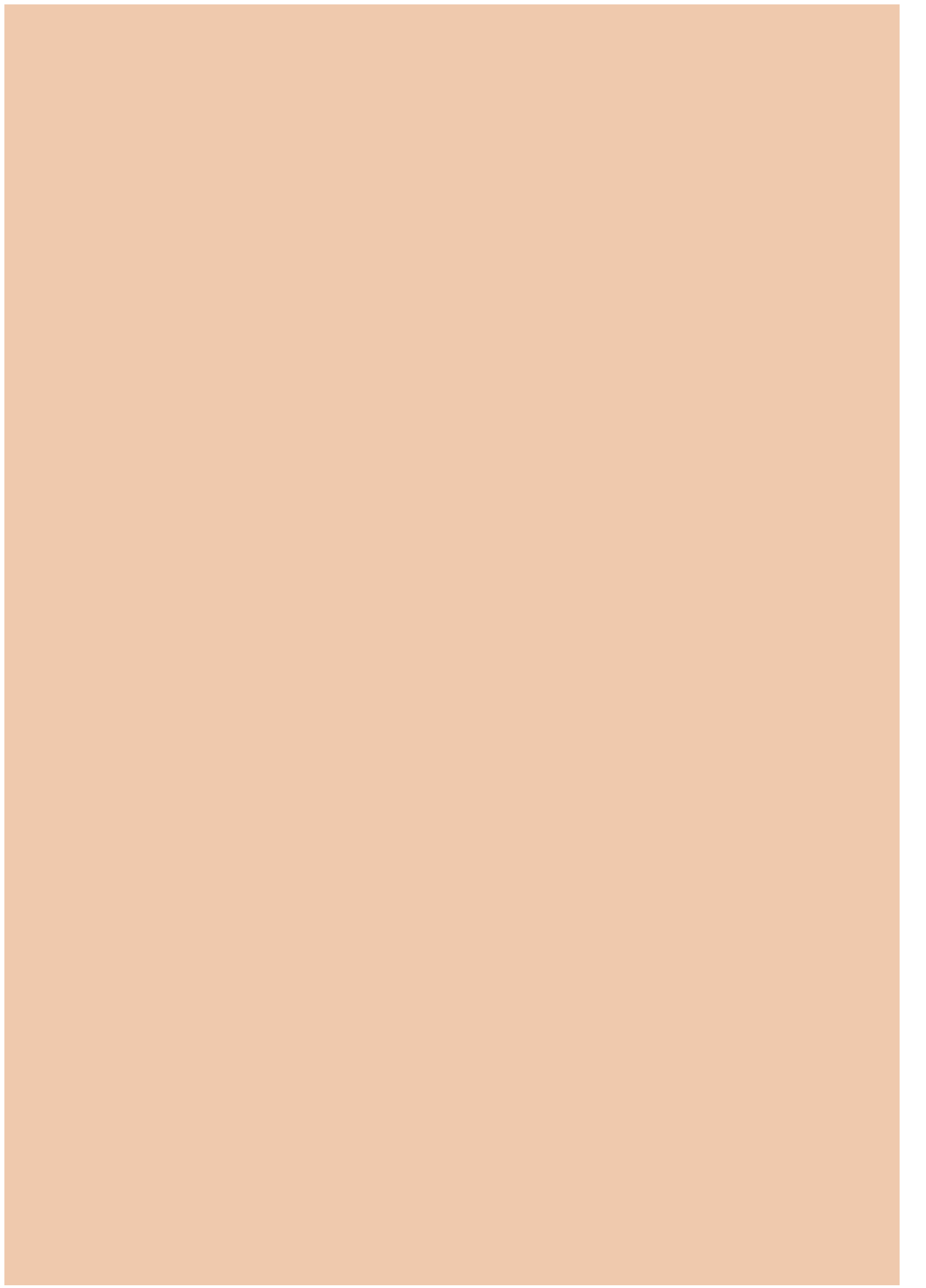


CHAPTER-II

Compliance Audit Paragraphs relating to SPSEs



CHAPTER-II

COMPLIANCE AUDIT PARAGRAPHS RELATING TO SPSEs

Important audit findings emerging from test check during the audit of the SPSEs are included in this chapter.

MOITRI Society
Assam Police Housing Corporation Limited
Assam State Co-Operative Housing Federation Limited

2.1 Implementation of Mission of Overall Improvement of Thana for Responsive Image (MOITRI) Scheme

2.1.1 Introduction

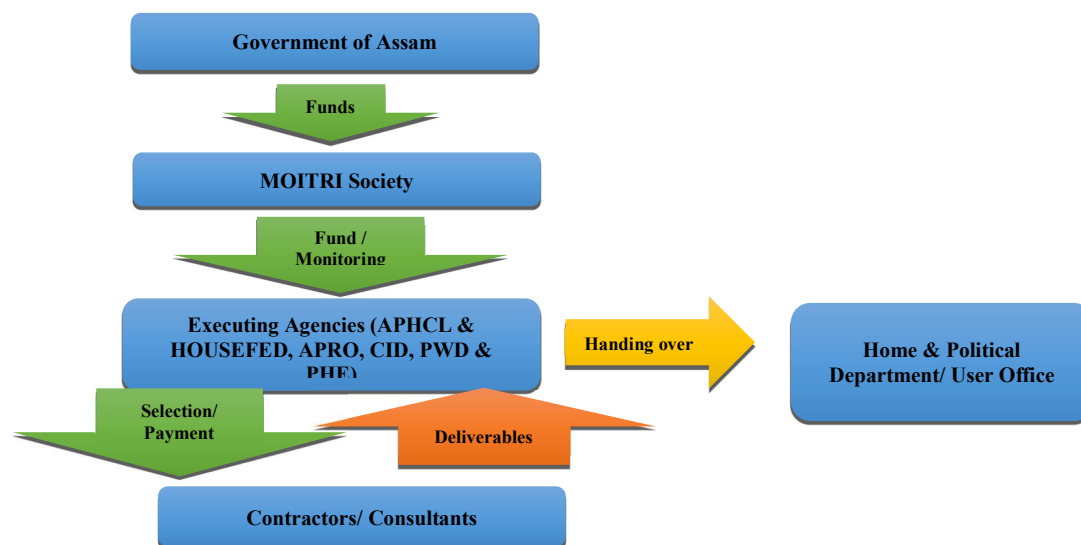
Government of Assam (GoA) announced (July 2016) the Mission of Overall Improvement of Thana for Responsive Image (MOITRI-Scheme) in the State Budget 2016-17. The objective of the Scheme was to develop physical infrastructure in 345 police stations (PS) in the State over a period of five years (2017-2022) for making them more citizen-friendly. The proposed facilities included creation of infrastructure like women and children's corner with separate access from outside, video conferencing facilities, visitors room adjacent to reception with drinking water and separate toilet facilities, properly designed gate and boundary wall with parking areas, proper landscaping, maintenance of police stations, use of renewable energy sources, provision for running water, rain water harvesting, internet connection, basic tools for detection of cyber-crime *etc.* The Scheme also proposed to improve soft skills and responsiveness of the police to deal with new generation crime like drugs, cyber-crimes and providing counselling to the young offenders.

GoA constituted (March 2017) a Society, namely 'MOITRI Assam', under Societies Registration Act and tasked it with the implementation of the Scheme⁶⁶. The Society had Director General of Police, Assam, as the ex-officio Mission Director cum Chief Executive Officer. The Society was required to decide the design and facilities to be included in the PS, monitor the implementation of the Scheme besides acting as fund channelising agency between GoA and the Executive Agencies (EAs). For smooth implementation of the project, the Society had engaged six EAs, namely Assam Police Housing Corporation Limited (APHCL), Assam State Co-Operative Housing Federation Limited (HOUSEFED), Assam Police Radio Organisation (APRO), Criminal Investigation Department (CID) of Assam Police, Assam Public Works Department (PWD) and Assam Public Health Engineering (PHE) Department, with their specialised role for different components of the Scheme. GoA periodically

⁶⁶ As per the Rules and Regulations of MOITRI Society, the accounts of the Society shall be audited annually by a qualified chartered accountant appointed by Government of India/State Government and shall also be subject to the provisions of the CAG's (DPC) Act, 1971. However, no proposal for entrustment of audit of the accounts of the Society has been received so far (February 2023).

released Grants-in-Aid (GIA) to the Society and the Society, in turn, transferred the funds to EAs for implementation of the Scheme. After completion of the works, EAs were required to hand over the PS, barracks, etc. to the Home and Political Department, GoA (administrative department). The nature of relationship of various stakeholders has been presented in **Chart 2.1.1**.

Chart 2.1.1: Chart showing relationship of various stakeholders of Scheme



The Society considered 73 out of 345 PS for construction/reconstruction during the first phase (2017-18). During the second phase (February 2019 to June 2021), the Society considered 46 PS, 100 Pre-Engineered Building⁶⁷ (PEB) barracks and 55 other infrastructure related works. In addition to the above, the Society had also considered installation of cyber tools and video conferencing facilities. As of March 2022, the works allotted to various EAs and funds released thereagainst by the Society to EAs have been detailed in **Table 2.1.1**.

Table 2.1.1: Details on funds released to Executing Agency

Phase	Executing Agency	Allotted Work	Approved cost (₹ in crore)	Amount released by Society (₹ in crore)
First phase (2017-18)	APHCL	73 PS	171.67	184.61
Second Phase (February 2019 to June 2021)	APHCL	27 PS and 39 other works	147.96	
	HOUSEFED	19 PS, 100 PEB Barracks and 10 other works	379.48	40.03
	PWD	4 works	11.50	0
	PHED	2 works	0.40	0
	APRO	Video Conferencing Facility	3.57	0
	CID	Cyber Tool kit	25.80	33.17
Total			740.38	257.81

⁶⁷ PEB structures are steel structures and built-up sections fabricated at the factory to exact size, transported and assembled at site with bolted connections.

Further, the Society had also incurred expenditure of ₹ 7.71 crore on AP Connect (₹ 7.15 crore), Digitisation of MT branch (₹ 0.35 crore) and Soft Skill Development (₹ 0.21 crore) without any approval from Home and Political Department, GoA.

2.1.2 Audit Objectives

The audit objectives were to assess whether:

- The Scheme was planned and executed in a transparent, competitive manner following the contractual and extant norms framed by the Government, MOITRI Society and Executive Agencies;
- Utilisation of the funds allocated/released to the Society was efficient, economic and effective; and
- Internal control mechanism and monitoring of the Scheme were effective.

2.1.3 Audit Criteria

The audit criteria for assessing the achievement against the audit objectives were sourced from the following:

- Memorandum of Association (MoA), Article of Associations (AoA), policies; procedures, circulars and other instructions of APHCL/HOUSEFED, Agenda and Minutes of meetings of the Board of Directors of APHCL/HOUSEFED and Committees of these Boards;
- Rules and Regulation of MOITRI Society and Minutes of the meetings of the Governing Body and Executive Committee of the Society;
- Assam Financial Rules, Assam PWD Manual, Orders, guidelines issued by Government of Assam during financial sanction, administrative approvals *etc.*;
- Approved plan and estimates, NIT documents, Standard Bidding Documents (SBD), agreements with the contractors;
- Assam Public Procurement Act, 2017 and CVC⁶⁸ Guidelines.

2.1.4 Audit Scope and Methodology

The present Audit was conducted during April 2022 to June 2022 covering construction activities undertaken by the EAs in 119 PS (Phase I and II), 100 Pre-Engineered Building (PEB) barracks and 55 other infrastructure related works. In addition, Audit also covered creation of other assets like video conferencing facility and cyber tool kit. Audit coverage included various aspects relating to project planning, cost estimation, tendering, work execution, fund management and monitoring of the Scheme works. For this purpose, Audit examined the records relating to Scheme implementation for the period from July 2016 to June 2022 as available with the Society and EAs.

⁶⁸ Central Vigilance Commission

The audit methodology adopted for attaining the audit objectives involved explaining the scope, audit objectives, audit criteria *etc.*, to the Chief of the Society and Heads of the EAs. It also involved analysis of data/records with reference to audit criteria at the Head Office of the MOITRI Society and EAs, raising of audit queries, and issuing of draft report to the GoA/MOITRI Society/EAs for their comments. Since no tender was invited by the HOUSEFED to sub-contract the Scheme works, audit analysed the records relating to preparation of detailed work estimate as the estimated rate was the final tender value of the works executed by the HOUSEFED.

Audit discussed (27 July 2022) the observations with the Management of MOITRI Society and the EAs in the exit meeting. Audit has also taken into consideration the formal replies received (27 July 2022) from APHCL and HOUSEFED and the views expressed by the representatives of GoA/MOITRI Society/EAs in the exit meeting while finalising the Audit Report.

Audit Observations

2.1.5 Status of the scheme

GoA decided (July 2016) to construct/re-construct 345 PS in the State under the Scheme in two phases over a period of five years. Besides, construction of 100 barracks and 55 other works was also planned to be executed under the Scheme. Status of completion of the Scheme works as of June 2022 has been detailed in **Table 2.1.2**.

Table 2.1.2: Details of physical status of work

Phase	Implementing Agency	Allotted Work	Physical status		Remarks
			Completed	Work in progress (per cent)	
1 st phase (2017-18)	APHCL	73 PS	69	4 PS (45 to 90.50)	-
2 nd Phase (February 2019 to June 2021)	APHCL	27 PS	2	22 PS (25 to 78)	Work in 3 PS not started due to land related issues.
		39 other works	14	25 (1 to 92)	-
	HOUSEFED	19 PS & 1 other work	0	9 PS (5 to 45)	Works in 10 PS, 1 other work and 54 Barracks yet to be started.
		100 Barracks	1	45 barracks (5 to 85)	
		9 other works	1	8 (20 to 70)	
	PWD	4 works		Work in progress	-
	PHED	2 works		Work in progress	-
	APRO	AP Connect & Video Conferencing Facility		Work in progress	-
	CID	Cyber Tool kit	Completed	-	-

Phase	Implementing Agency	Allotted Work	Physical status		Remarks
			Completed	Work in progress (per cent)	
	Police Commissionerate	Digitization of traffic branch	Completed	-	-
	Training & Armed Police (T&AP)	Soft Skill development		Work in progress	-

Police Stations (PS)

Against total 345 PS planned to be constructed/re-constructed under the Scheme, the Society allotted (October 2017 to March 2020) the work relating to 119 PS to the EAs under first phase (73 PS) and second phase (46 PS). The works relating to remaining 226 PS, however, could not be allotted and were still at the planning stage (June 2022).

