

## CHAPTER-IV

### 4. Compliance Audit Observations relating to State Public Sector Undertakings (other than Power Sector)

Important audit findings emerging from test check of transactions made by the Public Sector Undertakings other than Power Sector are included in this Chapter.

#### Public Works Department

#### Uttar Pradesh Rajkiya Nirman Nigam Limited

#### 4.1 Avoidable expenditure and loss of revenue

**The Company failed to comply with its own order for sale of surplus earth, which resulted in avoidable expenditure of ₹ 3.14 crore on disposal of surplus earth which was ultimately borne by GoUP besides depriving the State exchequer of revenue amounting to ₹ 1.41 crore.**

Earth work is an important element in all civil construction works. As earth is a saleable commodity, the District Magistrate prescribes the selling rate of earth.

A reference is invited to paras 3.3 and 3.1.5 of CAG's Audit Reports on Public Sector Undertakings for the year ending 31 March 2013 and 31 March 2014 respectively, wherein observations on avoidable expenditure on disposal of surplus earth were reported. A similar nature of irregularity has again been observed in the Company.

Uttar Pradesh Rajkiya Nirman Nigam Limited (Company) is primarily engaged in civil construction works. Considering the importance of earth work in its projects, the Company prescribed (02 November 2015) the manner of procurement/disposal of earth required for/excavated from its projects. The order of the Company *inter alia* prescribed that the concerned unit will first enquire from other units in the same district for any requirement of earth. In case of non-requirement of earth by them, the surplus earth will be sold in a transparent manner by giving notice in the newspaper.

The Company was assigned (March 2015) the construction work of Academic Block in the new premises of Dr. Ram Manohar Lohia Institute of Medical Sciences, Lucknow (Client) by the Government of Uttar Pradesh (GoUP) at a sanctioned cost of ₹ 363.89 crore<sup>1</sup>. Technical sanction of the work was accorded by the Managing Director of the Company on 29 May 2015<sup>2</sup>. As per the approved estimate, the work involved construction of basement and, therefore, required disposal of huge quantity of earth, excavated from the foundation and basement and left over after backfilling.

Audit noticed (August 2018) that the executing unit<sup>3</sup> of the Company was aware of the requirement for disposal of earth in course of execution of the work but it failed to make arrangement to sell the surplus earth from the construction site. Instead of selling the surplus earth, the unit disposed of

<sup>1</sup> Vide G.O. No. 25/2-15/328/71-2-15-RM-9/2011, dt. 04.02.2015.

<sup>2</sup> Vide TS No. 39/2015-16.

<sup>3</sup> PGU Unit-I, Lucknow.

1,76,224.93 cum surplus earth after incurring expenditure of ₹ 3.14 crore<sup>4</sup> on cartage of the excavated earth during 10 November 2015 to 8 February 2016. Thus, due to the irregular decision by the executing unit of the Company, the Company incurred avoidable expenditure of ₹ 3.14 crore on disposal of surplus earth which was ultimately borne by GoUP besides depriving the State exchequer of revenue amounting to ₹ 1.41 crore<sup>5</sup>.

The instant case points to the continuation of similar nature of irregularity in spite of the matter having been pointed out in previous Audit Reports of the CAG.

In reply, the Management accepted (February/June 2020) the audit observation and stated that an enquiry Committee was set up (23 December 2019) and charge-sheets have been issued (June 2020) to three officials<sup>6</sup> who were found guilty of disposing of surplus earth without inviting tender.

Thus, due to non-compliance of its own order, the Company caused an avoidable expenditure to GoUP and loss of revenue to the State exchequer (June 2020).

The matter was reported to the Government (November 2019). The reply is still awaited (September 2020).

