for two Squadrons of Akash Missile System signed in December 2008, limited validation for Army specific requirement on First Off Production Model (FOPM) was to be carried out and as per the contract supply of missiles was to commence after completion of trials on FOPM.

Audit examination revealed that stipulated delivery schedule of the contract was not adhered to despite payment of ₹5,761.11 crore (July 2015). As per contract, validation of FOPM was to be completed by March 2013, however, the same was completed after a delay of nearly two years due to delay in finalization of design and QRs by Army as well as delay by BDL in supply of GSEs. The FOPM was completed in January 2015. Further, 394 missiles were to be supplied by March 2015, whereas only 82 missiles were supplied up to July 2015. As against 182 types of GSE to be supplied by May 2015, only 70 types of GSE were supplied up to July 2015. No infrastructure and spares & tools had been handed over till July 2015.

Reasons for delay

While analyzing the reasons for delay, the following emerged:-

- After conclusion of the contract, Army had changed the design of certain Ground Support Equipment (Troop control centre, Tactical Satellite Terminal, *etc.*) in June 2012 as compared to those for Air Force.
- BDL could not arrange supply of components for Mobile mast, from sub-vendors in time.
- Certain sub-systems, such as Transmitter, Receiver, Advance Land Navigation System, Signal Data Processor, *etc.* offered by BDL for testing did not meet the user's requirement and hence subsequent modification by BDL and testing by users had to be carried out.
- When FOPM was ready for validation (February 2014), BDL could not ensure timely availability of air targets and other infrastructure.

We observed that:

- ❖ Despite making payment of significant amount of ₹5,761.11 crore, which constitute 40.63 *per cent* of total value of the contract, the supply of the weapon system had been considerably delayed. As a result, Army was constrained to continue with the four decade old L-70 Gun for Air Defence and thus remained unprepared against the ever increasing air threat scenario.
- ❖ Initial advance of ₹2,836.09 crore was paid in March 2011. Due to delay in FOPM validation (34 months) and infrastructure (25 months

till July 2015), Government incurred a loss of ₹1,073.69 crore towards interest.

8.1.5.4 Procurement of Sarvatra Bridge Systems (SBS)

Sarvatra Bridge System (SBS) is a multi-span assault bridge system to be used by Combat Engineers of Army for negotiation of obstacle such as canals, ditches, dry gaps *etc.* by heavy Army vehicles like tanks in a very short time. In order to replace the ageing AM-50 bridges imported from Czechoslovakia during 1978 to 1987, the bridge system was developed by DRDO (Research & Development Establishment (Engineers), Pune) in collaboration with other industrial partners and five SBS of Limited Series Production (LSP) were delivered to Army by June 2004 at a cost of ₹85.43 crore.

During development stage and production of LSP bridges, L&T was the major partner having technology of superstructure, launching mechanism and integration of SBS while exposure of BEML was confined only to supply of Tatra vehicle on which the bridge was integrated. Based on infrastructure required for such an intricate system, initial lead time and cost implication, DRDO recommended (2004) L&T as nodal production agency for the SBS.

However, in March 2005, Department of Defence Production (DDP) nominated BEML as nodal production agency despite knowing the fact that BEML in turn would be dependent on L&T for major components of SBS. During exploitation in the field, bridges supplied against LSP orders developed defects with respect to lateral stability and other crucial aspects. In March 2006, it was decided to incorporate modifications in the design of the bridge. One bridge was modified by BEML without cost and offered for trials. After completion of user trials of one modified bridge in February 2009, a contract for modification of remaining four bridges was signed with BEML in July 2010 at a total cost of ₹12.28crore.