Against the work of 73 PS allotted under the first phase (scheduled completion: April 2018 to July 2021), the executing agency (APHCL) could complete only 69 PS (June 2022). Similarly, out of 46 PS allotted to EAs (APHCL: 27 PS, HOUSEFED: 19 PS) under the second phase (scheduled completion: April 2018 to July 2021), only 2 PS could be completed by APHCL (June 2022) while no PS was completed by HOUSEFED.

Among the pending 48 PS (Phase I: 4 PS; Phase II: 44 PS), the physical progress of works in 35 PS ranged between 5 and 90.50 *per cent* while the work in the remaining 13 PS (AHPC: 3 PS and HOUSEFED: 10 PS) could not be taken up (June 2022).

Barracks

The Society allotted the Scheme works relating to construction of 100 barracks to HOUSEFED. In turn, HOUSEFED sub-contracted (June 2020) the entire work to its JV partner (Frontier Sales Corporation/FSC) with scheduled completion of work by September 2021. As on 30 September 2022, however, FSC could complete only one barrack. Further, out of 99 barracks pending completion, the construction work of 54 barracks could not be started so far (September 2022) (*paragraph 2.1.8.1*).

2.1.6 Fund Allocation and Expenditure

As of June 2022, the GoA released Scheme funds to the tune of ₹ 405.36 crore to the Society towards construction/renovation of 119 PS, 100 PEB barracks and 55 other works including soft/intangible assets. The broad status of receipt and utilisation of Scheme funds by the Society during the years from 2016-17 to 2021-22 has been summarised in *Table 2.1.3*.

Table 2.1.3: Details of receipt and utilization of funds

(₹ in crore)

Year	Administrative approval	Financial sanction	Amount Drawn	Bank interest receipt	Amount released to EA	Amount refunded by EA	Amount refunded to GoA	Interest remitted to Govt. exchequer	Unutilised amount at the end of the year
2016-17	-	20.00	20.00	-	-	-	-	-	20.00
2017-18	189.56	125.00	125.00	0.73	17.58	-	-	-	128.15
2018-19	5.42	100.00	100.00	3.08	125.01	-	-	2.98	103.24
2019-20	455.02	12.90	12.61	3.20	0.48	11.91	14.33	2.50	113.65
2020-21	90.38	46.24	27.75	2.83	37.19	-	40.28	2.99	63.77
2021-22	-	120.00	120.00	1.01	85.26	-	-	1.37	98.15
Total	740.38	424.14	405.36	10.85	265.52	11.91	54.61	9.84	

As may be noticed from **Table 2.1.3**, GoA released Scheme funds aggregating ₹ 405.36 crore to the Society as of March 2022. The Society, however, parked the entire Scheme funds in its savings bank account. Further, out of the interest income (₹ 10.85 crore) earned on these deposits, the Society remitted ₹ 9.84 crore to the Government exchequer and irregularly kept the balance amount (₹ 1.01 crore) with it (till June 2022) without any authorisation.

It may further be noticed that out of ₹ 405.36 crore of Scheme funds received from GoA, the Society released (March 2017 to March 2022) ₹ 265.52 crore (65.50 per cent) to EA and refunded ₹ 54.61 crore to GoA. Audit observed delays ranging from 20 to 1,573 days (as of June 2022) in release of funds to the tune of ₹ 20.55 crore against 32 works (ranging from ₹ 10 lakh to ₹ 1.30 crore) to the EAs despite availability of sufficient Scheme funds with the Society. The Government (Scheme) funds should not be allowed to be retained by the Society unutilised for long periods in the savings/current Bank account as keeping Government money outside the budgetary process is irregular and not an acceptable practice.

During the exit meeting, the officials representing MOITRI Society stated (July 2022) that funds were drawn as per requirement and balance amount was surrendered at end of the financial year.

The reply is not acceptable as even after refund of Scheme money to GoA during 2019-20 (₹ 14.33 crore) and 2020-21 (₹ 40.28 crore), significant funds amounting to ₹ 113.65 crore (2019-20) and ₹ 63.77 crore (2020-21) remained unutilised with the Society.

2.1.7 Planning

Planning in construction works involved identification of various work components to be executed along with the time schedule planned for completion of each work and preparing of cost estimates accordingly. For effective outcome, the Society was to prepare a plan for systematic implementation of the Scheme after prioritising the necessities. GoA accordingly decided⁶⁹ (April 2017) to prioritise the greenfield PS⁷⁰ for taking up the Scheme works at the first instance. Hence, GoA's priority was on

⁶⁹ Decision taken in a meeting (10 April 2017) attended by Addl. Chief Secretary, Home & Political Dept. GoA; DGP, GoA; MD, APHCL; ADGP, CID, ADGP (Communication) and others.

⁷⁰ Under greenfield projects, new construction would be undertaken for those PS where condition of existing building could not be re-modelled to incorporate the facilities envisaged under the scheme.

those PS, which either had old/dilapidated buildings needing major repairs or had no buildings.

Audit observed that the Society selected the PS without prioritising the PS buildings based on their physical condition as prescribed by the GoA. As a result, out of 119 PS (73 PS in the first phase and 46 PS in the second phase), Scheme works were undertaken in 84 PS although the buildings of these PS were either newly constructed or in good condition.

In the exit meeting, APHCL stated (July 2022) that during execution of the Scheme, PS were considered based on population, crime rate in the area and also physical condition of the PS. No documentary evidence was, however, provided by APHCL in support of their claim.

2.1.8 Project execution

2.1.8.1 Allotment of work without tendering (HOUSEFED)

HOUSEFED entered (March 2014) into a Joint Venture (JV) agreement with Frontier Sales Corporation (FSC), a single proprietor firm, with the aim to develop Pre-Engineered Buildings (PEB) and environment-friendly bio-toilets. Initially, the Board of Directors (BoD) of HOUSEFED decided (July 2014) not to act as a front for a private party and terminated (December 2014) the agreement. Later, based on further pursuance by FSC (February 2015) and considering future economic benefits from the JV, HOUSEFED executed (March 2015) a new JV agreement (March 2015) with FSC⁷¹. Based on the submission by HOUSEFED to carry out installations using PEB technology with the assistance of FSC, the Assam Police Headquarters (APHQ) decided to test its expertise and awarded the work for construction of one model barrack using PEB technology valuing ₹ 2.62 crore under the schemes implemented by Assam Infrastructure Financing Authority (AIFA), which was completed by HOUSEFED/FSC in August 2015⁷².

After successful completion of the work by HOUSEFED using PEB structure and also taking note of the proposal submitted (August 2015) by PWD, Assam for construction of 200 barracks (PEB type), APHQ recommended (September 2015) the Home Department, GoA for allotment of 100 barracks each to HOUSEFED and PWD, Assam for construction using PEB technology. While the erstwhile projects under AIFA were also absorbed under the MOITRI scheme, the Home Department, GoA requested (August 2019) MOITRI Society to allot the work of construction of 100 barracks each to APHCL and HOUSEFED. Based on the cost estimates submitted by HOUSEFED, MOITRI Society allotted (February 2020 to June 2021) the work of 100 barracks, along with 19 PS and 10 other works to HOUSEFED at an estimated cost of ₹ 384.35 crore.

⁷¹ The agreement was, valid for three years (*i.e.*, upto March 2018) with a condition that after expiry of three years, the JV agreement should be automatically extended for the next year till completion of allotted work or till payment of all pending bills.

⁷² Payment was released to FSC in June 2021.

HOUSEFED simultaneously sub-contracted (February 2020 to July 2021) the entire Scheme works to FSC at the same contract value (₹ 384.35 crore).

Audit observed that:

- Although the administrative approval for the works clearly stipulated that the works under the Scheme with tender value of ₹ 50 lakh and above shall be executed through e-tender only, neither MOITRI Society nor HOUSEFED invited any tender while allotting/sub-contracting the Scheme works. Since the works were allotted/sub-contracted to HOUSEFED and FSC on nomination basis, the estimated cost of works became the final contract value for all the Scheme works. In absence of tendering, the cost of these works remained higher than what could have been reasonably expected in a competitive environment. Awarding the Scheme works by MOITRI Society to HOUSEFED and subsequent sub-contracting to FSC without following the tendering procedure had caused financial loss of ₹ 2.10 crore to the State Exchequer as discussed in *paragraph 2.1.8.2*.
- Out of 129 works (contract value: ₹ 384.35 crore) sub-contracted to FSC, only two works could be completed as of June 2022. Of the remaining 127 works, 62 works were ongoing with physical progress ranging from 5 per cent to 85 per cent while the balance 65 works⁷³ could not be taken up as of June 2022 even after expiry of their scheduled completion date⁷⁴.

In reply, HOUSEFED stated that as per its byelaws, it can act as an agent for any Government Department against sanctioned projects and that it has been empowered to take up JV housing projects. As such, BoD of HOUSEFED had agreed to execute a JV agreement with the JV partner (FSC) for construction of Pre-Engineered Building and bio-toilets as FSC had successfully delivered more than 5,000 Pre-Engineered Buildings all over the State. It was further stated that MOITRI Society had allotted the work to HOUSEFED after considering the expertise of its JV partner (FSC) regarding PEB technology and also that the works were sub-contracted to the JV partner within the approved administrative cost.

The reply is not tenable as awarding the works by the MOITRI Society to HOUSEFED and subsequent sub-contract to FSC on nomination basis was not in accordance with the codal formalities as well as pre-condition attached to the administrative approval for Scheme works to award all high value contracts (valuing ₹ 50 lakh or more) based on e-tendering only. Further, award of State-sponsored scheme works without following the tendering process deprived the Government of the benefits of competitive rates of open market.

⁷³ 10 PS, 54 barracks and one residential accommodation

⁷⁴ The Governing Body of MOITRI Society held on July 2017 has fixed the modality of the MOITRI Scheme and decided that construction of any police station should be completed within 12 months from the date of commencement.

2.1.8.2 Procurement of high value electrical items (HOUSEFED)

Based on the administrative approval accorded (March 2020) by GoA for the second phase of the Scheme, MOITRI Society allotted (December 2020) the work of construction of 38 PS to two EAs (APHCL: 19 and HOUSEFED: 19). APHCL awarded 19 works at competitive rates on the basis of e-tendering whereas HOUSEFED had sub-contracted all the 19 PS to its JV partner (Frontier Sales Corporation) on 'nomination basis' based on the cost estimates prepared as per APWD SoR, 2013-14.

Audit analysed the cost of four high-value electrical items⁷⁵ used in these works and observed large gaps between the procurement price of APHCL and HOUSEFED in respect of these four items as detailed in *Table 2.1.4*.

Table 2.1.4: Details of cost difference

Name of the item	Quantity procured (in number)	Average cost price (APHCL)	Cost Price (HOUSEFED)	Cost Difference	Differential Amount
(₹ in lakh)					
(i)	(ii)	(iii)	(iv)	(v)=(iv) – (iii)	(vi)= (v) × (ii)
Diesel Generator Set	19	5.80	8.50	2.70	51.30
11 KV Transformer	19	10.13	15.00	4.87	92.53
Solar Light for Building	19	1.97	3.00	1.03	19.57
Solar Street light including installation	294	0.44	0.60	0.16	47.04
Total	-	-	-	-	210.44

It can be noticed from *Table 2.1.4* that the cost paid by HOUSEFED for the selected four items was significantly higher than that paid by APHCL for similar items used in the Scheme works. This price gap was mainly due to sub-contracting the Scheme works by HOUSEFED to its JV partner based on the estimated cost of works without following the tendering process and thereby completely ignoring the competitive rates available in open tendering. The loss to the State exchequer on this account worked out to ₹ 2.10 crore, which was avoidable and not justified.

In reply, HOUSEFED stated that estimates of 19 PS was prepared based on APWD SoR, 2013-14 and work order was issued on turnkey basis without any cost escalation. It was also stated that 5 to 15 *per cent* higher cost is involved for construction of PS with PEB technology and that although the design adopted for 19 PS was Green Building concept, it did not consider additional 10 *per cent* admissible under APWD SoR, 2013-14 against the cost of civil works for Green Building and hence, neither the estimated rate of PS is inflated nor was any loss incurred by the GoA.

The reply is not acceptable as the four external electrical items pointed out by Audit are used in both conventional and PEB structures as also in Green Buildings, without any

⁷⁵ Audit selected four items (Generator set, 11 KV transformer, Solar light for building & Solar Street light) for scrutiny due to uniformity of these items in both conventional and PEB structure of PS buildings.

variation in specification of these items. As such, the plea regarding the higher cost involved in PEB structures/Green Building is not relevant for electrical items pointed out by Audit.

2.1.8.3 Inflated estimate due to incorrect provision for GST/VAT (HOUSEFED)

HOUSEFED/FSC prepared and submitted (December 2019) the cost estimate for 19 PS, 100 barracks and Modernisation of Police Reserve based on APWD SoR, 2013-14. The cost estimates so prepared were inclusive of 5 per cent VAT component.

Audit observed that after introduction of GST regime, an additional 7 per cent towards GST was added directly to the cost estimates of SoR items, which already included 5 per cent towards VAT component. Thus, adding 7 per cent towards GST on the cost of SoR items without removing the 5 per cent VAT component was irregular and led to excess liability of ₹ 1.02 crore as detailed in **Table 2.1.5**.

Table 2.1.5: Details of excess liability

(₹ in crore)

Particulars	Cost estimates based on APWD SoR 2013-14 (inclusive of 5 per cent VAT)	Amount of VAT included	Excess liability due to GST on VAT
(i)	(ii)	(iii) = (ii) × 5 ÷ 105	(iv) = (iii) × 7 per cent
Construction of 19 PS	48.52	2.31	0.16
Construction of 100 Barracks	242.89	11.57	0.81
Development and Modernisation of Police Reserve under Police Commissionerate, Guwahati	15.61	0.74	0.05
Total	307.02	14.62	1.02

HOUSEFED accepted (27 July 2022) the observation and assured to corrective action in the matter.

Recommendation: HOUSEFED should prepare the estimates on realistic basis and all works having tender value of ₹ 50 lakh and above should be executed through e-tender. GoA/Society should also check the estimates thoroughly before approving the same.

