

CHAPTER VIII: MINISTRY OF TOURISM

India Tourism Office, Frankfurt

8.1 Loss to the Government exchequer due to shifting of billing base to Germany

Ministry of Tourism shifted the billing base from India to Germany for making payments in respect of its social media campaign. This resulted in loss of Government revenue of ₹57.16 lakh on account of payment of VAT to German tax authorities, besides draining foreign exchange.

In 2017-18, the Ministry of Tourism (Ministry) finalised its Global Media Plan, recommended by a Media Committee headed by the Secretary (Tourism), for release of a Global Media Campaign in Television, Print and Online Media. One of the methods suggested in this plan required the Ministry to use a social media platform, headquartered abroad (Firm) to enhance their visibility in social media.

As part of the Global Media Plan for 2017-18, to enhance visibility, consumer engagement, increase the number of fans for the Ministry's page on the social media platform, and give targeted informative content to generate interest in India as a preferred tourist destination, the Media Planning Agency of the Ministry i.e., M/s Carat Media, suggested an investment plan of ₹10 crore with the Firm.

The Integrated Finance Division (IFD) of the Ministry concurred with the proposal and agreed for release of the social media campaign through the Firm in September 2017. The campaign was scheduled to be executed by the Social Media Management Agency of the Ministry i.e., M/s Stark Communication, in coordination with the Firm. However, the Firm showed its inability to provide its services as the Ministry did not have a GST number. The IFD of the Ministry suggested (15 January 2018) the following alternatives to resolve the issue:

- a) To obtain a GST account for the Ministry which would enable them to handle such cases better. In this regard, they asked the Publicity & Events Division of the Ministry to take necessary action, in consultation with the GST cell.
- b) Alternatively, Publicity & Events Division may explore the possibility of carrying out this campaign through any of the Ministry's Regional offices in India which already has a GST account or, through any India Tourism Office (ITO) abroad.

Based on the above, the Ministry approved the payment for the campaign to be done directly *via* ITO, Frankfurt and assigned (7 May 2018) it as the billing entity. No records relating to target date of the campaign were made available to Audit. The payments were agreed to be released on a monthly basis to the Firm as per the invoices/ bills raised by it, based upon activities already completed by it. As per records produced to Audit, the

campaign continued till July 2019, for which ITO, Frankfurt released a total amount of €884,029.34 (₹7.26 crore) till October 2019 to the Firm, as detailed in the **Annexure-XXXVI**. It was further observed that the Firm generated invoices from its offices based in Ireland as well as Germany and received payments from ITO, Frankfurt.

Audit observed that:

- (i) During the period from July 2018 to September 2019, the Firm generated a total of 15 invoices, out of which, seven were generated from its office in Germany and the remaining eight, from its Ireland office. In the seven invoices originating from Germany, the Firm charged VAT at the rate of 19 *per cent* based on German Tax laws, whereas in the remaining eight invoices generated from Ireland, no VAT was charged. There were no reasons available on record to clarify as to why the Ministry/ ITO, Frankfurt did not ask the Firm to generate all the invoices from Ireland to avoid payment of VAT charges (in Germany).
- (ii) Instead of making efforts to obtain a GST number, the Ministry chose the easier way out and shifted the billing base from India to Germany and made the payments through ITO, Frankfurt. Had the payments been made in India by the Ministry, after getting itself registered under GST, the tax amount payable on the invoices generated by the Firm would have been deposited in the Consolidated Fund of India (CFI), thereby resulting in no overall gain or loss for GoI on account of tax payments. Since the Ministry chose the alternate way of shifting the billing base to Germany, it resulted in a loss to the Government exchequer amounting to ₹57.16 lakh, by way of VAT payment to German tax authorities, besides loss of foreign exchange incurred on account of having to make payments in Euros.
- (iii) Further, as per the agreed terms and conditions communicated (May 2018) to M/s Stark Communication (Social Media Management Agency of the Ministry), the payments were to be made to the Firm based on the activities completed. However, ITO, Frankfurt released all payments (₹7.26 crore) without receipt of any verification report from M/s Stark Communication Ltd./ Ministry on the activities completed.

Thus, the decision of the Ministry to shift its billing base outside India to ITO, Frankfurt instead of getting itself registered under GST as a dealer and keeping the billing base for the project in India, resulted in a loss of ₹57.16 lakh¹ (i.e. €68,354.19) to the Government exchequer besides loss of foreign exchange.

The Ministry, in its reply (22 October 2020) stated that all payments were made by its subordinate office i.e., ITO, Frankfurt and hence it could not monitor the settlement of payments. The Ministry also informed that it had since obtained the GST number. The Ministry, in its further reply (4 March 2021), stated that to avoid delay in launching the scheme, it decided to initiate the process of its GST registration, but carried on the campaign through the ITO, Frankfurt.