Further, in order to complete the de-induction of AM 50 bridges by the year 2018-19, AON for 22 SBS was accorded in August 2010 as Single vendor from BEML. Accordingly, a contract was concluded in March 2012 with BEML at a total cost of ₹573.98 crore and an advance payment of ₹86.10 crore was made (March 2012) to BEML. As per the contract, first (pilot) bridge was to be offered for Bulk Production Clearance (BPC) within 400 days of signing of contract *i.e.* by 29 April 2013 and complete the delivery of balance 21bridges within three and half years of BPC. However, BEML had not yet (July 2015) delivered the pilot bridge. BEML requested (June 2015) MOD for extension of delivery of the pilot sample up to November 2015 and delivery of remaining 21 sets within three and half years of BPC, which was under consideration at MOD (August 2015).

Reasons for delay

We analysed the reasons for delay as under:-

BEML could not proceed with the manufacturing of pilot bridge as modified LSP bridges offered for inspection developed defects (March-April 2012) in hinges and nut of pier legs due to their metallurgy, which may result in accident and collapse of the bridge. Consequently, to find out the root causes of defects, DRDO constituted Failure Analysis Board in August 2012, which recommended (April 2014) suitable change in the metallurgy. However, DRDO, in October 2012, communicated BEML to go ahead with production of pilot bridge less hinges and pier legs. In October 2012 BEML approached its major partner (L&T) for production of pilot SBS, who expressed their inability to meet the timeline of pilot sample by April 2013 citing reasons of long lead period required for aluminium used in the bridge and also 200 days had already elapsed by that time. However, BEML placed orders on co-partners only between September 2013 and November 2013. Thus, delay of one year occurred due to their own issues with co-partner. Despite clearance from DRDO, BEML put the production activity of pilot bridge on hold on the pretext of uncertainty of materials to be used in hinges and pier nuts. This is not acceptable as these were just two *per cent* of total scope of work and the same could have been integrated in the bridge in the last stage as clarified by DRDO.

We observed that:-

- ❖ Despite advance payment of ₹86.10 crore to BEML in March 2012, BEML did not take any action towards delivery of pilot bridge by the due date (April 2013). As a result, MOD suffered a loss of interest of ₹12.59 crore on advance paid.
- ❖ Procurement of 22 SBS was against the ageing AM-50 bridges held with Combat Engineers and were planned to be phased out by 2017. Army reiterated (October 2012) that because of restricted spares available for AM-50 bridges, retention of these bridges beyond 2017 would have severe implication on bridging capability of Combat Engineers. Thus inordinate delay in delivery of SBS would adversely affect operational capability of Corps of Engineers.

8.1.5.5 Up-gradation of Schilka Weapon System

Schilka weapon system is an all weather automotive self propelled air defence gun system of 1960s technology vintage held in Indian Army, which were imported from Russia in 1973(30 numbers) and in 1983 (60 numbers). It was assessed in December 1997 to upgrade Schilka, as the existing system had

obsolescent electronics⁶⁶, however, the armament and automotive systems were in satisfactory working condition and could match contemporary systems after overhaul and limited up-gradation. Hence, it was considered that after an overhaul and a limited up-gradation, the system could be used for another 15 years. In 2000 Army HQ decided to upgrade only 48 Schilka and de-induct the balance from 2015-16.

To upgrade these 48 Schilka, Request for Proposal (RFP) was issued to many vendors, of which M/s BEL emerged as single vendor, which was approved by RM in August 2005. One Schilka Mount was handed over to BEL in October 2005 for developing a prototype. BEL was to provide prototype for trials within six to eight weeks of handing over of Schilka Mount, however, it was delayed repeatedly. Finally trials were completed in 2009 and contract was concluded in March 2011 at a cost of ₹748.19 crore with PDC of 15 months for FOPM i.e by June 2012. On successful confirmatory trials of FOPM, the Bulk Production Clearance (BPC) was to be accorded and the supply to be completed within 42 months from the accord of BPC. The advance payment of ₹112.22 crore was made in March 2011.

The upgraded weapon system for FOPM trials was delayed as the same was offered by BEL only in May 2014. BPC was accorded by the Ministry in October 2014 and the supply would be completed progressively by April 2018 against October 2016. Up to July 2015, only four out of 48 Schilka amounts have been delivered by M/s BEL.

