

## Chapter IV - Compliance Audit

### Urban Development Department

#### 4.1 Avoidable payment of penal interest

**Bruhat Bengaluru Mahanagara Palike repeatedly defaulted in repaying the loan instalments despite the budgetary provisions and availability of sufficient funds, resulting in avoidable payment of penal interest of ₹20.07 crore.**

Section 164 of the Karnataka Municipal Corporations Act, 1976 (KMC Act, 1976), stipulates that all payments due from a city corporation for interest on and repayment of loans should be made on priority to all other payments due from the corporation. Further, Section 167 of the KMC Act, 1976, mandates that the budget estimates prepared by the corporation should provide for repayment of principal and interest for which the corporation may be liable on account of loans.

Scrutiny of records (June 2018) in the office of the Chief Accounts Officer (CAO), Bruhat Bengaluru Mahanagara Palike (BBMP), showed that the Government of Karnataka had accorded (September 2005) sanction for implementation of Karnataka Municipal Reforms Project (KMRP) with the loan assistance from International Bank for Reconstruction and Development (World Bank). The Project, costing ₹1,148.53 crore, was formulated to continue the efforts of the State Government to improve the capacity of urban local bodies in delivering efficient services, to ensure good governance, and also to improve the underground drainage facilities in Greater Bengaluru area and the road network in Bengaluru City. The terms and conditions of the loan were governed by the Government Order (September 2005) and project agreements signed between India and the World Bank (May 2006) and also between the World Bank and the State of Karnataka (May 2006). The Project was to be implemented over a period of five years from 2005-06 to 2009-10 and Karnataka Urban Infrastructure Development and Finance Corporation (KUIDFC) was designated as the coordinating agency for the entire project.

One of the four components under the KMRP was the Bengaluru Development Component, under which the BBMP<sup>12</sup> was given loan assistance of ₹76.47 crore<sup>13</sup>. The rate of interest was 8.5 *per cent* per annum and the loan was repayable in 60 quarterly instalments (July-September 2011 to April-June 2026). Interest on any default in repayment was leviable at the rate of 11 *per cent* per annum.

Audit observed that BBMP had made provisions in the budget estimates (2011-12 to 2017-18) for repayment of the KUIDFC loan. The KUIDFC had issued 21 demand notices between December 2011 and October 2016 and it was also seen from the bank statements furnished by the BBMP that sufficient

<sup>12</sup> The State Government issued (January 2007) a notification to merge the areas under existing Bangalore Mahanagara Palike with seven city municipal councils, one town municipal council and 110 villages around the city to form a single administrative body, BBMP.

<sup>13</sup> ₹73.40 crore during March 2006 to July 2009 and ₹3.07 crore during May 2015.

funds were available in its bank account during this period. Despite this, the BBMP repeatedly defaulted in making payment of quarterly dues to the KUIDFC and did not pay any amount till the quarter ended September 2016. The first payment of ₹3.86 crore was made during November 2016 and default in payment continued up to the quarter ended March 2017. Consequently, through demand notices between December 2011 and March 2017, KUIDFC made a claim of ₹20.07 crore as penal interest for delayed payments. There was no delay in payment of dues for the subsequent four quarters (April-June 2017 to January-March 2018). As of March 2018, BBMP had paid ₹109.44 crore to KUIDFC which included penal interest of ₹20.07 crore (detailed in **Appendix 4.1**).

Thus, failure of BBMP in timely repayment of loan dues despite the budgetary provisions and availability of sufficient funds resulted in avoidable payment of penal interest of ₹20.07 crore to KUIDFC.

The State Government accepted (November 2018) the audit observation regarding non-payment of quarterly dues till the quarter ended September 2016. The reply did not explain the reasons/constraints faced for non-payment of dues despite the availability of funds. The State Government needs to fix the accountability on the officials concerned for the financial burden of ₹20.07 crore.

