

# **CHAPTER 3**

## **Compliance Audit**



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### 3. Compliance Audit

Compliance audit of transactions of the Government departments, their field formations as well as that of the autonomous bodies brought out instances of lapses in management of resources and failures in the observance of the norms of propriety and economy. These have been presented in the succeeding paragraphs.

#### Housing and Urban Planning Department

##### 3.1 Surcharge on sale of plots not levied

##### **The Hapur-Pilakhua Development Authority failed to levy surcharge amounting to ₹ 3.67 crore on sale of 102 plots, which was meant for the infrastructure development fund**

The Government of Uttar Pradesh (GoUP) directed (January 1998) all Development Authorities to maintain Infrastructure Development Fund (IDF) for execution of development work of immense public importance. The clause 5(f) of the G.O. provided to levy a surcharge at the rate of ten *per cent* on the sale value of plots sold by the Authorities. The additional revenue so collected on account of surcharge was to be deposited in the IDF account.

Audit noticed (October 2015) that Hapur-Pilakhua Development Authority (Authority) sold 102 plots (39,250.90 sqm) for ₹ 36.72 crore under two schemes (Preet Vihar and Anand Vihar) during 2009-10 to 2014-15. The Authority, however, did not levy the surcharge which works out to ₹ 3.67 crore (**Appendix-3.1**) at the rate of 10 *per cent* of sale value of the plots. Thus, the intended additional revenue was not realised by the Authority to the extent of ₹ 3.67 crore by way of levy of surcharge on the sold plots.

In reply, the Authority stated (February 2016) that levy of 10 *per cent* surcharge was not specified in Model Costing Guidelines (November 1999). It was also stated that both the schemes were started after 1999 and hence, no surcharge was levied.

Reply is not acceptable as the order of November 1999 is applicable for fixation of the cost of properties. Whereas, order of January 1998 is related to levy of surcharge of 10 *per cent* of value of plots to be sold and it also does not exempt any housing scheme.

The matter was reported to the Government (June 2016). Reply is awaited (November 2016).

##### 3.2 Short levy of City Development Charges

##### **Agra Development Authority suffered a loss of ₹ 3.13 crore due to short levy of City Development Charges (CDC) and not levying of interest on short realised CDC**

Government of Uttar Pradesh (GoUP) framed (May 2005) 'Integrated Township Policy' (Policy) to attract/promote investment of private capital in

the planned development of housing schemes in the urban areas. Under this policy, Development Authorities issue licenses to private developers for purchase and development of minimum 50 acre of land as per GoUP Guidelines. Detailed Project Report (DPR) and layout are approved by the Development Authorities. The Development Authority also executes a 'Development Agreement' with the developer to ensure the quality of development and execution of the scheme within time schedule given in DPR.

The Government issued an order in December 2005 for payment of City Development Charges (CDC) by the developer to the Development Authorities at the rate of ₹ 1.50 lakh per acre which was revised to ₹ three lakh per acre in August 2008. These rates were to be updated every year on the basis of price index declared by the Government of India (GOI). The GoUP also notified (November 2014) Rules for 'Levy and Collection' of CDC which provided for payment of CDC in installments over a period of maximum two years along with simple interest at the rate of 12 per cent per annum.

Agra Development Authority (Authority) issued (May 2007) a license to Ansal Properties and Infrastructure Limited and Consortium (Developer) for development of an Integrated Township (Sushant Taj City) for acquiring 480 acre land<sup>1</sup>. The DPR and layout of Sushant Taj City for 441.54 acre land was initially approved by the Authority in December 2007 and August 2008 respectively. The Authority further approved a DPR and layout for an extended area of 35.96 acre land in December 2010 and September 2014 respectively.