2.1.8.4 Non-collection of performance security/retention money (HOUSEFED)

As per Clause 34.1 of the Standard Bidding Document (SBD) of APWD, a performance security equivalent to 5 per cent of the contract price was required to be deposited by the contractor executing the works under Government-sponsored schemes. Further, as per Clause 48 of the General Condition of Contract read with Clause 27 of Contract data of SBD issued by APWD, the proportion of the contractor's dues to be retained from their payments (Retention Money) shall be 6 per cent from each work bill subject to a maximum of 5 per cent of final contract price. The Retention Money so collected shall be held till the end of defect liability period, which is a minimum of one year subject to maximum of three years.

Audit observed that the JV agreement between HOUSEFED and FSC had no provision regarding performance security or defect liability guarantee to take care of any future defect in FSC's work. In terms of Clause 34.1 of SBD of APWD (Building), an amount

of ₹ 19.22 crore was required to be deposited by the contractor as performance security. No performance security was deposited by the FSC. Further, out of ₹ 74.60 crore paid to FSC against running bills (till June 2022), though HOUSEFED initially deducted (June and July 2021) an amount of ₹ 0.79 crore towards Retention Money, but it later on released (December 2021) the same, for which there was no justification on record. As such, HOUSEFED extended undue advantage to FSC by not collecting the Retention Money to cover FSC's future defect liability period. As a result, HOUSEFED would not be in a position to get compensation against any defect noticed in the works of FSC at a later stage.

In reply, HOUSEFED stated that performance security and retention money were not collected from FSC due to absence of any such provision in the JV Agreement.

The reply is not tenable as the executing agencies for State-sponsored schemes are required to carry out the works as per standard provisions of SBD of APWD works and by not entering into a formal work agreement in the format prescribed under SBD, HOUSEFED extended undue favour to FSC.

2.1.9 Implementation of the Scheme

2.1.9.1 Allotment of multiple works without assessing credentials/workable capacity of Bidders (APHCL)

The Contract and Procurement Rules (Rules) of APHCL required assessment of the credentials/capacity of the contractors while allotting works to them and also prescribed for issuing trial orders of smaller volume of work in case the contractor's capacity was not fully known. The Tender Evaluation Committee⁷⁶ (TEC) also decided (March 2017) not to award multiple works to a single contractor.

Audit observed that:

- Contrary to the above stipulations, the TEC allotted (December 2017-April 2018) 16 works to three empanelled contractors⁷⁷ through limited tendering without assessing their capacity or without issuing any trial order of smaller volume of work.
- All the three contractors submitted documents with common labour registration number, common registration number from provident fund authorities, and these firms also had common employees/persons in senior management position. Regarding past working experience, it was seen that two contractors⁷⁸ had submitted identical documentary proof for execution of same work for the same authority. This raises doubt on the authenticity of the documents submitted by the contractors during the bidding process. The commonalities/deficiencies noticed in documentation suggest possible participation of same bidders in the bidding process

⁷⁶ TEC included Managing Director as Chairperson and other members from APHCL viz. Chief Engineer, Chief Accounts Officer, Superintendent Engineer (Electrical) and Executive Engineer (Hqr).

⁷⁷ IBBYU Construction, Supertech Construction and North Eastern Drilling & Workover Services Company Private Limited.

⁷⁸ Supertech Construction and North Eastern Drilling & Workover Services Company Private Limited.

with fabricated documents only to get more work orders beyond the capacity of the bidder. On the basis of documents submitted with the bidding document, these three firms could be considered as a single contractor.

- As against scheduled completion period of 12 months, all the allotted 16 works were trailing behind the schedule with average work progress of 36 *per cent* even after lapse of 21 to 24 months from the date of allotment. Due to slow progress of work by the contractors, APHCL cancelled (December 2019) 14 work orders and issued fresh work orders for these 14 works valuing ₹17.83 crore, leading to a cost escalation of ₹ 3.99 crore⁷⁹. Further, as per work order conditions, the defaulting contractors were required to bear the additional cost incurred in completion of left-over portion of work. APHCL, however, did not take any initiative to recover the additional cost (₹ 3.99 crore) from the contractors.

Thus, lack of diligence on part of APHCL to verify the credentials and workable capacity of the bidders before award of works led to delay and extra cost in execution of the works.

APHCL stated that a committee has been formed to investigate the commonalities of different documents submitted by these three firms. It further stated that 14 out of 16 works were cancelled in the interest of the work and price escalation was due to inclusion of some additional items as per the directions of the Governing Body of the Society.

The reply is not tenable as the cancellation of works was done in December 2019 while the decision for inclusion of additional items was considered in the estimates even before allotment of work to the first contractor (January 2018-July 2018) based on the directions (July 2017) of the Governing Body of the Society, as no Governing Body meeting was held after July 2017.

2.1.9.2 Excess payment against execution of piling work (HOUSEFED)

As per APWD, SoR, 2013-14, the cost of '*RCC pile foundation*' was higher by ₹ 3,500 per sqm of plinth area than the '*shallow isolated footing foundation*'. The soil test report submitted by the consultant recommended both '*shallow isolated footing foundation*'⁸⁰ or '*bored cast-in-situ RCC pile foundation*'⁸¹. However, during preparation of the cost estimate, specification & design as well as work order, *RCC pile foundation mode* was considered (January 2020) for works.

HOUSEFED awarded (March 2020) the work for construction of 100 barracks to FSC at an estimated cost of ₹ 262.49 crore prepared based on APWD SoR, 2013-14. The

⁷⁹ Payment made to the first contractor (₹ 5.16 crore) + value of retender amount (₹ 17.83 crore) - original contract amount (₹ 19 crore) = ₹ 3.99 crore

⁸⁰ An isolated footing is shallow foundation in order to carry and spread concentrated load, caused for example by columns or pillars. Isolated footings can consist either of reinforced or non-reinforced material. Isolated footings are one of the most economical types of footings and are used when columns are spaced at relatively long distances.

⁸¹ Pile foundations are deep foundations in which a series of columns constructed or inserted into the ground to transmit loads to a lower level of subsoil. A pile is a long cylinder made up of a strong material, such as concrete and pushed into the ground to act as a steady support for structures built on top of them.

scope of work included works relating to *RCC pile foundation* in 100 barracks (Plinth area: 301.53 per barrack) involving cost of ₹ 16.68 lakh per barrack.

Audit observed that FSC had completed (till May 2022) works against 43 barracks using ‘shallow isolated footing foundation’ instead of ‘RCC pile foundation’. HOUSEFED, however, paid FSC an amount of ₹ 7.17 crore⁸² considering the higher rate applicable to ‘RCC pile foundation’ instead of ‘shallow isolated footing foundation’ actually adopted by FSC. As such, an excess payment of ₹ 4.54 crore was made to FSC as detailed in **Table 2.1.6**.

Table 2.1.6

No. of barracks completed up-to plinth level	Plinth area per barrack	Total Plinth area of 43 barracks (Sqm)	Additional cost for RCC pile foundation (per Sqm in ₹)	Excess payment (in ₹)
(i)	(ii)	(iii)=(i)x(ii)	(iv)	(v) = (iii) x (iv)
43	301.53	12,965.79	3,500	4,53,80,265

In reply, HOUSEFED stated that though the sanctioned estimated provision was for ‘RCC pile foundation’, the Consultant recommended both ‘Shallow isolated footing foundation’ or ‘RCC pile foundation’ in the soil testing report. Hence, FSC had executed ‘Shallow isolated footing foundation’ instead of ‘RCC pile foundation’ in construction of barracks. However, on completion of the work, final payment would be made on the basis of the working estimate, which had been subsequently prepared by HOUSEFED, though not yet regularised.

The reply is not acceptable as FSC was paid at the higher rate, which was applicable to ‘RCC pile foundation’ while FSC had actually carried out ‘shallow isolated footing foundation’, without deducting differential cost. Further HOUSEFED, prepared working estimate by deleting two items (reinforced cement concrete piles and reinforcement bar) relating to RCC pile foundation work and the entire per barrack cost of ₹ 16.68 lakh involved against RCC piling work was adjusted in the said working estimate by enhancing the existing quantity of other items without changing any scope and specification. Thus, the working estimate was prepared only to regularise the excess payment made to the contractor against 43 barracks, which is not acceptable.

2.1.9.3 Excess payment due to non-verification of poles actually installed (APHCL)

APHCL awarded (February 2018-August 2018) the work of ‘Transformers and associated Line work’ in 73 PS to 16 contractors involving total cost of ₹ 8.85 crore. The work included installation of steel tubular poles (STPs) valuing ₹ 2.64 crore⁸³. The

⁸² ₹ 16.68 lakh x 43 = ₹ 7.17 crore

⁸³

Specification of Transformer	No. of PS	No. of poles in each PS	Rate per pole (₹)	Amount (₹)
100 KVA	02	15	32,542	9,76,260
63 KVA	40	15	32,542	1,95,25,200
25 KVA	31	07	27,000	58,59,000
Total	73	-	-	2,63,60,460

work was completed and payment of ₹ 2.64 crore released to all the contractors during April 2018 to January 2023.

Audit observed that as per the work order, 7 STPs and 15 STPs were required to be installed against 25 KVA and 63 KVA transformers respectively in each PS. During physical verification (June 2022 and October 2022) of 31 PS by Audit it was noticed that the contractors, instead of utilising STP solely, had actually used combination of both RCC poles (price: ₹ 6,696 per pole) as well as STP (price per STP: ₹ 27,000 for 25 KVA, ₹ 32,542 for 63 KVA) in all the 31 PS. APHCL, however released the payment considering the rate of STP against the entire work without verifying the number and specification of the poles (RCC or STP) actually installed by the contractors. As such APHCL released an excess payment amounting to ₹ 1.04 crore as shown in **Table 2.1.7**.

Table 2.1.7

Specific ation of Transfo rmer	PS verified	STP poles required in each PS	Rate per pole (in ₹)		Total cost of work using STP poles (₹ in crore)	Number and specification of poles actually installed		Amount to be paid (₹ in crore)			Excess Payment (₹ in crore)
			STP	RCC		RCC	STP	RCC	STP	Total	
A	B	C	D	E	F=BxCxD	G	H	I=ExG	J=DxH	K= I+J	L=F-K
25 KVA	9	7	27,000	6,696	0.17	18	14	0.01	0.04	0.05	0.12
63 KVA	22	15	32,542	6,696	1.07	55	33	0.04	0.11	0.15	0.92
Total	31				1.24					0.20	1.04

Further, the excess payment pointed out by Audit was based on the physical verification of works executed by the contractors in 31 out of 73 PS. Hence, the possibility of similar lapses/overpayments could not be ruled out in the remaining 42 PS not physically verified by Audit.

In reply, APHCL stated that due to shortage of technical electrical staff, it was not possible to supervise all electrical works (including 73 PS) scattered throughout the State of Assam for supply and installation of transformer with associated lines which were executed by electrical contractor.

The reply corroborates the fact that APHCL failed to supervise the execution of electrical work and also released payment without verifying the quantum of work actually executed by the contractors. Further, it also failed to deduct the differential amount from the bills of contractors for use of poles of lower specification, contrary to the agreement.

Recommendation: Responsibility may be fixed against officials who failed to exercise checks while discharging their assigned duties. Further, the internal control mechanism needs to be strengthened to avoid similar lapses in future.

2.1.9.4 Non-recovery of Labour Cess (HOUSEFED)

As per section 3(1) of the Building and other Construction Workers (Regulation of Employment and Conditions of Services) Act, 1996 read with instructions issued by the GoA from time to time, labour cess at the rate of one *per cent* of the cost of construction was to be deducted by the EAs from the payments released against contractors' bills and remitted to the cess authorities. The work orders issued by HOUSEFED to FSC also stipulated to deduct all admissible taxes at source and remit the same to Government account.

Audit observed that HOUSEFED released (April 2021 to March 2022) payments of ₹ 51.03 crore to FSC towards execution of works, against which an amount of ₹ 0.51 crore was recoverable towards labour cess. HOUSEFED, however, had neither deducted the cess amount (₹ 0.51 crore) from FSC's bills nor deposited the same with the cess authorities from its own resources. Thus, by non-deduction/deposit of cess, HOUSEFED not only violated the applicable rules causing loss to the State exchequer but also extended undue benefit to the contractor.

HOUSEFED accepted the observation and assured to recover the cess amount from subsequent bills of FSC.

2.1.10 Financial Management

2.1.10.1 Drawal of Scheme funds without immediate requirement (MOITRI Society)

Assam Treasury Rules and Subsidiary Orders (Rule 16) read with Rules 62 and 63 of Assam Financial Rules stipulate that no money shall be drawn from the Treasury unless it is required for immediate disbursement. As per the order issued (4 October 2018) by Home & Political Department, GoA, funds against Government sponsored schemes were to be sanctioned in instalments based on actual need/submission of Utilisation Certificates (UCs) submitted by the implementing agencies against previous releases. **Table 2.1.8** depicts the year-wise details of funds actually utilised as per the cashbook and that reported as 'utilised' in the UCs.

Table 2.1.8: Details of utilisation of funds

(₹ in crore)

Year	Amount drawn	Amount utilised as per UC	Utilised amount as per cashbook	Unutilised amount as per cashbook
2016-17	20.00	20.00	0.00	20.00
2017-18	125.00	125.00	16.85	128.15
2018-19	100.00	100.00	124.91	103.24
2019-20	12.61	12.09	2.20	113.65
2020-21	27.75	28.01	77.63	63.77
2021-22	120.00	UC not submitted	85.62	98.15
Total	405.36	285.10	-	-

As can be seen from **Table 2.1.8**, an amount of ₹ 405.36 crore was released to MOITRI Society during 2016-22. As per the transactions recorded in the cashbook, the MOITRI Society had an unutilised amount of ₹ 98.15 crore as of March 2022. Audit observed

that though the MOITRI Society had unutilised amounts ranging between ₹ 20 crore and ₹ 128.15 crore during 2016-17 to 2020-21, the MOITRI Society submitted incorrect UCs against each sanction mentioning nil or negligible unutilised funds. This enabled the Society to get irregular release of subsequent instalments of Scheme funds based on the incorrect UCs submitted to GoA against previous instalments.

During the exit meeting, the officials representing the MOITRI Society had assured (July 2022) to recheck the UCs for the periods concerned.