Reasons for delay

The main reason for delay was that before offering integrated FOPM for confirmatory trials, DGQA evaluation at sub-system level was to be carried out. However, M/s BEL could not offer sub-systems for evaluation within the stipulated date. BEL was dependent on foreign vendors in eight out of 24 major sub-systems. The supply of sub systems by foreign vendor was delayed, resultantly BEL could not offer the sub system for DGQA evaluation.

We observed the impact of delay as under:-

- ❖ An advance of ₹112.22 crore was paid in March 2011 to BEL, whereas the delivery of first Schilka amount was made in November 2014. In the absence of suitable provision in the contract regarding interest on unutilized portion of advance, there was a loss of ₹36.61 crore by way of interest on advance paid, besides delay in supply.

⁶⁶ Outdated electronics such as outdated moving target indicator, ineffective electronic counter measures, inadequate primary power supply unit, inadequate spares, etc.

- ❖ The up-gradation project, conceived during 1997-98, was not yet (July 2015) fully achieved, which indicates that the key objective of DPP, viz. expeditious procurement and achievement of self-reliance, had been defeated to a large extent.
- ❖ As per Article 10 of the Contract, all the 48 Schilka mounts would be delivered within 42 months from the date of BPC. However, the quantum of delivery per year was not stipulated in the contract. Non-indication of rate of delivery provided a lee-way to BEL to supply according to their own convenience.
- ❖ The Army Air Defence will have to use old version of Schilka which was due for de-induction in 2015-16, till its up-gradation by 2018.

8.1.5.6 Procurement for Phase II of Battlefield Surveillance System (BSS) – SANJAY and Command Information and Decision Support System (CIDSS) - SAMVAHAK

The two projects– Battlefield Surveillance System (BSS) and Command Information and Decision Support System (CIDSS) are components of automation project of Command, Control, Communication and Intelligence (C3I) System in Army. Automated C3I would increase the timeliness and soundness of decisions in reduced response time compared to the manual system.

BSS is an array of sensors and information obtained from these sensors would be processed automatically and disseminated to appropriate command and weapon control system by CIDSS for requisite planning of operations/ counter measures of TacC3I⁶⁷ and to take appropriate decisions.

Project BSS was envisaged to be developed by M/s BEL in collaboration with Centre for Artificial Intelligence and Robotics (CAIR, DRDO Lab) in two phases, Phase I as Test Bed to carry out comprehensive testing and validation of the system and Phase II equipping all the Corps and Division of Indian Army. Supply Order for development of Phase I was placed on M/s BEL in August 2002 at a cost of ₹34.92 crore and the same was inducted by Army HQ in January 2008. AON for Phase II was accorded in November 2008 and Contract was concluded with M/s BEL in March 2011 at a cost of ₹2,539 crore. An advance of ₹345.89 crore was paid to M/s BEL in March 2011. As per the contract, First Off Production Model (FOPM) for validation in Plain/Desert and for High Altitude Areas were to be supplied within 12 and 18 months of the contract *i.e.* by March 2012 and September 2012 respectively. After successful completion of validation trials of FOPM, Bulk Production Clearance (BPC) were to be accorded and supply was to be completed within

⁶⁷TacC3I is the project for automation of command, control, communication and intelligence system of Army to assist the commanders from Regimental/Battalion level to Corps level in assessment of field scenario and decision making in speedy and effective manner.

30 months of BPC. However, FOPM for both versions were yet to be offered for validation (July 2015).