Audit noticed (June 2015) that the Authority, violating the order of December 2005, did not charge updated rates of the CDC. Further, as per Rules issued by GoUP in November 2014, interest on the short deposit of CDC was also not collected from the developer. This resulted in loss of ₹ 3.13 crore as discussed below:

- The Authority levied (August 2008) CDC at the rate of ₹ 1.50 lakh per acre instead of updated rate of ₹ 1.76 lakh per acre on 441.54 acre of land and at the rate of ₹ 2.93 lakh per acre instead of ₹ 5.28 lakh per acre on extended area of 35.96 acre of land in September 2014. This resulted in short-realisation of CDC of ₹ two crore<sup>2</sup> from the Developer.
- The Authority also did not charge interest of ₹ 1.13 crore<sup>3</sup> worked out for the period of July 2008 to March 2016 on the short realised CDC of ₹ two crore from the Developer.

In reply, the Authority stated (August 2016) that the Developer had already deposited (July 2008 and August 2015) ₹ 7.67 crore as CDC, which is more than the CDC required for 368.5 acre land acquired by the Developer till March 2016. It was further stated that as the Developer did not use increased Floor Area Ratio (FAR) and higher density, therefore, CDC was charged at the rate of ₹ 1.50 lakh and ₹ 2.93 lakh per acre.

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<sup>1</sup> In Atus, Jaupura, Panwari and Sadarvan Villages, at Tehsil Sadar, in Agra district.

<sup>2</sup> {₹ 7.77 crore (441.54\* ₹ 1.76 lakh) + ₹ 1.90 crore (35.96\* ₹ 5.28 lakh)} - {₹ 6.62 crore (441.54\*₹ 1.50 lakh)+ ₹1.05 crore (35.96\*₹ 2.93 lakh)}.

<sup>3</sup> ₹ 1.07 crore (₹1.15 crore\*12%\* 93 month/12)+ ₹ 0.06 crore (₹0.85 crore\*12%\*7 month/12)

Reply is not acceptable because as per G.O. of December 2008 CDC was a onetime charge which was to be realised at the updated rate applicable at time of approval of layout and for the area of land mentioned in the layout irrespective of Floor Area Ratio (FAR) and higher density i.e. maximum number of persons/dwelling units per hectare.

The matter was reported to the Government (June 2016). Reply is awaited (November 2016).

### 3.3 Avoidable payment of interest

#### **Varanasi Development Authority made avoidable payment of interest of ₹ 0.75 crore due to delayed refund of unutilised loan amount of ₹ eight crore**

The Varanasi Development Authority (Authority) entered into an agreement in December 2011 with Housing and Urban Development Corporation Limited (HUDCO) for obtaining loan of ₹ 95 crore for the acquisition of land and development of Transport Nagar scheme at *Mohan Sarai Bypass*, Varanasi.

The clause (iv) of section 3.2 of Article 3 of the General Conditions annexed with Loan Agreement provided that “If the loan or different components of the loan disbursed under the agreement was/were not used by the borrower within a period of six months from the date of release due to any reason like withdrawal of the scheme, non-implementation of the scheme, reduction in the number of units to be constructed under the scheme etc, the borrower shall immediately refund such amount to HUDCO and in any case before the expiry of a period of six months from the date of disbursement of the loan failing which the borrower, notwithstanding anything to the contrary stated herein, will pay to HUDCO such increased rate of interest in addition to penal interest as defined in the agreement, as may be fixed by HUDCO on all such funds from the date of release to the date of refunding of the same to HUDCO”.

The Authority availed of a loan of ₹ 28 crore from HUDCO in February 2012 out of which ₹ 20 crore was utilised within six months and remaining ₹ eight crore was lying unutilised for 16 months. The remaining amount of ₹ eight crore was returned to HUDCO in June 2013 stating that the Authority was facing problem in acquisition and physical possession of land for the development of Transport Nagar.

Audit noticed (March 2016) that problem in acquisition and physical possession of land persisted since 2003 and it continued till the drawl of loan (February 2012). Therefore, withdrawal of loan amount should have been made in phased manner and according to the actual requirement. The Authority, despite being aware of the problem in acquisition of land, withdrew whole loan amount of ₹ 28 crore in lump-sum and thereafter, instead of refunding unutilised amount of ₹ eight crore within a period of six months as stipulated in the of loan agreement (clause (iv) of section 3.2 of Article 3) retained it for 16 months.