#### **4.2 Loss of revenue due to incorrect assessment of property tax**

**Joint Commissioner, Bommanahalli Zone, Bruhat Bengaluru Mahanagara Palike wrongly assessed corridor/service area of a building at a lower rate. He also did not consider the date of occupancy certificate for levying property tax. These resulted in short assessment of tax and consequent loss of revenue of ₹6.72 crore.**

Section 108-A of the Karnataka Municipal Corporations Act, 1976 (KMC Act, 1976) provides for levy and collection of property tax on all buildings and vacant land coming under the jurisdiction of Bruhat Bengaluru Mahanagara Palike (BBMP). The State Government notified (January 2009) BBMP Property Tax Rules, 2009 to introduce self-assessment of property tax under Unit Area Value system. Different rates were determined for different areas or streets by classifying them into zones, nature of use to which the vacant land or building is being put, and for different classes of buildings and vacant lands. For this purpose, the jurisdictional area of BBMP was classified into six value zones (A, B, C, D, E and F) and properties were grouped into 18 categories (5 residential and 13 non-residential). The rate (2008-16) of property tax for non-residential buildings with central air conditioning facility (Category VIII) in 'C' Zone was ₹12 per square feet (sq ft) and the rate for parking area was ₹6 per sq ft. Multiplex theatres were classified under Category XI (ii) and the rate of tax was ₹20 per sq ft (for all the six zones).

Section 147 read with Taxation Rules (Schedule III) of KMC, Act, 1976, empowers the Commissioner, BBMP or the authorised officer to revise the property tax on the basis of inspection made and information collected, and after holding such enquiry as he considers necessary. In case of short payment of property tax, the assessee is liable to pay the evaded tax along with a

penalty equal to two times the difference of tax, and interest at two *per cent* per month on the tax evaded. The Rules also provided for detailed scrutiny of cases up to 10 *per cent*.

Test-check of records (March 2018) in the office of Assistant Revenue Officer (ARO), Arakere Sub-division, Bommanahalli Zone, BBMP, showed that the ARO, Arakere scrutinised 18 out of 50,173 cases (0.04 *per cent*) during the years 2016-17 and 2017-18. Audit test-checked 8 of these 18 cases and observed that the revised assessment (March 2017) in case of a commercial building (Royal Meenakshi Mall, Bannerghatta Road) was not in accordance with the relevant provision as it wrongly assessed the corridor/service area of 81,885 sq ft at ₹6 per sq ft. This resulted in short assessment of property tax and loss of revenue of ₹6.72 crore, as detailed below:

- 1) BBMP specified that in case a building was completed after 1<sup>st</sup> October of any year, property tax on the constructed building was payable for the second half of the year. In respect of a building completed prior to 1<sup>st</sup> October, property tax was to be paid for the full year. Till completion of the building, the property tax was payable at the rate applicable for vacant site.

Scrutiny showed that the Joint Director of Town Planning, BBMP, had issued the occupancy certificate for Royal Meenakshi Mall, Bannerghatta Road, in 'C' Zone during December 2010. As per the occupancy certificate, the total built-up area of the building was 6,67,630 sq ft. This comprised central air conditioning area (3,14,942 sq ft including terrace area under Category VIII), seven multiplex theatres on fifth to seventh floors (1,33,344 sq ft under Category XI (ii)) and parking area of 2,19,344 sq ft.

As the occupancy certificate was issued during December 2010, property tax of ₹1.17 crore on the constructed building was payable for the second half of the year 2010-11. It was, however, seen that the assessee had paid (April 2010) property tax of ₹0.68 lakh for the land component only for the full year 2010-11 and the JC, Bommanahalli revised it to ₹0.88 lakh. This resulted in non-payment of property tax of ₹1.16 crore on the constructed building which was completed during December 2010 (detailed in **Appendix 4.2**).

- 2) BBMP property tax rules also stipulated that the entire built-up area of the building having central air conditioning (Category VIII) or multiplex theatre (Category XI (ii)) should be computed to tax at the applicable rates and there was no provision for computation of service area at half the rate as applicable for other six<sup>14</sup> categories of non-residential property.

Audit, however, observed that the JC, Bommanahalli Zone, had computed 2,732 sq ft of service area having central air conditioning facility and corridor area, measuring 79,153 sq ft, on fifth to seventh

<sup>14</sup> (1) Hotels/restaurants - Category IX; (2) Star Hotels - Category X; (3) Cinema Theatres - Category XI(i); (4) Private Hospitals and Nursing Homes - Category XII; (5) Community Halls, *Kalyana Mantapa*, etc. - Category XIII; and (6) Industrial Buildings - Category XIV.

floors (multiplex theatre area) to tax at the rate of ₹6 per sq ft whereas the applicable rates were ₹12 per sq ft and ₹20 per sq ft respectively. The assessment of corridor/service area of 81,885 sq ft (2,732 sq ft + 79,153 sq ft) at a lower rate was contrary to the BBMP property tax rules and hence, resulted in short assessment of tax and consequent loss of revenue of ₹5.56 crore during the period 2011-12 to 2017-18 (detailed in **Appendix 4.2**).