Project CIDSS is to be completed in three phases, first two phases are test bed activities and third phase is operational stage. Sanction for Phase I was accorded by the Ministry in May 1999 at a total cost of ₹108.9 crore to be undertaken by BEL as a single vendor in Infantry units and formation of designated Corps *i.e.* 10 Corps and was completed in September 2007. AON for phase II was accorded by DAC in September 2008 as single vendor from BEL. Scope of phase II was extension of CIDSS to all arms of 10 Corps, integration with other components of Tac C3I, validation of application software and thereafter equipping one strike Corps. Contract for the phase II of the system was concluded with BEL in March 2011 at a total cost of ₹1,068.22 crore (₹905 crore pertain to BEL including maintenance of ₹188.59 crore, ₹60 crore pertain to DRDO and ₹103.22 crore as Buyer Furnished Equipment). An advance of ₹142.78 crore was paid to M/s BEL in March 2011. As per the contract, BEL was to deliver test bed part I comprising hardware deliverables, integration facility for Tac C3I lab and civil works within 12 months (March 2012) and part II comprising application software within 15 months (June 2012) from conclusion of the contract. The entire test bed activities including validation trials, approval of application software, factory acceptance test, installation and commission were to be completed within 30 months *i.e.* by September 2013. As of July 2015 delivery of test bed for validation was yet to be completed and delayed for over three years.

Reasons for delay

Scrutiny of the records revealed that while concluding the contracts, certain crucial issues like common Geographical Information System (GIS) for all components of Tac C3I system, timeline and scope for completion of software in different stages, methodology of software development, vetting and approval of hardware before procurement, *etc.* were not explicitly incorporated in the contract.

Subsequent to signing of contracts, (August 2011 to October 2011), Army directed BEL to get the specifications of hardware and software vetted by them before initiating procurement. During the review meetings the user sought common GIS between CIDSS and BSS and other changes in specification of software to which the vendor termed out of scope of the contract. User stated that BEL had misjudged the scope of both the contracts and delayed the development of software. Difference in interpretation of contracts led to arbitration from December 2012 to March 2013. Subsequently, it was decided (November 2013) to undertake progressive development and testing of application software based on mutually agreed philosophy of software development methodology. Resultantly, BEL sought for amendment in the contracts with cost escalation after fielding first FOPM of BSS and test bed evaluation of CIDSS which was agreed by the users.

As evident from above, ambiguity in contractual terms led to different interpretation by vendor and user which resulted in inordinate delay in execution.

As of July 2015, in-house testing of software development for BSS at BEL was completed and testing by user was to be commenced by September 2015. As per the contract, after completion of the Beta testing, software will be ported on the system for conduct of validation trials. However, to an audit query, Army stated (September 2015) that Buyer Furnished Vehicle *i.e.* TATRA 8x8 was not available due to ban in 2012, which would further delay the project.

Against an audit query (May 2014) on fresh timeline for development of software for CIDSS, Army stated (June 2014) that once the stabilized and integrated version of Build 1.0 was tested successfully by them in a network environment in SITF, timeline for Build 2.0 and 3.0 would be given. As of July 2015, testing of Build 1.0 in the SITF was yet to commence (July 2015).

We observed that:-

- ❖ Based on software intensive nature and requirement of integration of BSS and CIDSS with other component projects of TacC3I, contract for both the projects were concluded with BEL as single vendor. As discussed above, main reasons for delay in implementation of the project are common requirement for integration and development of application software. Thus, the very purpose of concluding all contracts for the projects TacC3I with BEL as single vendor was not achieved.
- ❖ Vice Chief of Army Staff directed to close all procurement cases for TATRA vehicles due to ongoing CBI enquiry in August 2012. However, Army could not place order for TATRA vehicles despite the fact that sufficient time (17 months) was available after signing of the contract in March 2011. As of September 2015 Army did not place order for BFE even though the ban on procurement of TATRA was lifted in November 2014.
- ❖ Inordinate delay in fielding of BSS & CIDSS would prolong the implementation of TacC3I. Further, their non-availability would hamper timeliness and soundness of decisions making in reduced response time during operation for more than eight years.