2.1.11 Recoveries at the instance of Audit (APHCL)

Audit had pointed out the cases of under-recovery/overpayments to the tune of ₹ 1.93 crore against various contractors during the years 2016-17 to 2019-20. This included overpayments to the contractors in contravention of the contractual agreement, payment against inadmissible departmental charges and under recovery of forest royalty against the forest material utilised by the contractor. APHCL had accepted the observations and recovered ₹ 1.60 crore at the instance of Audit, as detailed in **Table 2.1.9**.

Table 2.1.9

Sl. No.	Audit observations	Amount recovered (₹ in crore)
1	Excess payment: APHCL awarded (January 2018) the execution of civil works of Nalbari PS to a contractor at ₹ 1.56 crore. The works included one item (viz. supply, fitting and fixing in position reinforcement bars), which was considered at different rates for different components of the works, i.e., for building constructions (₹ 1,545 per quintal) and for boundary wall and septic tank (₹ 6,902 per quintal). APHCL, however, considered the higher rate (₹ 6,902 per quintal) while making payment (October 2019) for the item used (285.23 quintal) in building construction resulting in overpayment to the contractor.	0.19
2	Excess expenditure: In case of North Lakhimpur PS, the agreed rate for CLCB ⁸⁴ was available on volume basis (₹ 756 per CUM). APHCL, however, allowed payment at SoR rates on area basis resulting in overpayment to the contractor.	0.05
3	Non-recovery of forest royalty: In six out of 20 PS test checked by Audit, APHCL deducted forest royalty at pre-revised rates instead of the new rates effective from July 2015. Further, in case of remaining 14 PS, APHCL did not deduct forest royalty despite non-submission of documents by the contractor to confirm remittance of the royalty amount to GoA thereby resulting in under-recovery of forest royalty to the extent of ₹ 0.18 crore.	0.18
4	Inadmissible departmental charge: As per the Scheme conditions, APHCL was entitled for departmental charges at the rate of 10 per cent ⁸⁵ of the sanctioned cost of civil and electrical works excluding consultancy charges. APHCL periodically transferred departmental charges from Scheme funds to its own current account. Audit observed that while calculating the Departmental Charges, APHC considered the payments made (₹ 2.63 crore) towards consultancy charges as part of the civil and electrical works cost contrary to	0.31

⁸⁴ Cellular Lightweight Concrete Block

⁸⁵ Agency charges, work charges and contingency of 7 per cent, 2 per cent and 1 per cent respectively

Sl. No.	Audit observations	Amount recovered (₹ in crore)
	Scheme conditions. This resulted in excess appropriation of ₹ 0.31 crore ⁸⁶ from the Scheme funds by APHC.	
5	Undue benefit to the contractor: The consultants initially prepared estimates incorrectly for external electrification work by incorporating 'solar power plant' with unit cost ₹ 51,485 (supply: ₹ 31,285 plus installation: ₹ 20,200) instead of 'solar street lights' of unit cost ₹33,810 (supply: ₹ 31,285 plus installation: ₹ 2,525) against 71 PS in the first phase. On realising the mistake, name of the item was modified (December 2017) and rates were corrected only in 3 PS (Halflong, Hailakandi and North Lakhimpur PS) out of 71 PS at ₹ 33,810 per light. Thus, the differential rates led to undue benefit of ₹ 1.20 crore ⁸⁷ . APHCL accepted (June 2020) the observation and already recovered ₹ 0.87 crore till June 2022 and assured for recovery of balance amount (₹ 0.33 crore) from the contractors concerned.	0.87

Recommendation: Responsibility may be fixed against officials who have failed to exercise any regulatory checks while discharging their assigned duties. Further, internal control mechanisms need to be strengthened to avoid similar lapses in future. Audit also recommends for a similar review by the APHCL in respect of all works executed under the Scheme.

2.1.12 Internal Control and Monitoring (MOITRI Society)

Internal control and monitoring are prerequisites to ensure economy, efficiency and effectiveness in implementation of Government-sponsored schemes besides preventing the executives from indulging in irregular activities. Monitoring of works is an important tool for assessing the quality and progress of work. This also helps in timely detection of constraints in works execution for timely remedial action. As multiple agencies were involved in implementation of the Scheme, the role of MOITRI Society was critical in ensuring effective coordination between the various agencies involved in Scheme implementation. Besides acting as a fund-channelising agency, the MOITRI Society was also required to issue necessary directions to the EAs from time to time to ensure smooth implementation of the Scheme.

The monitoring of Scheme works by the MOITRI Society was, however, extremely poor, which led to slow progress of Scheme works and consequent failure to adhere to the deadline of five years contemplated by GoA to complete the Scheme as evident from the following:

- As per the bye-laws of the Society, its Governing Body was required to meet at least on an annual basis (Rule 5.3.1) while its Executive Committee was to meet at least once in a month (Rule 5.6.5). It was seen that since registration of the Society (March 2017), the Governing Body met only once (12 July 2017) as against minimum prescribed six meetings (till March 2022). During the corresponding period, as against the prescribed 62 number meetings, the Executive Committee had

⁸⁶ Consultancy fee (₹ 2.63 crore) × Departmental charges (10 per cent) + GST of 18 per cent

⁸⁷ 680 lights x (₹ 51,485 - ₹ 33,810) = ₹ 1.20 crore

held only 12 meetings till May 2022. The deficiencies in holding the minimum required meetings of the Governing Body and Executive Committee had adverse implications on the monitoring mechanism on the activities of the Society.

- As per work orders issued by HOUSEFED, the Project Engineer was required to carry out quality control tests on different materials/works and maintain relevant records at the site. No evidence was found on record to confirm conducting of any quality control tests on the Scheme works by HOUSEFED.
- None of the EAs had any facilities as regards testing of steel, mortar and chemical analysis of cement etc. Thus, the quality control mechanism of EAs was entirely dependent upon private laboratories/institutions for all kinds of quality control tests.

2.1.12.1 Physical verification of sampled PS covered under the Scheme

As per the drawings relating to civil works, the PS buildings should include facilities like reception room, wireless and communication room, record room, barracks, interrogation room, armoury room, separate rest-room for men and women, separate toilets for women, hygienic lock-up, canteen with kitchen etc.

The audit team visited 31 PS⁸⁸ (23 completed and 8 on-going) out of 119 PS being constructed under the Scheme. During physical verification, the following deficiencies were noticed:

- Living accommodation (like barracks with toilet facilities) were not available in 21 PS out of 31 PS.
- There was no canteen with kitchen room in any of the sampled 31 PS.
- There were no record rooms available in 21 PS out of 31 PS sampled.
- Armoury room was not available in two PS (Khetri and Garchuk PS).

Conclusion

The Scheme was launched with the aim to create modern and citizen friendly infrastructure in 345 Police Stations (PS) within five years (2017-18 to 2021-22) in a transparent and competitive manner. The objective of the Scheme was defeated as 48 out of 119 PS taken up during the first and second phase of the Scheme remained incomplete as of June 2022 while scheme works in the remaining 226 PS were still at planning stage. Further, out of 155 other works (100 barracks and 55 other infrastructure projects) planned under the Scheme, only 16 works (one barrack and 15 other projects) could be completed (June 2022). Of the remaining 139 works, 85 works (45 barracks and 40 other projects) were in progress (June 2022) while works in the remaining 54 barracks could not be started so far (September 2022).

⁸⁸ 1) Sonapur 2) Khetri 3) Jagi Road 4) Kaliabor 5) Deragaon 6) Pulibor 7) Teok 8) Bokaghat 9) Dhekiajuli 10) Basistha 11) Gorchuck 12) Jalukbari 13) Azara 14) Pan Bazaar 15) North Guwahati 16) Hajo 17) Sualkuchi 18) Udalguri 19) Mangaldoi 20) Changsari 21) Manikpur 22) Bongaigaon 23) Kajalgaon 24) Sarthebari 25) Lakhipur 26) Goalpara 27) Abhayapuri 28) Lanka 29) Hojai 30) Dabaka 31) Jorabat

Besides, instances of various irregularities (award of works without following tender process, awarding multiple works without assessing the credentials/workable capacity of contractors, non-collection of performance security/retention money to safeguard against future defect liability, etc.) were also noticed in scheme implementation indicating poor contract management by Executing Agencies.

The budgetary control mechanism of GoA was deficient as GoA released Scheme funds to MOITRI Society based on incorrect utilisation certificates, without assessing the actual requirement of funds. As a result, significant Government money/ Scheme Funds irregularly remained outside the budgetary process with MOITRI Society/Executing Agencies for long periods.

Recommendations

GoA/MOITRI Society may consider:

- *Strictly following the e-tendering process for award of all State sponsored scheme works valuing ₹ 50 lakh and above to ensure transparent and effective contract management;*
- *Ensuring that standard provisions of all applicable Acts, Rules, Manuals, Guidelines etc. on execution of works are followed to attain economy and safeguard the assets.;*
- *Releasing scheme funds based on actual requirement and after verification of utilisation certificates of previous instalments.*

Assam Power Generation Corporation Limited

2.2 Construction of Power Projects

2.2.1 Introduction

Assam Power Generation Corporation Limited (Company/APGCL) functions under the Power Department, Government of Assam (GoA) for generation of electricity in the State of Assam. As on 1 April 2017, the Company had three operational plants with installed capacity of 361.70 MW. During 2017-18 to 2021-22, the Company commissioned three new projects with installed capacity of 181.66 MW. During the corresponding period the Company decommissioned/de-rated plants having capacity of 123.50 MW due to aging and commissioning of the new plants. As on 31 March 2022, the Company had the following six operational power plants with total generation capacity of 419.86 MW as shown in **Table 2.2.1**.

Table 2.2.1: Generation capacity as on 31 March 2022

Plant	Year of Commissioning	Installed capacity (MW)	No. of installed units	Presently working unit	Generation capacity available (MW)
Existing plant					
Namrup Thermal Power Station (NTPS)	1965	119.50	6	3	41.00
Lakwa Thermal Power Station (LTPS)	1981	142.20	8	4	97.20
Karbi-Langpi Hydro Electric Project (KLHEP)	2007	100.00	2	2	100.00
Total for existing plants		<i>361.70</i>	<i>16</i>	<i>9</i>	<i>238.20</i>
New Plant					
Lakwa Replacement Power Project (LRPP)	2018	69.76	7	7	69.76
Namrup Replacement Power Project (NRPP)	2021	98.40	2	2	98.40
Myntriang Small Hydro Electric Project (MSHEP)	2022	13.50	6	6	13.50
Total for new plants		<i>181.66</i>	<i>15</i>	<i>15</i>	<i>181.66</i>
Grand Total		543.36	31	24	419.86

During 2017-18 to 2021-22, out of five power projects undertaken by the Company, three projects were completed while the other two projects were ongoing as shown in **Table 2.2.2**.

Table 2.2.2: Status of new Power Projects

Name of Project	Planned Capacity (in MW)	Date of Award of work	Awarded Cost (₹ in crore)	Scheduled date of completion	Commissioning Date
Lakwa Replacement Power Plant (LRPP)	69.76	December 2015	231.84	March 2018	April 2018
Namrup Replacement Power Project (NRPP)	98.40	December 2008	564.60	January 2012	July 2021
Myntriang Small Hydro Electric Project (MSHEP)	13.50	March 2008	107.33	March 2016	March 2022
Lower Kopili Hydro Electric Project (LKHEP)	120.00	August 2020	2188.56	March 2025	Ongoing
Amguri Solar Project (ASP)	70.00	December 2019	300.00	December 2021	Ongoing
Total	371.66	--	3392.33	--	

As can be seen from **Table 2.2.2**, out of the planned capacity addition of 371.66 MW under five projects, three projects⁸⁹ (capacity: 181.66 MW) could be commissioned (March 2022). Of these three projects completed during 2017-22, one project (LRPP) was commissioned on time, while there was delay of 6 years (MSHEP) and 9 years (NRPP) in commissioning of the other two projects.

In addition, GoA had taken up six small hydro projects under Public Private Partnership mode out of which only one project was completed till date (June 2022) while construction in the remaining five projects was abandoned (one project)/suspended (four projects) as detailed in **paragraph 2.2.6**.

2.2.2 Audit Objective, Scope and Criteria

The audit objective was to assess the extent of enhancement of generation capacity and economy and efficiency achieved in implementation of the projects. Audit covered all 11⁹⁰ power generation projects undertaken by GoA and the Company during 2017-22. The audit methodology involved scrutiny of records of the Power Department, Government of Assam, Corporate Office of the Company and its generation stations.

The criteria adopted for the present audit were derived from legislative framework regarding environmental and forest clearance for power sector projects, minutes of meeting of Board of Directors of the Company (BoD), bid documents, agreements with contractors engaged for the construction of the power projects *etc.*

Audit Findings

Audit findings in respect of the power projects taken up for construction during 2017-18 to 2021-22 have been discussed below:

⁸⁹ LRPP (69.76 MW), NRPP (98.40 MW) and MSHEP (13.50 MW)

⁹⁰ 5 New Power Projects + 6 Small Hydro Projects

2.2.3 Lakwa Replacement Power Project (LRPP)

2.2.3.1 Supply of imported spares

To replace the existing Lakwa Thermal Power Station (LTPS), the Lakwa Replacement Power Project (LRPP) of 70 MW was planned (June 2013) under Assam Power Sector Investment programme of Asian Development Bank (ADB). Based on the approval given (July 2014) by ADB, the Company invited (December 2014) bids and awarded (December 2015) the works to Wartsila India Private Limited (WIPL) for Design, Engineering, Manufacture, Supply, Erection, Testing and Commissioning including civil and allied works at a cost of ₹ 231.84 crore⁹¹ with a scheduled completion date of March 2018. The project was commissioned in April 2018 at a final cost of ₹ 268.21 crore.