### **Uttar Pradesh State Bridge Corporation Limited**

#### **4.2 Avoidable payment of interest**

#### **Due to improper accounting system the Company failed to correctly assess its income and advance tax liability resulting in avoidable payment of penal interest of ₹ 3.59 crore.**

As per Section 129 read with Sections 96 and 134 of the Companies Act, 2013, it is the responsibility of the Board of Directors of the Company to place the accounts of the Company along with the Auditor's Report in the Annual General Meeting (AGM) of the shareholders within six months of the close of the financial year. Further, Section 208 of the Income Tax Act, 1961 (Act), provides that every assessee having a tax liability of ₹ 10,000 or more shall pay advance tax in the manner and at the rate prescribed under the Act. Failure to deposit minimum 90 *per cent* of the tax in advance as well as shortfall in depositing tax as per the prescribed slab<sup>7</sup> attracts penal interest at the rate of one *per cent* per month or part of a month separately as prescribed under Sections 234B and 234C of the Act.

Uttar Pradesh State Bridge Corporation Limited (Company) was established mainly for construction of bridges in the State of Uttar Pradesh. The Company is liable to pay advance tax on its income under the provisions of the Act *ibid*.

<sup>4</sup> 1,76,224.93 cum x ₹ 187.75 per cum less five *per cent* for the work executed departmentally.

<sup>5</sup> Calculated at the rate of ₹ 80 *per* cum provided in the District Magistrate Circle rate of Lucknow *w.e.f.* dated 15.12.2014.

<sup>6</sup> Assistant Resident Engineer, Sub-Engineer (Civil) and Assistant Accounts Officer-2 (retired).

<sup>7</sup> On or before 15 June (not less than 15 *per cent* of such advance tax), 15 September (not less than 45 *per cent* of such advance tax as reduced by the amount paid in earlier instalment), 15 December (not less than 75 *per cent* of such advance tax as reduced by the amount paid in earlier instalments) and 15 March of the financial year (the whole amount of such advance tax as reduced by the amounts paid in earlier instalments).

The Company deposited an amount of ₹ 16.51 crore<sup>8</sup> as advance tax for the financial year 2015-16. It prepared (28 September 2016) its provisional accounts and exhibited total income of ₹ 36 crore on which the income tax liability worked out to ₹ 12.45 crore. Based on the above financial results, the Company filed its income tax return on 28 September 2016. The Company finalised its accounts for the year 2015-16 in April 2018 which was approved by the Board of Directors on 3 October 2018. Thus, the Company could obtain the approval of Board of Directors on the accounts only after 24 months of the due date of placing the accounts in the AGM. Based on the finalised accounts, the Company exhibited total income of ₹ 79.67 crore on which the income tax liability worked out to ₹ 31.16 crore including interest liability of ₹ 3.59 crore under sections 234B and 234C of the Act. The balance amount of tax of ₹ 14.65 crore was deposited on 19 July 2019. Thus, the actual taxable income of the Company was more than double the taxable income calculated as per provisional accounts.

Audit noticed (August 2019) that the difference between the estimated income and the actual income was mainly due to increase in turnover by ₹ 147 crore and other income (mainly interest from banks) by ₹ 22 crore. It is pertinent to mention that though interest was credited by the banks in March 2016, the Company was not aware of the same as of September 2016 due to non-reconciliation of bank accounts.

It is imperative that a proper accounting system<sup>9</sup> be in place for timely finalisation of annual accounts to ensure availability of all relevant information required for proper estimation of tax liability and deposit of advance tax to avoid the incidence of interest payment. However, even at the time of filing of return in September 2016 *i.e.*, after six months of the close of financial year, the Company was not aware of its turnover and interest income for the year 2015-16 indicating deficient accounting system of the Company to ensure timely finalisation of accounts and proper assessment of income of the Company and consequent tax liability.

In reply, the Management/Government accepted (February 2020/August 2020) the audit observation and stated that the main reason for increase in turnover and interest was non-accountal of material consumed/overheads and non-reconciliation of bank accounts by the units of the Company. Further, directions and warning have been issued to the concerned officials to avoid such a situation in future.