As this is an illustrative case, BBMP should look into this aspect for other land and buildings also to preclude any further likelihood of loss of revenue.

The State Government stated (November 2018) that the date of the occupancy certificate was not considered for levy of property tax as permissions from Bengaluru Water Supply and Sewerage Board (BWSSB) and Bengaluru Electricity Supply Company Limited (BESCOM) were obtained subsequently (January 2011 and July 2011 respectively). It also stated that the corridor area of 81,885 sq ft was computed to tax at the rate of ₹6 per sq ft as it was not let out on rent and there was no commercial activity in this area. It further stated that the area of the multiplex as per the rental agreement was 34,283 sq ft and BBMP considered an area of 56,020 sq ft while calculating the property tax for the multiplex. The reply is not admissible for the following reasons:

- (a) the date of completion of the building (i.e. date of occupancy certificate) is to be considered for levying property tax on the constructed building;
- (b) there is no provision in property tax rules for computation of the corridor area at half the rate in respect of multiplex theatres and buildings with central air conditioning facility. Further, the contention that the corridor area was not let out on rent is irrelevant as this would also not change the fact that the building was centrally air-conditioned; and
- (c) there was no consistency in BBMP's records regarding built-up area of the building. As per the occupancy certificate (December 2010) and noting of the Joint Director of Town Planning, BBMP (March 2017), the fifth, sixth and seventh floors with a total built-up area of 1,33,344 sq ft had seven multiplex theatres.

### **4.3 Loss of revenue**

**Fraudulent issue of trade licences and manipulation of Online Trade Licence System with fictitious instrument numbers at the office of the Medical Officer, Health, BBMP, Bommanahalli resulted in revenue loss of ₹3.75 crore. Further, the Medical Officer failed to comply with the codal provisions by not remitting 354 bankers' cheques/demand drafts worth ₹22.44 lakh to the bank account.**

Article 4 (a) Chapter II of General Principles and Rules of the Karnataka Financial Code, 1958 stipulates that all transactions to which any Government servant in his official capacity is a party must, without any reservation, be brought to account, and all moneys received should be paid in full without undue delay in any case within two days, into a Government treasury, to be

credited to the appropriate account. If in exceptional circumstances, the time limit of two days cannot be observed, the Heads of Departments should by specific order, extend the said time limit up to seven days. Unless the time limit is so extended by a specific order, by the Head of Department, the time limit of two days will operate. Further, in accordance with article 4(b)(ii), all cheques and drafts should be treated as cash and entered in the Cash book like other cash transactions.

Bruhat Bengaluru Mahanagara Palike (BBMP) issues trade licences on receipt of the requisite fees along with the applications. The trader collects the New/Renewal Trade Licence Certificate from the respective Medical Health Office and trade licence fee is deposited in the bank accounts<sup>15</sup> exclusively opened for the purpose.

Audit scrutiny of records (March 2018) of the Medical Officer, Health (MOH), Bommanahalli and Bengaluru (South), (BBMP) for the period up to 2016-17, revealed that 34 bankers' cheques/demand drafts (instruments) amounting to ₹1.77 lakh were not traceable to the bank accounts for the test-checked months (April 2014 and October 2015). Audit, therefore, obtained (July 2018) the data dump of the online trade licence system from the Information Technology (IT) Wing of the BBMP. The IT Advisor, BBMP certified (July 2018) that the data dump is complete, consistent and contained the entire data, and there was no erasure, tampering or over writing of original data. Audit also obtained the bank pass sheets from IDBI Bank and Canara Bank (October 2018) for verifying the remittance of trade licence fees.

As per the data dump, MOH, Bommanahalli and Bengaluru (South) had issued 10,598 trade licences during 2014-15 to 2017-18 by exhibiting a collection of ₹13.03 crore. Analysis of the data showed that in respect of 525 trade licences, the instrument number was left blank. As a result, Audit could not vouchsafe the remittance of these instruments, amounting to ₹27.81 lakh, to the bank accounts. Further analysis of the data showed that:

- i) 881 trade licences were issued by entering the same instrument number two or more times (up to 45 times in one case) and exhibiting a collection of ₹98.17 lakh. Out of this, only an amount of ₹39.72 lakh pertaining to 270 trade licences could be traced and the balance of ₹58.45 lakh in respect of 611 trade licences could not be traced to the bank accounts. Details are given in **Appendix 4.3**.
- ii) An amount of ₹3.17 crore pertaining to 2,071 instruments, that were not repeated, was also not traced to the bank accounts.