As per the work order issued (December 2015), the scope of work of WIPL included supply of imported spares for operation and maintenance (O&M) valuing Euro 19,36,618 (equivalent to ₹ 13.17 crore⁹²) which were to be supplied by September 2017. Audit observed that

- Although the entire payment (Euro 19,36,618 *i.e.* ₹ 13.17 crore) was released against imported O&M spares supplied before commissioning of the project, the Company could provide shipment receipts to Audit for verification against supply of spares costing Euro 12,24,632 (equivalent to ₹ 8.33 crore) only. As such, actual delivery of remaining spares (costing: ₹ 4.84 crore) could not be vouchsafed in audit.
- In term of GoI notification (11 November 1997), goods imported into India for execution of projects financed by the ADB for implementation by the State Government were exempted from payment of customs duty based on the required certificates provided by the Project Implementing Agency/State Government. GoA, accordingly, issued (November 2016) an exemption certificate against the above works. It was however seen that based on the customs duty payment receipt produced by the clearing agent of WIPL, the Company reimbursed (May 2018-June 2021) an amount of ₹ 2.04 crore as customs duty on additional spares supplied after commissioning of the project.

In reply the Company stated (January 2023) that as per the provisions included in O&M contract and bid provisions, APGCL was to bear all taxes and has accordingly paid the customs duty.

The reply is not tenable as customs duty was already exempted against the works executed under the ADB scheme. Thus, the Company should not have reimbursed/paid the customs duty amount. No comments were, however, offered for non-production of complete shipment receipt for verification by Audit.

⁹¹ Comprising of Euro 2.0022 million for imported components (equivalent to ₹ 136.20 crore based on exchange rate at the time (7 March 2015) of submission of bids) and ₹ 95.64 crore for non-imported components.

⁹² Considering exchange rate of ₹ 68.0275 per Euro, mentioned in the bid documents submitted on 7 March 2015.

Recommendation: The Company should take up the matter for refund of customs duty with Government of India since the spares were imported for use in the projects executed under ADB scheme. Further, no such reimbursement should be made to the contractor in future.

2.2.4 Namrup Replacement Power Project

2.2.4.1 Loss due to non-termination of contract

The 100 MW Namrup Replacement Power Project (NRPP) was conceived to replace the existing Namrup Thermal Power Station (NTPS), at an estimated cost of ₹ 693.93 crore⁹³, which was to be financed through contribution from GoA (₹ 208.93 crore⁹⁴) and loans from Power Finance Corporation Limited (PFCL) (₹ 485 crore). The Company, accordingly, issued (31 December 2008) Letter of Intent for Engineering, Procurement and Construction⁹⁵ to Bharat Heavy Electricals Limited (BHEL) with scheduled completion by January 2012. The project was commissioned in July 2021 at a cost of ₹ 887.09 crore⁹⁶. As the delay was largely attributable to slow progress and poor performance of BHEL, the Company imposed and recovered (December 2021 to January 2022) liquidated damages of ₹ 42.35 crore from BHEL. In this connection, following observations are made:

- The Company was aware of the poor performance of BHEL and other contractors involved by BHEL in the work from time to time and noticed (July 2013) the progress of the civil works between 29 to 42 *per cent*, well after expiry of scheduled completion date (January 2012). The track record of BHEL was also not satisfactory as BHEL had delayed (3 and a half years) completion of another power project (LTPS- Waste Heat Recovery Project) awarded (September 2006) to it by the Company on an earlier occasion.
- As the cost of the project was partly financed through interest-bearing loan availed from PFCL, the Company had to bear interest liability of ₹ 262.84 crore, of which ₹ 183.50 crore related to period of time over-run (February 2012 to July 2021). This additional interest liability (₹ 183.50 crore) correspondingly increased the overall cost of the project to that extent.
- The old/existing plant (NTPS) commissioned during 1965 with six units (capacity: 119.50 MW) had outlived its designed life in the 1990's itself. The plant was high fuel consuming⁹⁷ and Company had planned for de-commissioning of four units (76 MW) out of six units of NTPS after successful completion of new NRPP. Due to delay in commissioning of NRPP, the Company was forced to operate the

⁹³ Comprised of construction cost of power plant, cost of preliminary surveys, Interest during constructions *etc.*

⁹⁴ GoA Equity: ₹ 198.81 crore and GoA Loan: ₹ 10.12 crore

⁹⁵ At agreed cost of ₹ 564.60 crore

⁹⁶ ₹ 807.07 crore upto COD + ₹ 80.09 crore subsequent period upto 31 March 2022

⁹⁷ NTPS had requirement of higher heat rate (3,900 kcl/kWh) to operate than that envisaged for the new plant of NRPP (1,951 kcl/kWh).

old plant with five units⁹⁸ (capacity: 99.5 MW) during 2017-18 to 2019-20. Operation of inefficient units beyond their planned de-commissioning resulted in excess consumption of natural gas to the tune of 68.07 Million SCM valuing ₹ 39.71 crore⁹⁹ during April 2017 to March 2020¹⁰⁰.

From the facts stated above, it could be seen that the cost incurred by the Company during the period of delay in commissioning of the project (February 2012 to July 2021) was far higher *vis-à-vis* the liquidated damages imposed on BHEL. As such, the Company should have terminated the contract with BHEL during 2012-13 itself and explored options for execution of the project through some other agency fulfilling the prescribed performance parameters.

In reply, the Company stated (February 2023) that it had taken note of the observation and would ensure in future to put a system in place to take corrective action which may prevent such avoidable delays.

The fact however remained that the Company should have taken proactive steps to analyse the delay when the completion schedule was over and take a decision on continuation of the work with BHEL.

2.2.4.2 Loss due to faulty workmanship of BHEL

During execution of the project, the Company noticed (June 2018) several defects (roof leakages, cracks *etc.*) in the switchyard control room building and requested BHEL to urgently carry out rectification work. BHEL expressed (July 2018) its inability to carry out the work as no civil contractor was available at site. Under compelling circumstances, the Company decided (July 2019) to construct a sloping roof using tubular truss with galvanised sheet over the building and issued (18 November 2020) work order to Wilqo India Engineering (WIE) at a contract price of ₹ 18.20 lakh to carry out the work financed by GoA. WIE completed (15 May 2021) the work and payment (₹ 18.20 lakh) was released (11 November 2021) accordingly. The Company, however, did not enforce the contractual provisions to claim the above cost from BHEL although BHEL was contractually liable to rectify the defects at its cost.

In reply, the Company accepted the observation and stated (January 2023) that cost debit of ₹ 18.20 lakh had been initiated for recovery of extra cost incurred against BHEL.

⁹⁸ Unit 1 (20 MW) did not produce any power during 2017-18 and was decommissioned on 24 October 2017.

⁹⁹ 79.73 Million SCM of gas × ₹ 5.57 per SCM (average cost of gas).

¹⁰⁰ Calculated upto 31 March 2020 as after reliability run of the new NRPP in May 2020, two units (35 MW) of NTPS was decommissioned (July 2020) followed by de-rating (September 2020) of 3 units by 23.4 MW.

Other Observations

2.2.5 Lakwa Waste Heat Recovery Project

2.2.5.1 Non-automation of Demineralisation Plant

The Company commissioned (January 2012) Lakwa Waste Heat Recovery Project (37.2 MW) and installation of automated Demineralisation Plant (DM plant) was an essential part of this project. As the automation part of the DM plant was not installed, the plant was started in manual mode.

The Company, thereafter, awarded (April 2015) the work of automation of DM plant to Doshion Veolia Water Solution (DVWS), which included supply and installation of the hardware/software (cost: ₹ 0.26 crore) and additional materials (cost: ₹ 0.59 crore) required for automation of the plant.

The supply and installation of the above items was scheduled to be completed within 12 weeks (supply) and 120 days (installation) of issuing the work order respectively. The warranty for the items supplied under the work order was available for 18 months from the date of supply or 12 months from the date of commissioning. DVWS completed the delivery of the hardware and software items after almost two years (January 2017) of issuing the work order (April 2015). However, the work of automation of DM plant could not be taken up due to deteriorated condition of the plant on account of aging and its continuous operation in manual mode during this period.

To install the above items, the DM plant needed renovation work and the Company assessed (May 2018) the cost of such renovation at ₹ 1.15 crore. Owing to lack of funds, however, renovation of the plant could not be carried out and the hardware/software and other items delivered (January 2017) by DVWS remained uninstalled.

To meet the cost of renovation of DM plant, the Company sought financial assistance from GoA (September 2018) and after receiving (June 2019) approval for the same, the Company decided (September 2019) to float fresh tenders instead of considering DVWS for the renovation work due to its poor past performance. Based on a single bid received, the Company awarded (January 2020) the work of renovation of the DM plant to Amit Engineering at a cost of ₹ 1.58 crore. The work of renovation of DM plant was completed in January 2021.

Audit observed that:

- The automation work of DM plant had not been completed in spite of the fact that hardware and software for automation procured from DVWS (January 2017) was lying idle with the Company till date (January 2023). The hardware and software so procured had already become outdated due to prolonged idling and had no scope for availing warranty.
- The auto control valves, programmable logical control panel *etc.*, which were part of automation system and originally installed in the DM plant had also become unusable and had to be removed during renovation of the plant.

- The automation of the DM plant was intended towards minimising human error resulting in improving the quality of DM water besides saving time during operation of the plant. The Company, however, kept on the operating the plant in manual mode since its installation (January 2012) till date (January 2023) thereby defeating the basic objective of its installation. Besides, continuous operation of DM plant in manual mode exposed the Company against the risk of further deterioration of the plant, which may cause avoidable cost on renovation work of the plant again.

The Management stated (February 2023) that necessary steps would be taken for automation of the DM plant by engaging fresh service provider.

Recommendation: *The Company should take steps to take up the work for automation of the DM plant at the earliest.*

2.2.6 Implementation of Small Hydro Power Projects

GoA issued (March 2007) a Small Hydropower Development Policy (SHD Policy), which identified hydropower potential of 117 MW at 88 locations and included development of projects having capacity of upto 25 MW. GoA executed (May 2010 to May 2013) implementation agreements with developers for construction of the identified projects. During May 2010 to March 2022, six projects were undertaken at an estimated cost of ₹ 232.89 crore. The status of work under these projects have been summarised in **Table 2.2.3**.

Table 2.2.3

Sl. No.	Name of the project	Capacity (MW)	Selected developer	Date of implementation agreement	Project Cost (₹ in crore)	Present status (as on 31 March 2022)
1	Bordikorai	4.70	NEECON Power & Infra Ltd	18 May 2010	46.03	Abandoned due to non-receipt of forest clearance.
2	Desang	9.00	LD Power Venture Ltd	10 November 2010	73.86	Suspended due to non-receipt of forest clearance.
3	Dronpara	1.60	Supreme Infrastructure India Ltd	23 May 2013	13.85	Suspended due to incapacity of the contractors.
4	Pahumara	2.00	Ashok Anil Consortium.	18 May 2010	15.66	
5	Kalang	6.00	Transstroy India Ltd	17 August 2011	51.99	Suspended. No reasons on record.
6	Champamati	4.00	ECI Engineering and Construction Co Ltd.	Details not available	31.50	Completed
Total		27.30			232.89	

In this connection, Audit observed the following:

2.2.6.1 Non appointment of Nodal agency

As per the provision of SHD Policy as well as implementation agreements, GoA was to declare the State-owned power generation utility (*viz.* Assam Power Generation

Corporation Limited/Company) as Nodal Agency for efficient interaction with other Government Departments. The Company was to prepare Preliminary Feasibility Reports, monitor project implementations and co-ordinate with Government agencies regarding all statutory clearances for projects.

GoA, instead of declaring the Company as Nodal Agency, signed (July 2007) a Memorandum of Agreement (MoA) with Infrastructure Lease & Financial Services (IL&FSL) for development of all the hydropower projects identified in the Policy without any justification on record. Thereafter, a Joint Venture (JV) company namely, Assam Power Project Development Corporation Limited (APPDCL), was formed with equity stake of GoA and IL&FSL in 50:50 ratio, which prepared the DPRs and selected (May 2010-May 2013) six developers against six projects.

Audit observed that the Company (APGCL), being a wholly State owned entity having expertise in implementation of hydro power projects, was mandated under SHD Policy to act as Nodal Agency for execution and monitoring of hydro power projects. As such, selection of IL&FSL by GoA as JV partner for execution of hydro power projects contravenes the provisions of SHD Policy.

2.2.6.2 Failure to facilitate statutory clearances

As per the SHD Policy, GoA was required to constitute the Steering Committee¹⁰¹ (SC) and High-Powered Committee¹⁰² (HPC) for single clearance of projects and redressal of problems and policy matters respectively.

Audit observed that GoA had not constituted any of the two committees, in absence of which, the matters relating to statutory clearances could not be resolved in a timely manner leading to suspension/abandonment of five projects.

2.2.6.3 Undue favour to Developer

As per the provision of Forest (Conservation) Act 1980 and the Wildlife (Protection) Act 1972, prior approval of GoI was required to use forest land for other purposes. As per the implementation agreement, the responsibility of obtaining various statutory clearances from GoI/GoA rests with developers after following the prescribed procedure.

Further, as per SHD Policy the developer was also entitled to surrender the allotted project back to GoA if on completion of the DPR, within the stipulated time frame, it had grounds to establish that the project was not techno-economically viable. On such surrender, the GoA would refund any premium amount paid by the developer in excess of the threshold premium.

¹⁰¹ Comprising of Secretary (Power), Secretary (Forest) or his representative, Secretary (Irrigation) or his representative, Secretary (Revenue) or his representative, Managing Director, APGCL.

¹⁰² Comprising of Chief Secretary, GoA, Secretary (Power), Secretary (Forest), Secretary (PWD), Secretary (Industry), Secretary (Revenue), Secretary (Irrigation), Secretary (Water Resources), Managing Director, APGCL.

In case of one abandoned project namely, Bordikorai project (4.7 MW), it was seen that GoA awarded (March 2009) the work of execution of this project to NECCON Power & Infra Limited (NECCON). NECCON, however, sought (April 2015) termination of the contract on the ground that clearances from forest and irrigation department had not been received in a timely manner. Based on the request of NECCON, GoA decided (June 2015) to close the project. On the basis of GoA's subsequent instruction, the Company cleared (December 2020) entire borrowings (₹ 24.82 crore) availed by NECCON from State Bank of India (SBI) in connection with execution of project work.

Audit observed that since the timeframe (24 months) prescribed under the work order to complete the project was to be considered from the date of receiving all statutory clearances, NECCON was not supposed to carry out any major works on the project unless all the statutory clearances/approvals were received. Since statutory clearances for the project were delayed, NECCON should not have taken up any work on the project and should have surrendered the project before incurring any cost on the project works. Hence, the claim of NECCON for repayment of SBI loan taken for the project works was not justified and should not have been entertained by GoA.