Thus, improper accounting system of the Company resulted in avoidable payment of interest of ₹ 3.59 crore.

### **4.3 Undue favour to contractor**

**Uttar Pradesh State Bridge Corporation Limited suffered loss of ₹ 2.20 crore due to extension of undue favour in award and execution of work to a contractor.**

Uttar Pradesh State Bridge Corporation Limited<sup>10</sup> (Company) entered into an agreement (January 2015) with M/s Global Steel Company (contractor) for

<sup>8</sup> ₹ 12.00 crore as advance tax and ₹ 4.51 crore tax deducted at source.

<sup>9</sup> Timely preparation of monthly accounts by units and compilation thereof and timely preparation of financial statements.

<sup>10</sup> Unit-I, Varanasi.

construction of the super structure of navigational span (P7-P9) for a two-lane high level bridge across the river Ganga on Samneghat-Ramnagar Road in district Varanasi at a cost of ₹ 3.10 crore. The scheduled dates for commencement and completion of the work were 21 January 2015 and 20 April 2015 respectively. The scope of work included design, fabrication, assembly and erection/launching of the steel girders.<sup>11</sup> Some of the specific conditions of the agreement were as follows:

- As per the terms and conditions of the agreement, the contractor was to submit performance security of 10 *per cent* of the contract price for the entire period of the work and one year after completion of the work (Clause 32.1: Instructions to Bidders).
- The contractor was to provide insurance cover against any losses/damages to the work to the Company (Clause 13.1: General Conditions of the contract).
- As per payment schedule, the contractor was to be paid 35 *per cent* on procurement and testing of steel material, 15 *per cent* on fabrication of all steel work, 10 *per cent* on successful test assembly in the workshop, 10 *per cent* on transportation of fabricated material at site, 15 *per cent* after final erection of the steel girders and aligning them in proper position and 15 *per cent* of the cost of the work after successful final launching and placing of respective supports, fixing of bracing, re-checking of nut-bolts, final painting *etc.*

The contractor, after preparing the design of the girders and their fabrication, started the work of erection and launching of the girders. Out of three girders, one girder G2 (Middle) was successfully launched (August 2015) and the work of launching of the other two girders G1 and G3 was started (September 2015). However, these girders after being launched up to a height of 42 meter, collapsed (September 2015) and fell into the river, including the girder launched previously. As a result, the work done by the contractor became infructuous. The contractor assured (September 2015) to complete the work at his own cost, however, he did not restart the work and stopped responding thereafter. Although a complaint was filed with the police (September 2015) against the contractor, however the Company is not aware of the action taken by the police. Moreover, no legal action has been taken against the contractor so far (June 2020) for recovery of loss despite availability of indemnity bond. After being pointed out by Audit, the Company belatedly blacklisted the contractor (November 2019) and appointed an arbitrator (December 2019). The Company got the work completed (July 2016) through another contractor (M/s JCL Infra Ltd., Meerut) at its own cost of ₹ 2.87 crore.

Audit noticed (August 2017) the following irregularities in award and execution of work by the Company:

- No tender was invited for the work. The contractor was awarded the work on selection basis by the Company without ensuring the technical competency of the contractor and without recording any justification. This deprived the Company from finding a technically competent contractor for the work.
- The Management obtained performance bank guarantee of only five *per cent* valid up to 14 May 2015 instead of ten *per cent* upto one year

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<sup>11</sup> The term "girder" is often used interchangeably with "beam" in reference to bridge design. A girder may be made of concrete or steel.

after completion of work as required as per the terms and condition of the agreement. Thus, the Company failed to comply with the financial security mechanism.