To substantiate the observation, audit ascertained (September 2018) the genuineness of these instruments from the respective banks. Two banks (State Bank of India, Padmanabhanagar Branch and Canara Bank, KR Puram) confirmed (September and October 2018) that

<sup>15</sup> IDBI Bank A/c No. 0008104000436250 (closed on 15.03.2016) and Canara Bank A/c No.11 (opened on 9.10.2015).

none of the 451 instruments<sup>16</sup> were issued by them. The responses from the other banks were awaited (July 2019).

Thus, out of 10,073 verifiable cases, audit could not trace 2,682 instruments involving an amount of ₹3.75 crore<sup>17</sup> to the bank accounts. It is evident from the above that the MOH, Bommanahalli and Bengaluru (South) had entered fictitious instrument numbers for issuing the trade licences. This not only facilitated embezzlement of money but also led to loss of revenue of ₹3.75 crore.

Audit also noticed that 354 instruments amounting to ₹22.44 lakh obtained towards trade licence fee for the period from 2008-09 to 2016-17 were not remitted to the bank accounts and were lying with MOH, Bommanahalli and Bengaluru (South) as of September 2018. The MOH did not furnish any reason for not remitting the instruments to the bank accounts. Unauthorised retention of instruments contravened the codal provisions and resulted in a probable loss of interest income of ₹3.81 lakh<sup>18</sup>. The possibility of further loss of revenue of ₹22.44 lakh could not be ruled out if the MOH, Bommanahalli and Bengaluru (South) fails to get the 354 instruments revalidated and credited to bank account. The MOH, Bommanahalli and Bengaluru (South) had not maintained the cash book, remittance register and other subsidiary registers to record the receipt of the instruments and remittance of the same to the bank accounts. In the absence of these basic records, the office had not ensured that the amount shown as remitted in their records, had actually been credited to the bank accounts concerned.

Thus, non-maintenance of statutory records coupled with irregular retention of instruments and manipulation of entries led to embezzlement of money and consequent revenue loss of ₹3.75 crore. These are only illustrative cases and the matter needs detailed investigation by the Government for fixing responsibility and taking appropriate corrective measures.

The State Government stated (November 2018) that necessary action was being taken to conduct departmental enquiry and initiate disciplinary action against the officials concerned and suitable reply would be furnished on completion of the enquiry.

BBMP stated (August 2019) that the officials concerned have been placed under suspension and the response of the officials were not accepted. It further stated a committee headed by the Special Commissioner (Finance) was being constituted to examine in detail the loss caused in the instant case and necessary action would be taken against the concerned as per law.

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<sup>16</sup> Out of 2,682 instruments, audit furnished the list of 260 instruments pertaining to SBI, Padmanabhanagar Branch and list of 191 instruments pertaining to Canara Bank, KR Puram for confirmation.

<sup>17</sup> ₹58.45 lakh (611 cases) + ₹3.17 crore (2,071 cases).

<sup>18</sup> Calculated at savings bank rate of interest of four *per cent* on unremitted instruments.

#### **4.4 Avoidable payment due to non-variation/alteration of contract demand and non-maintenance of power factor**

**City Corporation, Kalaburagi, City Municipal Council, Ramanagara and Town Municipal Councils, Harapanahalli, Karkala and Malavalli did not initiate action to get the contract demand altered in accordance with consumption and did not maintain power factor at the prescribed level resulting in avoidable payment of ₹94.93 lakh during 2015-16 to 2017-18.**