8.1.5.7 Procurement of KU-Band Transportable Satellite Terminals (TSTs)

Transportable Satellite Terminals (TSTs) are state of art communication equipment installed on lighter vehicles with smallest antenna which can be deployed within 30 minutes to one hour and provide reliable, continuous and secure communication to Army. At present the Strike Corps of Indian Army

rely on Transportable Troop scatter Communication Terminals with larger size antennas and hence vulnerable to enemy air action. These Terminals were introduced in 1981 in Army, which became obsolete and were phased out in 2001.

To meet the urgent operational requirement of one Strike Corps Acceptance of Necessity(AON) for 40 TSTs (amended later to 30) was accorded in January 2005 under Fast Track Procedure (FTP) and a contract was concluded with M/s BEL in June 2009 for procurement of 30 Ku Band⁶⁸ TSTs at a total cost of ₹30.02 crore. As per contract, the delivery was to be completed within 12 months of conclusion of contract, inter-alia completing activities like, delivery of vehicles by Buyer, preparation of Acceptance Test Procedure by BEL and its approval by Signal Dte. On successful installation of TSTs in one Strike Corps, the same was planned to be installed in other Strike Corps.

As per the contract, vehicles for mounting the TSTs were to be provided by Buyer and BEL were to deliver 30 TSTs by June 2010. Components for TSTs worth ₹27.73 crore were supplied by BEL up to December 2011. Payment to the extent of ₹25.07 crore (85 *per cent* of total cost of contract) was made till December 2014. However, Army was yet to accept the TSTs as Acceptance Test Procedure (ATP) of the same was in progress (July 2015).

Reasons for delay

Scrutiny of records at Army HQ revealed that there was delay in ATP as the draft ATP document which was to be submitted by BEL in September 2009 (within three months of conclusion of contract) was actually submitted in August 2012 and the same was approved by Signal Dte. in August 2014. Thereafter, BEL offered the TSTs for ATP in October 2014 but the same was not meeting the specifications of ATP. As such the ATP was not complete (December 2015).

We observed that:

- ❖ The time taken by BEL for submission of ATP document was around three years while compared the time prescribed in the contract, i.e. three months. Further, Army also took around two years to approve the ATP.
- ❖ The electronic hardware/components are bound to become obsolete in a short time. As most of the components of TSTs were procured prior to December 2011 and by the time TSTs would be installed, Army would be compelled to use an outdated technology.

⁶⁸ A microwave frequency band used for satellite communication

8.1.5.8 Procurement of Subscriber Terminal Secrecy Unit for Mobile Cellular Communication System (STSU for MCCS)

Mobile Cellular Communication System (MCCS) has been inducted in Army to improve communication in Mountains Formations deployed in counter insurgency/ counter terrorist operations. MCCS is based on technology which is commercially available in the market but do not have high grade encryption to provide sufficient security. Therefore, to provide end to end secrecy solution for communication, Army felt the requirement of an indigenously developed device called Subscriber Terminal Secrecy Unit (STSU) which is mobile handset/Fixed Wireless Terminals (FWT) with encryption software of high grade.

AON for STSUs for one MCCS Unit (Qty 5000) was accorded in November 2004 to be procured from Indian vendors and contract for the same was concluded with BEL in December 2010 at a cost of ₹10.77 crore. An advance of ₹93 lakh had been made to BEL in December 2010. As per the contract delivery of STSU was to be completed in six months i.e. by June 2011 subject to clearance from Scientific Analysis Group⁶⁹ (SAG) for secrecy level within two months from signing of contract. However, the same was yet to be delivered as SAG evaluation of equipment was still pending (July 2015).