¹ *Rate of exchange taken for the respective month in which VAT has been paid*

The reply of the Ministry about not getting its GST registration to avoid delay in launching the scheme is not tenable as Rule 9(1) of the Central Goods and Services Tax (CGST) Rules, 2017 clearly states that an applicant will be granted registration within three days² of submission of application and there was a sufficient time gap of nearly four months between IFD's suggestion (15 January 2018) to get GST registration and assignment of work order (7 May 2018) to M/s Stark Communication for the campaign. The Ministry had, therefore, failed to get its GST registration done promptly and expeditiously as available under the CGST Rules, 2017, and instead shifted the billing base to Germany which led to avoidable loss to Government exchequer amounting to ₹57.16 lakh on account of VAT payment to German tax authorities, besides draining foreign exchange.

India Tourism Office, New York

8.2 Lack of competitiveness in procurement of items for promoting India Tourism

India Tourism Office, New York did not follow due diligence in procurement of promotional items under Print Production scheme, resulting in lack of transparency, fairness and competitiveness in procurement of items related to promotion of India Tourism.

India Tourism Office (ITO), New York caters to the tourism development of India in the continents of North America, South America and Caribbean Islands to increase India's share in the global tourism market. ITO, New York takes up promotional activities under different heads/ schemes in Plan budget. Under the scheme 'Print Production', the office takes up promotional activities through procurement of publicity material like literature, brochure, collateral and other promotional items with 'Incredible India' logo.

General Financial Rules, 2017 of the Government of India prescribes rules for procurement of goods by the Ministries/ Departments of the Government of India. Rule 173 ibid states that all government purchases should be made in a transparent, competitive and fair manner, to secure best value for money. Further, Rule 175(1)(c) states that no official of a procuring entity or a bidder shall act in contravention of the codes which includes any collusion, bid rigging or anticompetitive behaviour that may impair the transparency, fairness and the progress of the procurement process.

During Audit (November/ December 2019), the following discrepancies were noticed in procurement of promotional material by ITO, New York:

- No Purchase Committee was constituted for purchase of promotional items. Further, no postal communications or emails were found in records which could indicate that quotations were actually offered to ITO, New York by the companies. Most of the quotations available in the files did not have proper signature of the owner/ agent and also most of the invoices of the companies did not have Tax IDs. There was nothing on record which could suggest that the bills including tax component were passed by the office taking

² Substituted to 'seven days' vide notification no. 94/2020-Central Tax dated 22 December 2020

note of this fact and after verifying the status of the companies.

- Credentials of companies/ corporations operating in State of New York, USA can be verified from the website of Department of State (DoS), Division of Corporation, New York, USA (www.dos.ny.gov). A verification of the credentials of the companies to which most of the payments were made by ITO, New York under ‘Print Production’ head for the period 2017-20 (up to October 2019) revealed the following:

Table 8.1: Details of companies to whom payments were made under Print Production

Sl. No.	Name of the entity	DoS ID#	Initial DoS filing date	Name and Address for DoS Process ³
1.	The South Asian Media & Printing LLC	3844834	13.08.09	Mukesh Kumar, 4249 Colden Street Apt, 5T Flushing, New York,11355
2.	Apple Graphics Inc	5479469	22.01.19	Mukesh Kumar, 110-56, 63 rd Drive Floor 2, Forest Hills, New York,11375
3.	Lax Graphics & Prints Inc	5479533	22.01.19	Mukesh Kumar, 110-56, 63 rd Drive Floor 2, Forest Hills, New York,11375
4.	LS Craft Inc	5297216	05.03.18	Mukesh Kumar, 9560 Queens Blvd #105 Rego Park, New York,11374
5.	OVI Imprint Inc	5157849	20.06.17	Mukesh Kumar,101-22 Queens Blvd, Forest Hills, New York,11374
6.	M Graphics & Print Inc	5159419	22.06.17	Mukesh Kumar,101-22 Queens Blvd Forest Hills, New York,11374
7.	Boomerang/ Boomerang Technologies Inc.	4776884	18.06.15	Mukesh Kumar, 6574 Saunders Street Apt. 6H, Rego Park, New York,11374
8.	MKNY Traders Inc.*	4780757	25.06.15	6574 Saunders Street Apt. 6H, Rego Park, New York,11374
9.	Printers Tech Inc.*	4888189	29.01.16	6574 Saunders Street Apt. 6H, Rego Park, New York,11374

**Both the companies are functioning from the same location as Boomerang Technologies Inc.*

The above table indicates that the companies listed from Sl.No.1 to 7 were managed/ served by the same person, while the companies listed at Sl.No.7 to 9 were having same DoS process address and apparently managed/ served by the same person. Further analysis of payments made by ITO, New York to above nine companies under Print Production and other schemes, revealed the following:

³ DoS Process - Address to which DoS will mail process if accepted on behalf of entity

Table 8.2: Details of payment made to above companies under Print Production
(Amount in ₹)

Year	Payment to all companies under Print Production	Payments made to nine Companies/ Corporation managed/ served by Shri Mukesh Kumar		
		Under Print Production	Under schemes other than Print Production	Under all schemes
2017-18	37,12,294.24	37,12,294.24	9,25,672.83	46,37,967.07
2018-19	86,66,186.02	76,20,624.29	26,60,301.08	1,02,80,925.36
2019-20*	81,43,240.30	65,35,883.97	6,42,833.91	71,78,717.88
Total	2,05,21,720.56	1,78,68,802.50	42,28,807.82	2,20,97,610.31

(*upto October 2019)

From the above table, it can be observed that ITO, New York incurred expenditure of ₹2.05 crore for the period 2017-20 (up to October 2019) under “Print Production head”, out of which 87 per cent (₹1.79 crore) of the payments were made to nine companies, which were managed/ served by the same person. Further, an amount of ₹0.42 crore was also paid to these companies under other heads (like Joint Promotion, Other Promotional Measures, Direct Marketing and Road Shows).