The Karnataka Electricity Reforms Act, 1999 and tariff for power supply effective during the period 2015-16 to 2017-18 stipulated that the billing demand for High Tension<sup>19</sup> (HT) lines would be the maximum demand recorded during the month or 75 per cent of the contract demand (CD), whichever was higher. If at any time the maximum demand recorded exceeds the CD or the opted demand or the entitled demand during the period of restrictions, the consumer shall pay for the quantum of excess demand at two times the normal rate per kilo volt amps (KVA) per month as deterrent charges as per Section 126(6) of the Electricity Act 2003. An HT consumer was entitled to get his CD increased or reduced according to his requirements, as per clause 34.01 and 34.02 of the 'Conditions of supply of electricity of the Distribution Licencees in the State of Karnataka'. Further, as per the Tariff Policy, HT consumers were to maintain an average power factor<sup>20</sup> (PF) of not less than 0.90. For this purpose, the HT consumers were required to install and maintain power capacitor (PF correction apparatus) of adequate capacity in their installations. If PF recorded was below 0.90 lag, a surcharge (penalty) of three paise per unit of power consumed was leviable for every reduction of PF by 0.01 below 0.90 lag.

Mention was made in Paragraph 4.6 of the Report of the Comptroller and Auditor General of India on Local Bodies for the year ended March 2017 (Report No. 9 of the year 2017) regarding failure of the City Corporation (CC), Shivamogga, in reducing the contract demand and maintaining the power factor at the prescribed level resulted in avoidable payment of ₹46.32 lakh. The Paragraph is yet to be discussed by the Committee on Local Bodies and Panchayat Raj Institutions (January 2019).

Scrutiny of electricity bills in five<sup>21</sup> ULBs for the period 2015-16 to 2017-18 and additional information (copies of bills and agreements, inspection note, etc.) furnished subsequently showed that such omissions persisted in other ULBs also. Audit observed that:

1. the contract demand was much higher compared to the actual monthly energy consumption and the average consumption ranged from

<sup>19</sup> High Tension lines mean supply of electricity at voltage higher than 650 volts and up to 33,000 volts.

<sup>20</sup> Power factor is the ratio of useful (real) power (KW) to total (apparent) power (KVA). It is a measure of how efficiently electric power is converted into useful work output.

<sup>21</sup> CC, Kalaburagi (February-March 2016); CMC, Ramanagara, (April-May 2017); TMC, Harapanahalli (July-August 2017); TMC, Karkala, (September 2017) and TMC, Malavalli (September 2017).

0 per cent to 61 per cent of CD during the billing periods in respect of four<sup>22</sup> HT installations;

2. the consumption during the period April 2015 to February 2018 was Zero in respect of one HT installation in City Municipal Council (CMC), Ramanagara; and
3. the actual recorded demand exceeded the contract demand (CD) in one HT installation in Town Municipal Council (TMC), Harapanahalli.

As per the tariff schedule, the bills for the installations were raised at 75 per cent of the CD in respect of five installations and the bills were raised at two times the normal rate per KVA per month on the excess demand in respect of one installation of TMC, Harapanahalli. We observed that despite the availability of the enabling provision of increasing or reducing the CD, the ULBs did not initiate any action to get the CD altered in accordance with the consumption. This resulted in avoidable payment of ₹41.63 lakh towards cost of power not actually utilised/excess utilised as detailed in **Appendix 4.4**.

We also observed that Electricity Supply Companies had levied (2015-16 to 2017-18) PF surcharge aggregating ₹53.30 lakh in respect of 12<sup>23</sup> HT installations as the ULBs did not maintain PF at 0.90 as detailed in **Appendix 4.5**. This was because the power capacitors were not installed or the installed power capacitors had become dysfunctional and the ULBs did not take any action to repair them.

Thus, failure of the ULBs in initiating action to get the CD increased or reduced in accordance with consumption, and non-maintenance of power factor at the prescribed level of 0.90, resulted in excess payment of ₹94.93 lakh, which was avoidable.

The Commissioner, CC, Kalaburagi replied (March 2016) that letters had been addressed to Executive Engineer, O&M Division No.1, GESCOM for reducing and increasing the load against the actual consumption, and Karnataka Urban Water Supply and Drainage Board (KUWS&DB)<sup>24</sup> for change of capacitor to avoid PF penalty.

The Municipal Commissioner, CMC, Ramanagara stated (July 2018) that the maintenance of the HT installation was taken over by CMC from KUWS&DB since July 2017 and also furnished the photographic evidence for having installed the capacitor and the bill for the month of May 2018 reflecting improvement in power factor. The other three ULBs did not furnish any reply.

The State Government stated (November 2018) that directions were issued to the concerned/all the ULBs to reduce the CD appropriate with the load connected and improve PF of HT installations by connecting capacitor units of suitable capacity or adopting automatic power factor correction (APFC) panels to avoid penalties.