Reasons for delay

Our scrutiny of records at Army HQ revealed following reasons for delay-

- M/s BEL offered the encrypted commercially off the shelf (COTS) handset to SAG initially in January 2011 for evaluation. However evaluation by SAG was not completed in two months as envisaged in the contract. Meanwhile, in November 2011 the handset under evaluation became obsolete. Subsequently, in August 2012, BEL offered another COTS handset for SAG evaluation, which too became obsolete by March 2014.
- In March 2014, BEL stated to Army that they were developing its own handset as the COTS handset got obsolete and the new handset would be submitted to SAG in April 2014 for evaluation. Army HQ stated (July 2015) that BEL's handset supplied in May 2015 was under evaluation and their supply depended on successful evaluation by SAG. Thus, from January 2011 to till date (July 2015) i.e. even after more than four years, STSUs were under SAG evaluation.

We observed that:

⁶⁹ SAG – Represented by DRDO which decides on cipher policy of defence equipment and evaluate and grade the security level.

- ❖ The SAG intimated in April 2011 that requisite security grading could not be more than Grade 2⁷⁰ as the STSU offered by BEL was a COTS item. Had BEL supplied indigenously developed STSU initially as per RFP, SAG would have cleared in the first instant itself.
- ❖ Till successful completion of SAG evaluation, the BPC could not be accorded and resultantly the STSU would not be available for MCCS.
- ❖ Despite payment of ₹93 lakh in December 2010, the MCCS unit is compelled to communicate in unsecure environment for more than four years. Further, due to delay in supply of the secure equipment, the availability of STSU to remaining MCCS units of Army would have to communicate in unsecure environment.

8.1.6. Monitoring Mechanism

Once a contract is signed effective monitoring and implementation of contract, which includes important aspects such as delivery, payments, inspection, utilization of the equipment amendment in contract *etc.* is required for timely execution of the contracts and for the user's satisfaction. We observed that the post contract management at Army HQ and their monitoring by Acquisition Wing and Department of Defence Production (DDP) in Ministry of Defence (MOD) was not effective as discussed below:

8.1.6.1 Post Contract Management (PCM) at Army HQ

Defence Acquisition Council (DAC) is set up for according 'in principle' approval of capital acquisition plan and also accords Acceptance of Necessity for each capital procurement case. Decisions of DAC for the same are to be implemented by Defence Procurement Board (DPB). To assist DPB in its functioning, there exist an acquisition wing in the MOD headed by Director General (DG) Acquisition, having an integrated set up with officers from Department of Defence, Finance and Service HQ. Defence Procurement Procedure, stipulate that while responsibility for contract administration and management rest with the Service HQ concerned (Army HQ), post contract monitoring would be conducted by the Acquisition Wing of the MOD. In February 2007, in order to streamline the procedure for monitoring, collegiate meeting attended by all concerned directorates of Army HQ was held and it was decided that Deputy Director General Procurement (DDG Proc) of Masters General of Ordnance (MGO) Branch would act as single point nodal agency in case of indigenous capital contract and files pertaining to post contract activities would be routed through them. In April 2012, Weapon and Equipment (WE) Directorate, the contracting agency in Army HQ, issued instructions with approval of Deputy Chief of Army Staff (P&S) to formalize the procedure for amendment to contract. According to that, any amendment

⁷⁰Grade 2 – is accorded by SAG to those COTS items which provide a cover time of one week for confidential information.

to contract would be dealt by WE Directorate, and responsibility of post contract management rested with MGO Branch.

Audit found that the monitoring mechanism structure as stipulated above was not being adhered to by the DDG(Proc). To an audit query (July 2015) seeking details of all post contract activities, DDG (Proc) stated (August 2015) that they were involved only with processing the bills for payment to the vendor. Further, during examination of post contract activities at Acquisition wing in MOD, no document relating to post contract monitoring was produced. It was further noticed that, in agenda of DAC and DPB no issue of post contract management of capital contract is included. These facts evidently indicate that post contract management was not being adequately monitored.