Thus, due to withdrawal of loan of ₹ eight crore without requirement and retaining it for a period of 16 months, the Authority had to make avoidable

payment of interest of ₹ 125.33 lakh<sup>4</sup>. The Authority had kept the fund in flexi account with bank on which interest of ₹ 50.67 lakh<sup>5</sup> had been earned. Thus, the Authority suffered a loss of ₹ 74.66 lakh being the differential value of interest earned and interest paid on loan amount of ₹ eight crore.

In reply, Authority stated (June 2016) that fund was invested in flexi account with bank on which Authority had earned interest.

Reply is not tenable as inspite of interest earned on loan amount the Authority has suffered loss of ₹ 75.00 lakh.

The matter was reported to the Government (June 2016). Reply is awaited (November 2016).

### **Information Technology and Electronics Department**

#### **3.4 Avoidable loss of interest**

#### **GoUP suffered loss of interest of ₹ 2.84 crore due to user charges not being transferred to respective Government Departments**

Rule 7 (1) of the Appendix-II of Financial Hand Book Volume-5 Part-1 pertaining to Treasury Rules provides that all money received by or tendered to Government servants in their official capacity shall not be kept apart from Government account.

Information Technology and Electronics Department (Department) of Government of Uttar Pradesh (GoUP) established (March 2006) Centre for e-Governance<sup>6</sup> (CeG) to work with various Government Departments, private and public organisations and others to analyse key issues in e-Governance, identify solutions, help in developing action plan etc.

The GoUP specified (February 2013) user charges for the services to be provided under State Service Delivery Gateway and prescribed the ratio in which the user charges so collected will be shared by four stake holders<sup>7</sup>. The respective departments of GoUP were to get the user charges at the rate of ₹ 10 per application for *Khatauni* services and ₹ five for other than *Khatauni* services out of the total user charges collected for the services provided to the citizens.

Audit noticed (January 2016) that during 2013-14 to 2015-16, CeG received an amount of ₹ 25.03 crore as user charges on behalf of the Government Departments and deposited the same in bank account without interest. The CeG requested the Department several times (during May 2015 to November 2015) to issue guidelines in respect of transfer of fund in Government Account; but no such guideline was issued by the Department.

In absence of guidelines by the Department regarding transfer of fund to the Government account by CeG, the fund of ₹ 25.03 crore was parked in the

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<sup>4</sup>(₹ 8 crore\*11.75 per cent\*16month)/12month

<sup>5</sup> At the rate of 4.75 per cent per year applicable for term deposit for period for 15 days to 45 days

<sup>6</sup>CeG registered under Societies Registration Act 1860

<sup>7</sup> Service Centre Agency (SCA)/Center Operator, District e-Governance Society/Lokvani Society, respective Department and Centre for e-Governance (CeG)

current account of the bank (carrying no interest) instead of transferring the same to the related departments' account. This resulted in avoidable loss of interest of ₹ 2.84 crore worked out at the Government rate<sup>8</sup> of interest for the period from April 2013 to January 2016 (**Appendix 3.2**).

In reply, CeG stated (February 2016) that user charges could not be transferred to respective departments due to pendency of decision at government level in respect of guidelines. It was also stated that flexi facility has been availed in the current account from the month of February 2016.

The fact remains that due to not finalisation of necessary guidelines by the Department, the GoUP suffered loss of interest of ₹ 2.84 crore. Moreover, keeping the Government funds outside Government account that too in a bank account without interest amounted to mismanagement of Government revenue and extending financial favour to bank.

The matter was reported to the Government (June 2016). Reply is awaited (November 2016).

Lucknow

The **15 FEBRUARY 2017**



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The **17 FEB 2017**



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<sup>8</sup> Rate at which State Governments take advances from the Government of India which ranged between 8.75 per cent and 10 per cent during April 2013 to January 2016.