Thus, GoA extended undue favour to NECCON by repaying its loan availed from SBI against the claims towards construction cost spent on a project before receipt of the statutory clearances.

The reply of the GoA in the matter had not been received (February 2023).

Recommendations: *GoA should ensure that all small hydropower projects are implemented through the Nodal Agency notified in line with Small Hydropower Development Policy of the State.*

Conclusion

As on 1 April 2017, the Company had three operational plants with installed capacity of 361.70 MW. During 2017-18 to 2021-22, out of the planned capacity addition of 371.66 MW (five projects), the Company commissioned three projects (capacity: 181.66 MW). Of the three projects completed during 2017-22, one project (69.76 MW) was commissioned on time, while the other two projects were commissioned with a delay of 6 to 9 years. Against one completed project, which was partly financed through interest-bearing loan and was delayed (9 years) mainly due to poor performance of the contractor, the Company had to bear additional interest liability of ₹ 183.50 crore on account of this delay.

In addition, GoA has taken up (May 2010 to May 2013) six Small Hydro projects out of which only one project was completed till date (June 2022). GoA did not follow statutory and policy requirements in project execution resulting in abandonment/suspension of the remaining five projects.

Recommendations

The GoA/Company may:

- review/re-assess all cases of delay on the contractor's part and take timely corrective action by exploring alternate options for completion of the project without further delay;
- ensure obtaining all statutory clearances at planning stage as envisaged under the Small Hydropower Development Policy to avoid delay in completion of projects.

2.3 Non adherence to the Investment Policy of the Company

The Company had to forego interest revenue of ₹ 2.44 crore due to investing in STDs offering lower rates of interest contrary to its declared investment policy

Assam Power Generation Corporation Limited (Company) was incorporated under the provisions of the Companies Act, 1956 with the main object of generation of electricity in the state of Assam. One of the objects incidental to the main objective was to invest surplus funds generated by the Company in the instruments of a bank recognised by Reserve Bank of India (RBI). The Board of Directors (BoD) of the Company in this regard also approved (March 2017) a fund management and investment policy for investment of surplus funds including unutilised scheme funds lying with the Company. The broad criteria provided for investment of surplus fund under approved fund management and investment policy of the Company are as under:

- Decision for investment of surplus fund would be taken through spot bidding among nationalised banks. A comparative statement is required to be prepared for evaluating the best rate obtained.
- Investment of amount above ₹ 30 crore was required to be approved by the Managing Director.

The investment in short term deposits (STDs) by the Company during April 2017 to March 2022 is as shown in **Table 2.3.1**.

Table 2.3.1

(₹ in crore)

Year	Amount invested (year end balance)	No. of Approvals	Approval by lower authority	Amount invested without inviting any quotations*	Amount invested in nationalised banks offering lower rate*	Amount invested in private bank*
2017-18	709.36	18	6	374.62	59.00	0
2018-19	770.50	15	6	788.87	69.00	0
2019-20	763.13	20	7	598.38	43.00	10.02
2020-21	834.14	11	3	479.00	101.00	4.00
2021-22	754.87	13	2	190.00	21.00	52.60
Total		77	24	2,430.87	293.00	66.62

*The value of investments included renewals/re-investments on maturity.

Following instances of non-compliance to the Company's approved investment policy/prudent practices were noticed in audit:-

(a) Prior to selection of any particular bank for investment in STDs, a thorough comparison of interest rates offered on identical terms for similar durations was essential so as to secure maximum returns. In this regard, it was seen that although the Company was required to ascertain the rates through spot bidding process, out of 77 approvals for investment in STDs of various denominations during April 2017 to March 2022, in 49 instances, the Company invested amounts ranging between ₹ 1 crore and ₹ 290.32 crore without inviting any quotations.

(b) On 15 occasions, the Company invested (April 2017 to December 2021) in more than one bank on the same day at different rates of interest without any justifiable reason. It was seen that an aggregate amount of ₹ 293 crore was invested in 95 STDs offering lower return with difference in interest rates ranging between 0.05 *per cent* and 2.35 *per cent*. This had resulted in loss of interest amounting to ₹ 1.04 crore.

(c) In 3 instances during April 2017 to March 2021, where the Company analysed rates collected from more than one bank, an aggregate amount of ₹ 390 crore was invested in 27 STDs carrying lower interest rate, although there were nationalised banks offering higher rate. This had resulted in forego of interest amounting to ₹ 1.40 crore.

(d) As per the policy, investment lot of more than ₹ 30 crore was to be approved by the Managing Director of the Company. In 24 instances during June 2017 to April 2021, individual amounts ranging between ₹ 31 crore and ₹ 290.32 crore were invested without the approval of the Managing Director.

(e) Although the investment policy of the Company required investment in nationalised banks, the Company invested an aggregate amount of ₹ 66.62 crore during December 2019 to November 2021 in 5 private banks (viz. Axis Bank, Federal Bank, HDFC Bank, North East Small Finance Bank and Yes Bank) in violation of its investment policy.

Thus, the Company had to forego interest revenue of ₹ 2.44 crore due to investing in STDs offering lower rates of interest contrary to its declared investment policy.

In reply, the Company stated (January 2023) that:

- Income from STDs is not primary business as the whole income is passed on to the consumers by Assam Electricity Regulatory Commission through tariff adjustment.
- Investments in private banks were made during the period covered by Audit; however, at present the Company had no STDs in private banks except STDs against Letter of Credit for short term commitments.
- Renewal in the same bank was not treated as fresh investment, and therefore approval of competent authority was not required.

The reply is not acceptable as:

- It is financially prudent to select investment avenues to maximise the returns at a given level of risk. Hence, passing on the adverse outcome of the Company's inefficiencies to consumers in the form of higher tariff is not appropriate/acceptable.
- The Company's approved investment policy envisaged for investment of surplus funds in PSUs after spot bidding. It did not permit investment in private sector bank.
- The investment policy did not distinguish between fresh investment and renewal. Further, the Company stands on the same footing in terms of gain and risk in both the cases.

Recommendation: *The Company should adhere to RBI guidelines and its investment policy while deciding on investment of surplus funds and analyse rates of different banks to maximise returns.*

Assam Mineral Development Corporation Limited

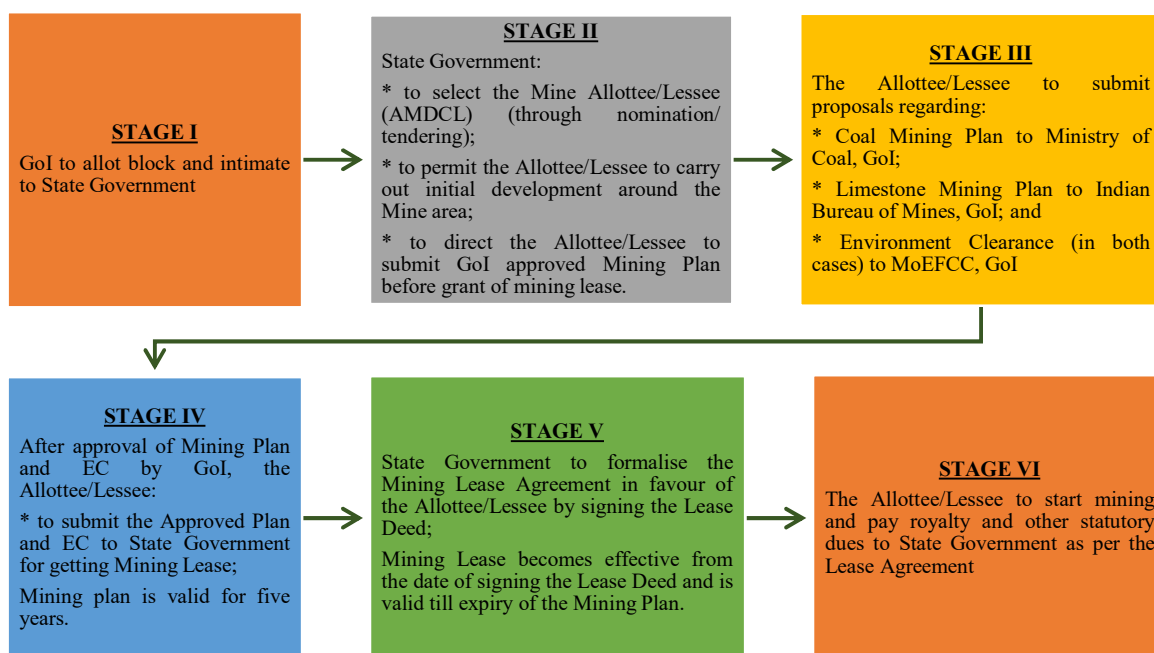
2.4 Mining activities

2.4.1 Introduction

Assam Mineral Development Corporation Limited (Company) was established in 1983 as a wholly owned State Government Company. It functions under the Mines and Minerals Department, Government of Assam (GoA). The Company’s goals were to (i) search for coal, lignite, limestone, mineral oil and gas and other minerals and precious stones; (ii) acquire mining rights from Government for exploitation; and (iii) acquire, work and dispose of and deal in any mine, minerals and other substances. The Management of the Company was vested in the Board of Directors (BoD) headed by the Chairman. The Managing Director (MD) was the Chief Executive.

The mining process is shown in *Chart 2.4.1* below:

Chart 2.4.1: Mining process



The summarised position of the mining activities of the Company has been given in *Table 2.4.1*.

Table 2.4.1: Details of Mining activities during 2017-2022

Mineral	Area (in ha)	Mines	Total Production during 2017-2021 (in lakh MT)	Estimated reserve at present (in lakh MT)	Projected Revenue (₹ in crore)
Coal	563	2	11.23	4.68	35.90
Limestone	861	5	Nil ¹⁰³	3,479.93	37.68 ¹⁰⁴

2.4.2 Financial Position and Working results

The accounts of the Company have been finalised and certified upto the year 2019-20 and it had pendency of two accounts (2020-21 and 2021-22) as on 30 September 2022. However, the Company had prepared its provisional accounts for the year 2020-21. Principal Accountant General (Audit), Assam had been taking up (February 2021/September 2021/June 2022) the issue of pendency of accounts of the Company regularly with the GoA and the administrative department concerned emphasising upon liquidating the arrears of accounts.

Summarised details of the financial position and working results of the Company for the years from 2017-18 to 2020-21 are given in **Table 2.4.2**.

Table 2.4.2: Financial position and Working results*(₹ in crore)*

Sl. No.	Particulars	2017-18	2018-19	2019-20	2020-21 (P)
Financial position					
1	Share Capital	4.89	4.89	4.89	4.89
2	Reserves and Surplus	39.61	64.96	89.01	104.33
3	Non-current liabilities	4.92	4.93	4.87	4.87
4	Current liabilities	9.04	7.13	7.05	4.24
5	Total Liability (1+2+3+4)	58.46	81.91	105.82	118.33
6	Non-current assets	3.09	3.22	3.14	3.27
7	Current assets	55.37	78.69	102.68	115.06
8	Total Assets (6+7)	58.46	81.91	105.82	118.33
9	Revenue from sale of coal	102.05	127.87	123.25	72.25
10	Other Income	7.23	4.41	4.55	5.59
11	Total Income (9+10)	109.28	132.28	127.80	77.84
12	Total Expenses	77.84	95.05	92.38	55.80
13	Profit before tax (11-12)	31.44	37.23	35.42	22.04
14	Provision for taxation	8.99	11.48	10.71	6.71
15	Profit for the period (13-14)	22.45	25.76	24.71	15.33

It can be seen from **Table 2.4.2** that annual profits had increased by 14.74 per cent (₹ 3.31 crore) in 2018-19 over 2017-18 due to higher sale of coal that year as compared to the previous year. Subsequently, profit had fallen by 37.96 per cent (₹ 9.38 crore)

¹⁰³ Out of total five Blocks (861 hectare) allotted to the Company, only one block (No. 2) involving 167 hectares of land operated till December 2011. The total production of limestone in this block during its operations (1994-95 to 2010-11) was 5.09 lakh MT.

¹⁰⁴ Amount for data available against 661 hectares.

during 2020-21 as compared to 2019-20. This fall was because of suspension of extraction and sale of coal from January 2021 onwards, which adversely affected revenue in terms of total sales as well as operational profits of the Company during 2020-21.

2.4.3 Scope, Methodology and Criteria of Audit

The present audit was conducted during July 2021 and July - August 2022, covering the mining activities of the Company carried out during the period from April 2017 to March 2022 in all the mining areas (coal: 563 hectares; limestone: 861 hectare) allotted to the Company till date. The audit findings have been updated as of August 2022. Audit methodology involved scrutiny of records maintained by the Company at its Head Office. The audit scrutiny also included examination of Board agenda/minutes, mining plans, environment impact assessment reports, actual mining data and internal controls.

The audit criteria adopted for the present audit were derived from (i) Mines and Minerals (Development and Regulation) Act, 1957 (MMDR) (ii) Mineral Concession Rules, 1960 (MCR) (iii) Mineral (Conservation & Development) Rules, 1988 (MCDR) (iv) Environment (Protection) Act, 1986 (EP) and Rules framed thereunder.

Audit Findings

2.4.4 Extraction of minerals

Statutory provisions governing mining activities

Brief details of significant provisions of the Acts and Rules governing the mining of minerals are highlighted below:

Section 5(2)(b) of the MMDR Act, 1957: A Mining Plan is essential for grant of mining lease. It includes a tentative scheme of mining and annual excavation plan for five years' periods. At the end of each of the five years' period, the scheme of mining is subject to fresh approval.

Section 21 of MMDR Act, 1957: Any contravention to the provisions of the Act (MMDR Act, 1957) shall be punishable with imprisonment for a term which may extend up to five years or with fine which may extend up to ₹ 5 lakh, or with both, and in the case of a continuing contravention, with additional fine which may extend up to ₹ 50,000 for every day during which such contravention continues after conviction for the first such contravention.

Rule 2(ia) of the MCR, 1960: 'Illegal Mining' means any reconnaissance or prospecting, or mining operation undertaken by any person or a company in any area without holding a reconnaissance permit or a prospecting licence or as the case may be, a mining lease as required under Section 4(1) of the MMDR Act.