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<sup>22</sup> SDBHT-2 and UDRHT-8 (CC, Kalaburagi); HT-73 (TMC, Karkala); MHT-128 (TMC, Malavalli).

<sup>23</sup> SDBHT-2, GHTP-8 and UDRHT-8 (CC, Kalaburagi); RMGHT-41 (CMC, Ramanagara) HTHW-1, HTHW-2 and HTHW-3 (TMC, Harapanahalli); HT-14 and HT-73 (TMC, Karkala) and MHT-128, MHT-16, and MHT-15 (TMC, Malavalli).

<sup>24</sup> The operation and maintenance of water supply schemes in Kalaburagi has been entrusted to KUWS&DB since December 2011.



#### **4.5 Loss of revenue due to non-recovery of additional ground rent**

**Failure of Bruhat Bengaluru Mahanagara Palike to collect additional ground rent in six test-checked cases where the buildings were not completed within two years from the dates of issue of building licences resulted in loss of revenue of ₹36.50 lakh.**

According to Paragraph 3.8 and note thereunder of Bengaluru Mahanagara Palike Building Bye-Laws, 2003 (Bye-Laws), ground rent for stocking of building materials on public land shall be paid by the builder at prescribed rates. Ground rent is based on the total floor area of all the floors in the building that is to be constructed and is valid for a period of two years only. If the building is not completed and the occupancy certificate is not obtained within the period of two years, further rent is to be paid at half the rate per annum or part thereof till the building is completed. Further, the Commissioner, Bruhat Bengaluru Mahanagara Palike (BBMP), instructed (August 2014) that occupancy certificate in such cases should be issued only after collecting the additional ground rent.

Mention was made in Paragraph 6.7 of the Report of the Comptroller and Auditor General of India on Local Bodies for the year ended March 2014 (Report No. 2 of the year 2015) regarding loss of revenue of ₹41 lakh due to non-recovery of additional ground rent. The observation was discussed by the Committee on Local Bodies and Panchayat Raj Institutions and the Committee in their 20<sup>th</sup> Report recommended (June 2017) that the ground rent due should be collected and action be taken against the concerned officials of BBMP who are responsible for non-recovery of ground rent.

Scrutiny of records (March 2018) in the office of the Assistant Director of Town Planning (ADTP), Mahadevapura Zone, BBMP showed that such omissions still persisted in BBMP. A test-check of seven building plans approved during the period March 2010 to March 2014 showed that ADTP, Mahadevapura Zone, had levied and collected (July 2016) additional ground rent in one case only (Smt. Rathnamma and others). In respect of the remaining six cases, the ADTP did not levy and collect additional ground rent though the period of construction in all these cases exceeded two years. This resulted in loss of revenue of ₹36.50 lakh as detailed in **Appendix 4.6**.

These are only illustrative cases and the possibility of more such cases cannot be ruled out. BBMP may, therefore, internally examine all such other cases to ensure that additional ground rent, wherever necessary, is recovered as per requirement and rules.

The State Government accepted the audit observation and stated (November 2018) that notices had been issued to the builders on 25.10.2018 to pay the additional ground rent and the amount would be remitted to the BBMP account by 30.11.2018. The reply was, however, silent about fixing the responsibility against the officials concerned for non-recovery of additional ground rent and was also non-committal on internal examination of similar other cases.

#### **4.6 Loss of revenue due to short collection of improvement expenses**

**Short collection of improvement expenses by Assistant Revenue Officer, Bruhat Bengaluru Mahanagara Palike, Anjanapura sub-division resulted in loss of revenue of ₹31.21 lakh.**

In accordance with Section 466 of the Karnataka Municipal Corporations Act, 1976, the Commissioner may, if he thinks fit and with the approval of the Standing Committee, declare the expenses on certain works to be improvement expenses and recover such expenses subject to the rules made under the Act. Section 467 of the Act stipulates that the improvement expenses shall be a charge on the premises in respect of which or for the benefit of which the same shall have been incurred and shall be recoverable in instalments from the owner or occupier of the premises, of such amounts, and at such intervals, as will suffice to discharge such expenses together with interest thereon within such period as the Commissioner may in each case determine. Further, Section 465 of the Act empowers the Commissioner to receive the payment of expenses in instalments with the approval of the Standing Committee and after obtaining an agreement from the person liable, at such intervals as will secure the payment of the whole amount due.