8.1.6.2 Post Contract Management at Department of Defence Production

Department of Defence Production (DDP) deals with matters pertaining to defence production, indigenisation of imported stores, equipment and spares, planning and control of departmental production units of Ordnance Factory and of DPSUs. Secretary Defence Production is also a member of decision making bodies of capital acquisition viz. Defence Acquisition Council headed by RM and Defence Procurement Board headed by defence secretary. However, in capital acquisition process, DDP remains involved at the level of General Staff Qualitative Requirement (GSQR) approval, Acceptance of Necessity (AON) and in approval of Detailed Project Report, if applicable.

We noticed that there was no systematic mechanism in DDP to monitor the execution of capital contracts concluded with DPSUs. In response to audit query on procedure for monitoring the contracts concluded with DPSUs, DDP stated that they monitored the contracts based on information received from DPSUs through monthly DO letter, correspondence on Memorandum of Understanding (MOU) progress, etc. When Audit asked for list of capital contracts concluded with respective DPSUs during XI Plan, the same was not readily made available. Later on, the lists as obtained from the DPSUs were forwarded to us. Further, scrutiny of records revealed that DDP even do not have self mechanism to monitor PCM activities as there was no data base for capital contracts with DPSU nor any files maintained when contract is concluded. DDP comes into picture only when DPSUs or other departments refer the case to them.

Thus, post contract administration and management by Army HQ and their monitoring by Acquisition Wing was ineffective. Moreover, DDP do not take any systematic follow-up mechanism on all contracts with DPSU to ensure timely execution of contracts by DPSU.

8.1.7. Conclusion

The various Schemes initiated a decade ago to enhance operational preparedness of the Army could not be fructified till date (July 2015) even

after conclusion of contracts with the DPSUs during XI Plan (2007-12) for procurement of equipment and making payment of ₹10,241.19 crore to them. Further Government had to suffer a loss of ₹1931.64 crore on account of accrued interest on amount paid in advance to the DPSUs as summarised below:

- Delay of 55 months in development and further delay in rectification of quality issues of ALH-WSI by HAL had created a situation where despite payment of ₹3,550.85 crore (56 per cent) not a single Helicopter was ferried out by July 2015. Moreover, the Government interest had not been safeguarded while framing payments terms in the contract as payment of ₹1,634.58 crore had to be made for deliverables for XII Plan even before completion of targets for XI Plan. The Government had to suffer a loss to the tune of ₹670.07 crore as interest on payment made (₹1,634.58 crore)
- Delay of 34 months in First Off Production Model (FOPM) and delay of 25 months in availability of infrastructure of Akash Missiles System from BDL, meant to replace four decade old L-70 Gun system not only have adverse impact on operational readiness but also have financial implications in terms of loss of interest of ₹1,073.69 crore.
- Due to heavy dependence on foreign vendor/co-partner, BEML could not commence supply of Armoured Recovery Vehicle (ARV WZT-3) even after a delay of 35 months. Further, BEML could not offer FOPM of Sarvatra Bridge System after a delay of 27 months. Resultantly, operational preparedness of Army was adversely affected and also there was a burden on Government exchequer by way of loss of interest of ₹138.68 crore accrued on unutilized advance.
- BEL offered FOPM of up-graded Schilka Gun with a delay of 23 months, as BEL had imported 36 per cent of components from foreign vendors, which got delayed. Resultantly, there was a loss of ₹36.61 crore on account of interest on advance paid to them. As such, Army Air Defence would be using the Schilka Gun till availability of upgraded one which was otherwise due for de-induction.
- Inordinate delay of 40 months in fielding of Battlefield Surveillance System and Command Information Decision Support System, (part of automation project viz. TacC3I of Army) by BEL would hamper timeliness and soundness of decisions making in reduced response time in battlefield.
- Despite delay of more than four years, BEL could not develop communication equipments viz. Transportable Satellite Terminals for KU-band and Subscriber Terminal Secrecy Unit for Mobile Cellular Communication System, meant for usage by field units and which are essential during operations.