Rule 22A and 28 of the MCR, 1960: All mining operations have to be in terms of the mining plan. Where Mining Operations are not commenced within a period of two

years from the date of execution of the lease or is discontinued for a continuous period of two years after commencement of such operations, the State Government shall, by an order, declare the mining lease as lapsed and communicate the declaration to the lessee.

Rule 13(2) of MCDR, 1988: In case of failure to operate a mine as per the approved Mining Plan, the Indian Bureau of Mines, GoI (IBM) may also suspend mining operations in a mine till such period the mining operations can be undertaken as per the approved Mining Plan.

Section 15 of the EP Act, 1986: Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend up to five years or fine which may extend up to ₹ 1 lakh, or with both, and in case the failure or contravention continues, with additional fine which may extend up to ₹ 5,000 for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.

Summary of approval of the required permissions to the Company for mining is given in **Table 2.4.3**.

Table 2.4.3: Details of Mining activities of the Company

Name (Area)	Date of allotment	Date of approval/ (renewal) of mining plan	Date of grant of mining lease	Date of expiry of lease	Remarks
Coal					
GCEP ¹⁰⁵ (500 ha)	21-04-1984	29-01-2001	Not granted	Not applicable	During April 1984 to January 2001 since mining plans were not prepared/approved, formal mining lease was not granted as per rules. Although a mining plan was approved in January 2001 for a period of 5 years, mining lease was not granted as the Company failed to clear the royalty dues payable for the period from 1995 to 2001 to GoA. <i>The Company however carried out mining since allotment (21 April 1984) till January 2021 without a formal mining lease during the entire period.</i>
KACEP ¹⁰⁶ (63 ha)	04-03-1994	Not approved	Not granted	Not applicable	The Company submitted (August 1999) a mining plan for approval, on which, GoI (Indian Bureau of Mines) suggested (March 2000) some modifications. The Company, however, did not submit any revised plan for reasons not on record. <i>The Company</i>

¹⁰⁵ Garampani Coal Extraction Project

¹⁰⁶ Khota Ardha Coal Extraction Project

Name (Area)	Date of allotment	Date of approval/ (renewal) of mining plan	Date of grant of mining lease	Date of expiry of lease	Remarks
					<i>carried out mining since allotment (4 March 1994) till January 2021 without a formal mining lease.</i>
Limestone					
Block 1 (33 ha)	September 1995	Not available (01-12-2016)	21-09-1985	30-09-2008 ¹⁰⁷	<i>Not operational since inception for reasons not on record. Mining lease not granted after September 2008 as environment clearance was pending.</i>
Block 2 (167 ha)	June 1992	25-04-1991 (01-12-2016)	17-06-1992	24-08-2012 ¹⁰⁸	<i>Operated till December 2011. Mining lease not granted after August 2012 as environment clearance was pending.</i>
Block 3 (31 ha)	03-05-2010	01-12-2016	Not granted	Not applicable	<i>Not operational since inception as environment clearance given in August 2022. Mining lease not granted as environment clearance was pending.</i>
Block 4 (200 ha)	03-05-2010	02-12-2016	Not granted	Not applicable	<i>Not operational since inception as mining lease not granted as environment clearance was pending.</i>
Block 5 (430 ha)	24-07-2012	02-12-2016	Not granted	Not applicable	<i>Not operational since inception as mining lease not granted as environment clearance was pending.</i>

Audit observed that:

1. As can be seen from **Table 2.4.3**, the Company was given the allotment of two coal mines namely Garampani Coal Extraction Project (GCEP) and Khota Ardha Coal Extraction Project (KACEP) covering 563 hectares (ha). The coal mines were, however, operated without a mining lease since April 1984 (GCEP) and March 1994 (KACEP) till January 2021 in violation of Rules as discussed in **paragraph 2.4.5**. The limestone mines were not operational mainly for failure to get environment clearance owing to defects in the proposals submitted from time to time as discussed in **paragraph 2.4.6**. Neither GoI nor GoA had taken any action against the Company for unauthorised mining operations without an approved mining plan, mining lease and environment clearance in violation of Rules.

2. It is evident from the details given in **Table 2.4.3** that the Company had failed to prepare mining plans and obtain mining leases in a timely manner in respect of all the mines allotted to it. The Company had however, continued the mining activities in both the coal mines and one limestone mine (Block - 2) despite not having GoI approved mining plans or mining leases or ECs from time to time. Although GoI and GoA were aware of the irregularity while terming the mining operations of the Company as illegal, no action was taken against the Company to prevent the illegal mining operations by imposing the deterrent penalty in this regard.

¹⁰⁷ Agreement executed on 30 September 1988

¹⁰⁸ Agreement executed on 24 August 1992

Thus, due to inaction on part of GoI and GoA to take strict action against the Company for unauthorised mining, the mining sites were exposed to the risk of possible environmental damages and consequential health hazards to the surrounding population.

In reply, the Company stated (February 2023) that due to financial crunch and non-receipt of budgetary support from GoA, the mining plan could not be prepared. Presently mining plan for all the five limestone blocks have been approved by GoI and mining plan for coal blocks are under process.

The fact remains that as carrying out mining activities without valid mining plans/lease was illegal and the Company needed to comply with all statutory requirements under any circumstances before taking up the mining activities.

2.4.5 Operation of coal mines

A. Garampani Coal Extraction Project

The Company started its mining activities since April 1984 without a valid mining plan/lease. The preparation of the mining plan was delayed as the Company cited financial crunch and its inability to bear the cost of preparation of a mining plan. The Company finally submitted (March 1999) a mining plan to GoI, which was approved in January 2001 with validity upto January 2006.

In March 2001, the Company submitted a proposal for renewal of mining lease to Mines & Minerals Department, GoA, against which the Department asked (April 2003) for a 'no-dues certificate' from the Company regarding clearance of all previous dues¹⁰⁹ against royalty payable to GoA. The Company delayed clearing its outstanding royalties citing financial crunch and finally obtained (September 2021) 'no dues certificate' from Director General of Mines, GoA. The Company, however, continued the unauthorised mining activities in GCEP since April 1984 till January 2021 in spite of not having an approved mining plan or mining lease or environmental clearance.

Later GoI decided (October 2021) to go for a fresh auction of the coal blocks, in which the Company participated and was declared (March 2022) a successful bidder against GCEP. The agreement finalisation with GoI is in process (July 2022).

The Company stated (February 2023) that it was not able to clear its dues to the GoA for financial hardship after which it cleared its dues in September 2021 and participated in auction by GoI and was selected for mining in GCEP and the formalities are in progress.

The reply is not tenable as royalties are statutory dues and the Company should have prudently set aside the royalties collected on sale of coal for payment to the authorities concerned through better financial management. Though the Company earned profits

¹⁰⁹ The dues payable to GoA increased from ₹ 1.21 crore in July 2001 to ₹ 2.96 crore in September 2021 which was paid by the Company to obtain NOC in September 2021.

of ₹ 99.42 crore¹¹⁰ during 2002-03 to 2019-20, it failed to clear the outstanding statutory dues.

B. Khota Ardha Coal Extraction Project

The Company was given allotment by GoA (March 1994) with a direction to submit mining plan for onward approval of GoI. Although the Company submitted (January 1995) the Mining Plan to GoI, the same was not approved as it was not prepared by a GoI recognised consultant.

Subsequently, the Company prepared a mining plan through the same consultant after recognition by GoI and submitted (August 1999) the same to GoI for approval, which was however not approved (March 2000) by GoI owing to several defects in it. The Company did not submit any modified mining plan thereafter for reasons not on record. As a result, the Company also could not obtain a mining lease from GoA so far (December 2022). Audit observed that the Company continued to carry out unauthorised mining operations in KACEP since allotment (4 March 1994) till January 2021 without a formal mining lease.

The Company stated (February 2023) that the consultant delayed submission of mining plan and it had accordingly penalised the consultant.

The reply is not tenable as the Company did not submit any modified mining plan after defects were pointed out in the mining plan. Further, the Company should have not carried out mining activities without valid mining plans/lease and it violated the directions of GoA, which was illegal.

Summary

Owing to failure to submit proper and GoI approved mining plans, the Company could not obtain a mining lease from GoA since allotment of GCEP (April 1984) and KACEP (March 1994) till January 2021. Despite not having an approved mining plan, valid mining lease agreement and environmental clearance, the Company irregularly continued its mining activities in both the mines (GCEP and KACEP) till January 2021. During 2017-2021, the Company extracted total quantity 11,22,862 MT of coal from two mines without proper authorisation and despite repeated directions issued (22 April 1998, 15 June 1998 and 01 August 1998) by Directorate of Geology & Mines, Assam to stop the mining. However, no action was taken by GoI/GoA against the Company despite being aware that it was carrying out mining operations illegally for more than 36 years from April 1984 to January 2021. Further, unauthorised coal mining in an unplanned manner has the potential to adversely impact the ecosystem besides endangering the lives of coal miners.

¹¹⁰ Total profit earned during 2002-03 to 2005-06 and 2009-10 to 2019-20: ₹ 100.55 crore less Total loss incurred during 2006-07 to 2008-09: ₹ 1.13 crore.

2.4.5.1 Fixation of price of coal

As per the terms set by GoA for grant of mining lease, the coal shall be sold in accordance with the grade-wise coal price notified by the GoI from time to time.

The Company tested (March 2018) through outside agencies, 30 no. of coal samples from GCEP and KACEP and found the calorific value of the samples between 2,440 and 6,505 Kcal/kg. Thereafter, the Company submitted (July 2019) the test results to DGM, Assam with request to fix the rates of coal based on average calorific value. DGM, Assam, while rejecting the proposal, directed (November 2019) the Company to submit the coal samples extracted from two mines to the laboratory of DGM, Assam for testing and obtain their caloric value on a monthly basis. DGM, Assam further directed that the sale price of the coal should be fixed based on the coal price fixed by Coal India Limited (CIL).

Contrary to the above directions, however, the Company continued to fix the selling price of the coal without taking into account the actual calorific value of the coal extracted and corresponding selling price notified by CIL. Audit observed that the Company fixed (January 2005-January 2017) the base price of coal randomly ranging between ₹ 483 to ₹ 3,080 per MT, which was last revised (₹ 3,080 per MT) in January 2017. Although CIL had increased the prices twice during January 2018 and November 2020, the same were not given effect by the Company.

Audit observed that as per the data available on the website of DGM, Assam, the calorific value of coal extracted from GCEP mines ranged between 5,590 and 7,380 Kcal/kg, for which CIL notified (May 2016) per MT of coal price at ₹ 2,750 and ₹ 3,698 respectively. Considering this and also the directions of DGM, Assam, the Company should have fixed the base price of coal as per its actual calorific value and corresponding coal price notified by CIL to maximise its revenue.

In reply, the Company stated (February 2023) that fixation of price of coal was done by its BoD after the average calorific value of the coal was tested and found as G6 and the basic price was higher than the notified price of CIL.

The reply is not acceptable as the DGM, Assam had categorically rejected the proposal of the Company to fix prices on the basis of average calorific value of coal. Further, G6 coal has a calorific value in the range 5,500 to 5,800 Kcal/kg, which was much lower than the calorific value (7,380 Kcal/kg) of coal available in GCEP mines. The Company also did not furnish any documentary evidence in support of its claim regarding fixing the coal price based on the average calorific value. As such the Company should have determined the coal price after ascertaining the actual calorific value based on the testing of coal samples in the laboratory of DGM, Assam or other agencies as directed by DGM, Assam.

2.4.5.2 Appointment of 'Approved Customers'

As per the terms set by GoA for grant of mining lease, the Company was required to operate the mines directly and not through contractors. Contrary to the mining lease

terms of GoA, the Company involved approved customers¹¹¹ for carrying out its mining activities. The approved customers were to excavate and transport the coal from their allotted area to the Central Stockyard of the Company located at Garampani and purchase the same after making advance payment as per the sale price fixed by the Company.

As on August 2022, the Company had appointed 18 approved customers in respect of GCEP (16 customers) and KACEP (2 customers), who had been carrying out the mining operations since allotment (April 1984/March 1994) of these mining areas. This process of appointment of 'approved customers' itself was a violation of the terms of lease agreement with GoA regarding carrying out the mining operations directly and not through contractors.

The Company stated (February 2023) that the mining was carried out by approved customers, and it did not invest in extraction/mining of coal.

The reply is not tenable as the Company was required to operate the mines directly and not through contractors.

In the above context, following further observations are made:

2.4.5.3 Non-recovery of DMF Trust contribution

Section 9B of the MMDR Act, 2015 (a Central Act), specifies establishment of a Trust, namely, District Mineral Foundation (DMF Trust) by GoA for every district affected by mining related operations. DMF Trust was to work for the welfare of population and areas affected by mining related operations. GoA, accordingly, notified the constitution of DMF Trust on 26 August 2016.

Meanwhile, GoI notified (September 2015) the Mines and Minerals (Contribution to District Mineral Foundation) Rules, 2015 prescribing thereunder contribution to DMF Trust at the rate of 30 *per cent* of the royalty paid by the lessee against the mining activities in terms of the Second Schedule to the said Act in respect of mining leases granted before 12 January 2015.

Audit observed that the Company had not been recovering the above-mentioned mandatory contribution towards DMF Trust from its 'approved customers' as part of the royalty collected on the value of coal sold till 30 September 2017. The Company started collecting dues against DMF Trust on the sale of coal from its approved customers only from 01 October 2017. The Company, however, paid (March 2018) ₹ 1.63 crore¹¹² for the period from 26 August 2016 to 31 July 2017 as contribution towards DMF Trust relating to GCEP and KACEP from its own funds, which should have been recovered from the 'approved customers' and then remitted to DMF Trust.

¹¹¹Approved customers were selected by inviting applications through newspaper advertisement along with NOC obtained from District Council and finally selected by the selection committee of the Company
¹¹² GCEP (against 1,54,387 MT of coal): ₹ 5.28 crore (royalty) x 30 *per cent* + KACEP (against 5,159 MT of coal): ₹ 0.14 crore x 30 *per cent*.

The Company also did not adjust the above amount against the future bills of the 'approved customers'.

Thus, the Company extended undue benefit of ₹ 1.63 crore to the approved customers due to non-recovery of mandatory contribution towards DMF Trust.

In reply, the Company stated (February 2023) that it has requested (October 2022) the GoA (Deputy Commissioner, Dima Hasao district) for adjustment of the amount paid (₹ 1.63 crore) against future dues towards DMF Trust contribution.