- The Company also failed to obtain insurance cover from the contractor. As a result, the Company was not in a position to indemnify the losses/damages occurred from the insurance company.
- As per payment schedule, the Company was required to release ₹ 93 lakh (30 *per cent* of contract price) after final erection of the steel girders and aligning them in proper position (15 *per cent*) and successful final launching and placing of respective supports, fixing of bracing, re-checking of nut-bolts, final painting *etc.* (15 *per cent*). Therefore, the total payment was to be restricted to ₹ 2.17 crore<sup>12</sup>, but the Company released ₹ 3.00 crore before successful completion of work.

A Committee set up (September 2015) for enquiry into the incident of the collapse of the girders reported (November 2015) that five concerned officials<sup>13</sup> of the Company were responsible for selection of an inexperienced contractor without inviting tender and for improper monitoring of the execution of the work. Based on the above enquiry report, the Managing Director (MD) set up a Committee (December 2015) for disciplinary action against the above five officials. However, no time frame was fixed for completion of the enquiry and furnishing of report. The disciplinary Committee has not yet finalised its report (February 2020). Two officials (Chief Project Manager and Deputy Project Manager) who were found responsible by the enquiry Committee retired in December 2016/ June 2018 and therefore the enquiry against them has been dropped by the order of the Hon'ble Court. The superannuation benefits to both the officials have also been paid.

Thus, extension of various undue benefits to the contractor in award and execution of work has resulted in loss of ₹ 2.20 crore<sup>14</sup> to the Company.

In reply, the Management/Government stated (March 2020/August 2020) that considering priority of completion, the work was awarded on selection basis instead of tender basis. The performance security of five *per cent* was obtained as per award letter of work issued by GM (Varanasi). An indemnity bond was obtained from the contractor in place of insurance cover. Advance payment to the contractor was made on its request in the interest of work.

The reply is not acceptable. The obtaining of performance security at lower rate was against the terms of agreement. Despite availability of indemnity bond no legal action has been taken so far (June 2020) for enforcing the same for recovery of loss. No bank guarantee was obtained before release of advance payment. Thus, the fact remains that not only undue favour was extended to the contractor in award and execution of the work but there was lack of concerted effort in taking action against the contractor and defaulting officers of the Company which resulted in loss of ₹ 2.20 crore to the Company, besides delay in completion of the bridge.

<sup>12</sup> 70 *per cent* of ₹ 3.10 crore (total contract value).

<sup>13</sup> Joint Managing Director, Chief Project Manager, Deputy Project Manager, Assistant Engineer and Junior Engineer.

<sup>14</sup> ₹ 3.00 crore total payment made to contractor minus ₹ 80.03 lakh retained as security by the Management in various works which was being undertaken by the contractor.

**Urban Development Department**

**Uttar Pradesh Jal Nigam Limited**

**4.4 Avoidable payment of electricity charge**

**Uttar Pradesh Jal Nigam made avoidable payment of electricity charge of ₹ 3.54 crore due to verification of incorrect electricity bills and excess contracted load.**

As per General Provisions notified (June 2015) by the Uttar Pradesh Electricity Regulatory Commission (UPERC), for all consumers with contracted load of 10 Kilo Watt (KW) and above, the billable load during a month shall be the actual maximum load as recorded by the meter or 75 per cent of the contracted load, whichever is higher.

Uttar Pradesh Jal Nigam<sup>15</sup> (Nigam) operates Koniya Sewage Pumping Station (Koniya SPS) and Deenapur Sewage Treatment Plant (Deenapur STP) at Varanasi for which it had metered connections under Light Medium Voltage (LMV)<sup>16</sup>-7 category with contracted load of 2,000 and 1,200 Kilo Volt Ampere (KVA) respectively since 1993. During test check of electricity bills of Mechanical Division-II, Varanasi of the Nigam for the period June 2015 to March 2019<sup>17</sup>, Audit noticed (February and November 2019) that the actual maximum demand was less<sup>18</sup> than 75 per cent of the contracted load. However, the Purvanchal Vidyut Vitran Nigam Limited (PuVVNL) incorrectly billed the demand charge on full contracted load which was also verified<sup>19</sup> by the Junior Engineer in the Division. This resulted in excess billing and avoidable payment of electricity charge of ₹ 1.09 crore<sup>20</sup> (**Appendices-4.1 and 4.2**). After being pointed out by Audit, the electricity bills of both plants were rectified from December 2019 but the recovery/adjustment of bills of the earlier period is yet to be done (June 2020).