- In six out of 22 procurement cases in the year 2019-20, seven out of 20 cases in the year 2018-19 and six out of 20 cases in the year 2017-18, two out of three quotations were of different companies managed/ served by the same person and in one such procurement case in 2017-18, it was noticed that all three quotations were received from the companies managed/ served by him. Credentials of two of the companies from which quotations were received on record viz., Sunny Graphics & Imprints Inc. and R.B. International Exports & Traders were not available on the DoS website and thus could not be verified. Hence, the authenticity of these quotations was doubtful.

Thus, ITO, New York did not follow due diligence in procurement of promotional items under Print Production scheme, resulting in lack of transparency, fairness and competitiveness in procurement of items related to promotion of India Tourism.

On being pointed out, the Ministry of Tourism stated (April 2021) that:

- As per the existing practice, ITO, New York made attempts to constitute a purchase committee for procurement of promotional items. However, it was not always possible to wait for a committee to come together and do the market assessment in a time bound manner due to non-availability of an external officer/ member when it was needed for market assessment. Moreover, due to practical difficulty to constitute a local purchase committee, the office preferred to obtain quotations from different vendors to get a reasonable and competitive rate.
- ITO, New York contacted different vendors/ contact persons/ owners through market survey. The office also ensured that all the vendors were active, and they were also having separate Tax IDs as per US Government norms. Quotations were sought by post/ email from the vendors on the given addresses and based on the lowest quotes, the items were procured and encoded in the office stock register.

- (iii) ITO, New York had forwarded the W9 forms⁴ with regard to the Tax IDs of the mentioned companies. Further, as regards credentials (owner name and company address, etc.) of the companies with the DoS; ITO, New York had requested all the companies to submit additional documentary proof relating to the ownership of their company/ agency registered with the DoS, New York which were still awaited from said companies as most of these were not working due to Covid-19 and the same would be forwarded upon receipt.
- (iv) The observation of Audit has been noted for compliance and ITO, New York would be advised to verify the credentials of the companies/ agencies prior to awarding any work and to constitute a purchase committee in future as per the provisions of General Financial Rules.
- (v) So far as M/s Boomerang Technologies Inc./ Boomerang and M/s Printers Tech Inc., are concerned, it has been clarified to ITO, New York by the owner of the companies that both the companies are owned by him and presently operating at the same location (1315, Genesis ST, Apt 03, UTICA, NY 13501). The said companies intimated that DoS information about the companies may not be updated, and the same would be checked and intimated upon verification.


The reply of the Ministry is not tenable on the following grounds:

- (i) While conducting Audit, nothing on record could establish that quotations from companies were actually received in the office either through post or email. The recording/ diarising of quotations was not found in any record/ register of the office. ITO, New York also failed to furnish any documents in support of their response.
- (ii) As regards the constraints in constitution of purchase committee, no records could substantiate that office had taken initiative to constitute the purchase committee and had to face the mentioned constraints. Audit did not find any document in support of the contention that while scrutinizing the quotations, ITO, New York ensured that all the vendors/ companies had their separate Tax IDs as per the US Government norms, nor were Tax IDs of the companies mentioned in most of the invoices/ quotations furnished to Audit.
- (iii) W9 forms, which were furnished after being pointed out by Audit, in support of the claim that the companies were different entities with different Tax IDs, may not rule out the fact these companies were managed/ served by the same person, whose name was still mentioned on DoS website against these companies. It indicates common linkage/ interest of a single person in all these companies, which vitiated the spirit of competitive aspect in procurement process as required under General Financial Rules, 2017. The addresses mentioned in W9 forms of the companies were also not in conformity with the addresses shown on the website of DoS.

⁴ *W9 form is used to provide correct Taxpayer Identification Number (TIN) to the person who is required to file an information return with Internal Revenue Service of the United States Government.*


Thus, ITO, New York failed to constitute purchase committee and invite quotations in a fair and transparent manner. Common linkage of the same person in all the vendor companies indicates lack of competitiveness in procurement. The Ministry/ ITO, New York also could not provide supporting documents related to the credentials available on DoS website. Therefore, the procurement process of items under Print Production for promotional activities of India Tourism in ITO, New York was in contravention of the provisions of General Financial Rules and vitiated the principles of transparency, fairness and competitiveness, in the absence of which quality assurance and reasonability of the price of the items purchased could not be established.

New Delhi
Dated: 10 December 2021


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Countersigned

New Delhi
Dated: 10 December 2021


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