The Commissioner, Bruhat Bengaluru Mahanagara Palike (BBMP), by invoking the above cited provisions, issued (September 2012) a circular to all the concerned intimating the rates of the improvement expenses to be collected, and approved (January 2013) the collection of improvement expenses in instalments<sup>25</sup>. The Commissioner, with the approval (January 2014) of the Taxation and Finance Committee revised (July 2014) the rates of improvement expenses from ₹550 per square metre (sqm) to ₹250 per sqm in respect of lands converted for non-agriculture purposes in the newly included areas under the jurisdiction of BBMP. The Revenue Officers (RO) are required to maintain a register of improvement expenses and all details of demand and collection of improvement expenses are to be compulsorily entered in the register. The RO is also responsible for issuing demand notices for collection of due amounts from the owner or the occupier of the premises at the end of each month.

Audit scrutiny (March 2018) of the records of the office of the Assistant Revenue Officer, Anjanapura sub-division (ARO) for the period 2010-11 to 2016-17 showed that improvement expenses of ₹14.30 crore were due from 98 property owners of two wards (Gottigere and Anjanapura) as of March 2018. Audit test-checked ten of these cases involving ₹7.34 crore and observed that the details of issue of demand notices and other documents were not kept on record. Further scrutiny revealed that the statement of outstanding improvement expenses (from 98 property owners) furnished by ARO was not exhaustive as it did not include the case of Smt. Vijayakumari Babbar.

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<sup>25</sup> 1) to collect improvement charges in four instalments without levy of interest in respect of those who wish to pay improvement charges in instalments within a year; 2) to collect interest @ 1.5 per cent per month on the original amount if the payment is made after one year.


Audit noticed that the agriculture land<sup>26</sup> owned by Smt. Vijayakumari Babbar (hereinafter referred to as the owner) was converted to residential/garden purposes *vide* order (6 April 2015) of the Deputy Commissioner of Bengaluru District. The owner applied (22 April 2015) for Khata<sup>27</sup> certificate whereupon the Commissioner, BBMP demanded improvement charges of ₹46.80 lakh<sup>28</sup> for the converted land. The owner agreed (13 July 2015) to pay the amount in three instalments and paid (25 November 2015) ₹15.60 lakh as the first instalment. The ARO without ensuring the complete payment of improvement expenses issued Khata certificate to the owner on the same day the first instalment was paid. In the meantime, the owner sold (20 April 2015) the property to M/s Unishire Housing LLP, Bengaluru (firm). On the same day, the firm applied for transfer of khata in its name. The ARO again failed to ensure complete payment of improvement expenses and issued (27 November 2015) the Khata certificate in the name of the firm.

Audit also observed that neither the ARO nor the RO had issued any demand notices to the owner for the outstanding dues as this instance was not included in the statement of outstanding improvement expenses.

Thus, the irregular issue and transfer of Khata certificate by the ARO and lack of control by the RO resulted in short collection of improvement expenses of the ₹31.21 lakh and consequent loss of revenue besides interest for non-payment.

The State Government replied (November 2018) that out of 98 instances of improvement expenses due from the owners, an amount of ₹3.64 crore from 60 property owners was collected and remitted to the BBMP bank account. In respect of eight cases, demand notices had been issued and details in respect of other cases would be furnished on verifying the files. It further stated that action would be taken to collect improvement expenses of ₹31.21 lakh along with the interest from M/s Unishire Housing LLP, Bengaluru, after due verification.

**Bengaluru**  
**The 04-10-2019**

  
**(E P Nivedita)**  
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<sup>26</sup> measuring 4 acres 25 guntas (4.625 acres) situated in survey nos. 11/2,11/4,11/5,11/6 in Gottigere village, Uttarahalli hobli, Bengaluru South Taluk.

<sup>27</sup> The word 'khata' is not found in the Act, but in common parlance, over the years, is synonymous with the certificate issued by the Corporation in exercise of jurisdiction under Section 114 of the (Karnataka Municipalities) Act, recording the name of the owner/occupier of the immovable property, primarily responsible to pay the Corporation taxes – Extract of the judgement in respect of Writ Petition No. 16738 of 2005; Jayamma vs. Assistant Revenue Officer, Hombegowda Nagar Range and others.

<sup>28</sup> 4.625 acres = 18,716.71 sqm x ₹250 per sqm.