Further, the tariff rates issued by UPERC stipulate that if due to non-installation of capacitor, the power factor of the consumer is brought down below the obligatory norm<sup>21</sup>, then a surcharge of 15 per cent of the amount of bill shall be levied on the consumer. Although capacitors were installed (1994), yet PuVVNL incorrectly levied capacitor surcharge and the bills were verified by the Junior Engineer in the Division till December 2018. This resulted in excess billing and avoidable payment of capacitor surcharge of ₹ 1.63 crore<sup>22</sup> (**Appendices-4.1 and 4.2**). The capacitor surcharge has been got removed from the bills of April 2019 and onwards, however, the recovery/adjustment of bills of earlier periods is yet to be done (June 2020).

<sup>15</sup> Mechanical Division-II, Varanasi.

<sup>16</sup> LMV-7 is categorised for Public water works.

<sup>17</sup> Total billed amount during June 2015 to March 2019 was ₹ 10.45 crore and ₹ 9.20 crore for Deenapur STP and Koniya SPS respectively.

<sup>18</sup> Except 970.20 KVA at Deenapur STP in April 2018.

<sup>19</sup> The Division verifies the bills and the payment is made centrally by the Nigam.

<sup>20</sup> ₹ 0.68 crore at Koniya SPS (*Appendix-4.1*) and ₹ 0.41 crore at Deenapur STP (*Appendix-4.2*).

<sup>21</sup> Power factor below 0.85 from August 2016 to November 2017 and 0.90 from December 2017 onwards.

<sup>22</sup> ₹ 0.77 crore at Koniya SPS (*Appendix-4.1*) and ₹ 0.86 crore at Deenapur STP (*Appendix-4.2*).

Audit further noticed that against the contracted load of 2,000 KVA for Koniya SPS, the actual demand of electricity ranged between 277 to 758.60 KVA during the test checked period of June 2015 to March 2019. Therefore, to avoid excess payment, the Nigam was required to get its load reduced to 1,200 KVA<sup>23</sup> as per clause 4.41 of Supply code 2005 but it could not get the contracted load reduced till March 2019. This has resulted in avoidable payment of electricity charge of ₹ 0.82 crore (*Appendix-4.1*).

In reply, the Management stated (May 2020) that after becoming aware of UPERC provision, the matter was taken up with PuVVNL and the bills have been got revised from December 2019 for both the plants. The electricity load of Koniya SPS has since been got reduced to 1,200 KVA and capacitor surcharge has been got removed from bills with effect from April 2019. Further, correspondence with PuVVNL was being made for adjustment of earlier period bills.

The fact remains that recovery/adjustment of bills of earlier period pointed out by Audit is yet to be done (June 2020). Moreover, the avoidable payment pointed out by Audit is indicative and for a period of about four years. The actual avoidable payment may be considerably higher as the incorrect billing and excess contracted load may have been occurring since long ago. This is indicative of poor internal control and monitoring by the concerned officers of the Nigam.

The Nigam may review the electricity bills of earlier periods (prior to June 2015) and take up the matter of incorrect billing with PuVVNL for adjustment. The Nigam may also assess loss due to excess contracted load at Koniya SPS for earlier periods (prior to June 2015), analyse the causes and fix responsibility on the concerned officers.

The matter was reported to the Government (January 2020). The reply is still awaited (September 2020).

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<sup>23</sup> The minimum billing of demand charge for a contracted load of 1,200 KVA works out to 900 KVA. The actual demand remained below 900 KVA during June 2015 to March 2019.