Recommendations

- All advance payments should indicate the purpose and time by which payments be used and followed up by an utilisation certificate jointly from the DPSU and the User. A clause for recovery of penal interest on the amount not utilized for the desired purpose within the stipulated time is introduced.
- Since contractual obligations of the DPSU commence with the execution of the agreement, which is also followed up by payment of advance, liquidated damages be charged from the effective date of contract instead of bulk production clearance.
- Contracts involving design and development should be concluded only after qualitative requirements of Users are frozen.
- Effective monitoring in MOD as well as at Army HQ may be ensured to facilitate expeditious supply against high money value capital contracts.

The case was referred to the Ministry in January 2016; their reply was awaited (March 2016).

Mishra Dhatu Nigam Limited, Hyderabad

8.2 Avoidable loss due to non-availing of Customs Duty Exemption

Delay in preferring claim for reimbursement of Customs Duty paid led to avoidable extra expenditure of ₹ 1.30 crore

Mishra Dhatu Nigam Limited, Hyderabad (Company) entered (January 2011) into a contract with Vikram Sarabhai Space Centre, Thiruvananthapuram (VSSC) for manufacture and supply of Columbium Alloy C103 sheets (135 Nos./1445 Kgs) at a total cost of ₹11.30 crore. The Material Procurement Cell (MPC) of the Company placed purchase orders on M/s Zhzhou Cemented Carbide Works Import & Export Company Limited, China for supply of 3000 Kgs of Niobium (April 2011) and on M/s ABS Industrial Resources Limited, United Kingdom for supply of 400 Kgs of Hafnium (September 2011). Niobium and Hafnium were received in September 2011 and December 2011 respectively.

The contract provided that the Purchaser (VSSC) was eligible for availing customs duty exemption and the contractor (Company) could avail the exemption against the required certificate issued by the Purchaser on demand. The Company did not initiate action to obtain Customs Duty Exemption Certificate (CDEC) from VSSC either on placement of order or on receipt of goods to ensure that goods were cleared by availing exemption.

The Company cleared the materials after paying ₹89.33 lakh and ₹40.92 lakh towards customs duty. The action of the Company in clearing the goods on payment of duty was not prudent as the Company should have availed exemption instead of resorting to *pay first and claim refund later*.

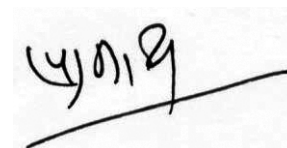
Audit observed that the Company requested VSSC to issue CDEC only in December 2012 for both the purchase orders which was one year after the payment of customs duty for the last material received. The CDEC was received from VSSC in January 2013.

The claim for refund of customs duty paid was filed by the Company in March 2013 after a period of 18 months/15 months from the date of payment of duty (September 2011/December 2011). Sec 27 (1) of Customs Act, 1962 stipulated a period of one year (in the case of import for personal use or by government or by any educational, research or charitable institution) and six months in other cases for filing of application for refund. The claim was returned by the Customs Department on the ground that the assessment order had become final and the claim was time barred.

Company admitted (December 2015) that payment of customs duty and consequent rejection of refund could have been avoided with proper communication between the departments involved. It also stated that it was the first time that avilment of customs duty exemption was provided in a VSSC contract and shift in modality of raw material procurement with customs duty payment to avilment of customs duty exemption could have contributed to the lapse in the system.

The reply is not tenable since the Company was aware of the conditions of the contract as well as time limit in the Customs Act for claiming of refund and thus, should have taken measures to ensure that there was no loss to the Company.

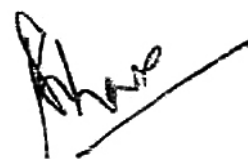
Thus, failure to avail exemption and resorting to pay first and claim refund later which was unsuccessful resulted in avoidable extra expenditure of ₹1.30 crore.



(PARAG PRAKASH)
Director General of Audit
Defence Services

New Delhi
Date: 31 May 2016

Countersigned



(SHASHI KANT SHARMA)
Comptroller and Auditor General of India

New Delhi
Date: 31 May 2016