The reply is not tenable as the contribution towards DMF Trust is in the nature of statutory dues and contribution paid by the Company on behalf of the customers should have been recovered from the latter. Hence, the Company's request to GoA for adjustment of the amount deposited (₹ 1.63 crore) against future dues is not valid as it would result in loss to the State exchequer.

2.4.5.4 Non-recovery of service tax

Service tax was payable at applicable rates on services provided by Government or local authority by way of assignment or rights to use natural resources¹¹³.

During 2016-17, the Company deposited ₹ 6.46 crore towards royalty (₹ 6.34 crore) and National Mineral Exploration Trust Fund¹¹⁴ (₹ 0.12 crore). During 2017-18, the Company further deposited ₹ 1.33 crore towards royalty (₹ 1.30 crore) and NMET (₹ 0.03 crore) till introduction (June 2017) of Goods and Services Tax (GST) regime. The Company, however, ignored payment of service tax on such deposits. The service tax authorities demanded (June 2018) ₹ 1.56 crore towards service tax (₹ 1.17 crore) from the Company for the period from April 2016 to June 2017 along with interest/penalty for delayed payment (₹ 0.39 crore). The Company agreed to the demand and paid (March 2018) the entire amount stating its unawareness of the above-mentioned statutory provision.

Audit observed that the Company was entitled to recover the actual service tax amount of ₹ 1.17 crore paid to the authority from the 'approved customers' along with the royalty amount. The Company, however, did not recover the same leading to an undue benefit of ₹ 1.17 crore to the 'approved customers'.

The Company stated (February 2023) that it had sought exemption for payment of service tax, but the contention was not accepted by the authorities.

The reply is not tenable as the payment of service tax is a statutory obligation and the same should have been recovered from the 'approved customers'.

¹¹³ In terms of Central Government Notification No. 2/2016/ST (13 April 2016) and Central Board of Excise & Customs Circular No. 192/02/2016-ST (13 April 2016).

¹¹⁴ National Mineral Exploration Trust was set up (August 2015) by the Central Government in pursuance of powers conferred by Section 9C(1) of Mines and Minerals (Development & Regulation) Amendment Act, 2015 to identify, explore, extract, beneficiate and refine deep seated and concealed mineral deposits, studies on mineral development, sustainable mining, mineral extraction and metallurgy adopting advanced scientific and technological practices *etc.*

2.4.5.5 Delayed payment of royalty

Section 9 of the MMDR Act, 1957 regulates payment of royalty by the lessee (the Company) on the quantity of minerals removed from the leased area. Rule 64A of the Mineral Concession Rules, 1960 empowers the State Government to charge simple interest at the rate of 24 *per cent* per annum on delayed payment of royalty by the lessee. As per GoA notification (22 July 1988), royalty is required to be paid by the 10th day of each calendar month in respect of minerals produced during the preceding month.

Audit observed that the Company collected royalty from the ‘approved customers’ against sale of coal. The Company however defaulted in remitting the royalty amount to tax authorities on the value of coal sold within the prescribed timeline due to short collection/unauthorised diversion of royalty amount towards limestone mining project. The details of payment of royalty and interest is as shown in **Table 2.4.4**.

Table 2.4.4: Details of payment of royalty/remittance and interest to State Exchequer

Period of royalty	Royalty paid (₹)	Due date of payment	Actual date of payment	Date from which interest payable	Penal interest paid (₹)	Date of payment of penal interest
October 1994 to January 2003	19,10,419	10.11.1994 to 10.02.2003	16.02.2018	10.01.1995 to 10.04.2003	97,33,824	19.09.2021
February 2005 to December 2006	1,10,51,942	10.03.05 to 10.01.07	26.12.07 to 30.03.11	10.05.05 to 12.03.07	1,67,09,715	18.09.2021

It can be seen from **Table 2.4.4** that the Company delayed remitting the royalty amount of ₹ 0.19 crore (October 1994 to January 2003) to the State exchequer (GoA). Audit observed that this delay was mainly due to collection of royalty amount from the ‘approved customers’ at pre-revised rates during this period. Since the Company failed to recover this short collected amount from the ‘approved customers’, it had to bear this liability (₹ 0.19 crore) along with penal interest of ₹ 0.97 crore.

Audit further observed that the Company delayed remittance of royalty of ₹ 1.10 crore (February 2005 to December 2006) into the State Exchequer due to unauthorised diversion of the royalty amount towards limestone mining project without the approval of its Board of Directors. As a result, the Company had to bear interest liability of ₹ 1.67 crore, which was borne by the Company from its own sources.

Thus, due to default in remittance of royalty amount to the State exchequer within the prescribed time schedule, the Company had to bear an avoidable interest liability of ₹ 2.64 crore.

The Company stated (February 2023) that it could not deposit the royalty in time due to financial crunch.

The reply is not acceptable as royalty is a statutory obligation and the Company should have recovered the royalty amount from approved customers as per the applicable rates and remitted the same to tax authorities immediately without diverting it on other works.

GoA/Company should fix responsibility for non-recovery of statutory dues and default in their remittance to the State exchequer within the prescribed timeline to avoid recurrence of similar lapse in future.

2.4.6 Operation of limestone mines

The Company was allotted (till August 2022) five limestone mine blocks in ‘Umrangshu’ covering 861 hectare (ha) area. Four out of five blocks (694 ha) were, however, not in operation since their allotment for periods ranging between 10 to 38 years. The stage-wise details of time taken in appointment of Consultant for preparation of Mining Plans (MP) and Environment Clearance (EC) proposals, submission of proposed MP and EC to Indian Bureau of Mines, GoI (IBM)/ Ministry of Environment, Forest and Climate Change, GoI (MoEFCC) and approval of MP/EC by IBM/MoEFCC is shown in **Table 2.4.5**.

Table 2.4.5: Details of submission of mining plans (MP) and Environment Clearance (EC)

Sl. No.	Particulars	Block 1 (33ha)+ Block 2 (167 ha) ¹¹⁵	Block 3 (31 ha)	Block 4 (200 ha)	Block 5 (430 ha)
1	Date of Allotment/expiry of previous lease	August 2012	May 2010	May 2010	July 2012
2	Date of appointment of Consultant	June 2012	January 2012	October 2014	October 2013
3	Delay in appointment of Consultant by the Company w.r.t. (1) above	No delay	20 months	53 months	15 months
4	Scheduled date of submission of MP and EC proposal by Consultant	August 2012	March 2012	December 2014	December 2013
5	Actual date of submission of MP and EC proposal by Consultant	October 2012	October 2012	October 2016 (MP) and October 2015 (EC)	August 2014 (MP) and October 2014 (EC)
6	Delay in submission of MP and EC proposal w.r.t. (4) above	2 months	7 months	22 months (MP) and 10 months (EC)	8 months (MP) and 10 months (EC)
7	Pointing deficiencies in MP by IBM	May 2015 and November 2016	December 2012, September 2013 and November 2016	November 2016	November 2016
8	Time taken by IBM in seeking clarification on MP w.r.t. (5) above	49 months (October 2012 to November 2016)	49 months (October 2012 to November 2016)	1 month (October 2016 to November 2016)	27 months (August 2014 to November 2016)
9	Providing clarification/resubmission of plan to IBM	August 2015, October 2016 and November 2016	January 2013, August 2015, October 2016 and November 2016	November 2016	November 2016
10	Time taken by the Company to re-submit MP w.r.t. (7) above	18 months (May 2015 to November 2016)	47 months (December 2012 to November 2016)	Less than one month	Less than one month
11	Date of approval of mining plan by IBM	December 2016	December 2016	December 2016	December 2016
12	Time taken by IBM to approve MP after	One month	One month	One month	One month

¹¹⁵ Two mining areas (33 ha and 167 ha) were separate blocks till August 2012 when the two blocks were merged.

Sl. No.	Particulars	Block 1 (33ha)+ Block 2 (167 ha) ¹¹⁵	Block 3 (31 ha)	Block 4 (200 ha)	Block 5 (430 ha)
	clarifications by the Company (refer serial no. 9 above)				
13	Clarifications sought by MoEFCC, GoI on EC proposal	April 2013, December 2013, April 2017, September 2020 and July 2021	March 2013, August 2013, and January 2015	January 2016 and October 2020	February 2015, September 2020 and October 2020
14	Time taken by MoEFCC w.r.t. (5) above	105 months (October 2012 to July 2021)	27 months (October 2012 to January 2015)	60 months (October 2015 to October 2020)	72 months (October 2014 to July 2021)
15	Providing clarification/resubmission of EC proposal to MoEFCC, GoI	May 2013, January 2021 and April 2022	March 2013, July 2014, December 2019, and March 2022	July 2020 and July 2022	June 2020
16	Time taken by the Company to resubmit EC w.r.t. (13) above	108 months (April 2013 to April 2022)	108 months (March 2013 to March 2022)	78 months (January 2016 to July 2022)	64 months (January 2015 to June 2020)
17	Status of approval of EC as of September 2022	Pending (5 months)	Pending (6 months)	Pending (2 months)	Pending (27 months)

Analysis of the records of the Company and the data given in **Table 2.4.5** revealed the following:

2.4.6.1 Excessive delays in submission and processing of MPs and ECs

The Company appointed (January 2012 to October 2014) a single consultant (M/s Udaipur Min-Tech Private Limited) for preparation of MPs and ECs against all the five blocks of limestone mines with a scheduled submission period of two months. There were, however, abnormal delays ranging from 15 to 53 months in appointment of the consultant after the date of allotment/expiry of previous lease of three out of five blocks of mines. The consultant had delayed submission of initial plans (MPs and ECs) by 2 to 22 months from the scheduled date, which had a cascading effect on final approval of these plans by GoI (IBM and MoEFCC).

Analysis of stage-wise time consumed in the process further revealed excessive delays in (i) raising clarification on initial MP and EC by IBM/MoEFCC, (ii) submission of clarification/revised MP and EC by the Company and (iii) according final approval to the MP and EC by IBM/MoEFCC.

As may be noticed from **Table 2.4.5**, approval of the EC for all the five blocks of limestone mines was pending by GoI (MoEFCC) for 2 to 27 months even after providing necessary clarifications by the Company to the queries raised by MoEFCC (September 2022). As a result, the Company could not obtain the mining lease for any of the five limestone blocks for want of GoI approved EC (September 2022).

2.4.6.2 Poor performance of Consultant

Analysis of the queries raised by IBM and MoEFCC from time to time on the MP/EC proposals of the Company revealed similar type of shortcomings for all five blocks. The common deficiencies noticed in MPs included absence of estimated reserves, geological plans, faulty bank guarantee *etc.* while in case of ECs, shortcomings noticed

included absence of production details, ownership details, geological map, State forest clearance, conservation plan, environment management plan, mining plan *etc.*

The common deficiencies in MPs and ECs of the five mines mentioned above were indicative of poor performance of the consultant in preparation of MP/EC proposals for all five mine blocks. However, in absence of any penal clause in the work order issued to the consultant, the Company could not enforce any deterrent mechanism for faulty work of the consultant and delay in submission/re-submission of the proposals for the MPs and ECs for all the five blocks of limestone mines from time to time.

Thus, due to lack of monitoring on the part of the Company on the quality of work of the consultant and lack of pursuance with the consultant for prompt submission of mining plans and ECs, no mining activities could be carried out by the Company in any of the allotted limestone mines after December 2011.

2.4.6.3 Exploitation of deposits in Block 1 (33 ha) and Block 2 (167 ha)

The Company signed (July 2009/January 2011) separate Joint Venture agreements (JV/MoUs) with M/s Jai Prakash Associates Ltd (JAL) and M/s Birla Corporation Ltd. (BCL) for installation of two cement plants with production capacity of 20 lakh MT (JAL) and 10 lakh MT (BCL) of cement per year. As per the terms of the MoUs, the two cement plants were to be commissioned within December 2011 and April 2013 respectively. The JV/MoUs further envisaged (refer clause 6) for payment of an annual facilitation fee of ₹ 125 (from JAL) and ₹ 100 (from BCL) per MT of cement produced for the Company. None of the two JVs, however, could take off due to non-issuance of the mining lease for two Blocks (1 and 2) pending approval of ECs from GoI (MoEFCC) on account of various lapses and delays at various stages as discussed in the preceding paragraph. Consequently, the Company was deprived of potential annual revenue of ₹ 11.25 crore¹¹⁶ and ₹ 5 crore¹¹⁷ in the form of facilitation fees from JAL and BCL, presuming the cement plants operated at 50 *per cent* of the installed capacity¹¹⁸.

Although GoA initially granted (September 1985/June 1992) mining lease against Block 1 (33 ha) and Block 2 (167 ha) to the Company, Block 1 mine remained non-operational since allotment (September 1985) till date (September 2022), for reasons on record.

The Company operated the other mine (Block 2) since June 1992 and stopped its operations in December 2011 after IBM suspended the operations for want of valid MP. Prior to discontinuance of the operations (December 2011), the average per day production under Block 2 mine was 163 MT¹¹⁹, against which the Company generated an average annual sales revenue of ₹ 1.14 crore during 2007-08 to 2011-12 in addition to the royalty of ₹ 0.63 crore remitted to the State exchequer.

¹¹⁶ ₹ 125 x 20,00,000 MT x 50 *per cent*

¹¹⁷ ₹ 100 x 10,00,000 MT x 50 *per cent*

¹¹⁸ Calculated on a conservative basis

¹¹⁹ During 1994-95 to 2011-12

Due to the repetitive defects and excessive time taken in preparation/submission of the MP and EC to GoI, the Company could not obtain the mining lease to continue the operations of the two blocks leading to foregoing of the earnings in the form of mining revenue and also contribution to the State exchequer by way of royalty, taxes *etc.* from these two blocks. GoA, however did not have any monitoring mechanism to ensure that the delays in obtaining clearance for MPs and ECs were addressed in a timely manner.

The Company stated (February 2023) that delay in obtaining EC was due to involvement of vested interest of cement companies leading to delay and non-conduct of public hearing by the District administration. The reply is not tenable as the delay was mostly due to common deficiencies noticed in mining plans like absence of estimated reserves, geological plans, faulty bank guarantee *etc.* while in case of ECs, shortcomings were like absence of production details, ownership details, geological map, State forest clearance, conservation plan, environment management plan, mining plan *etc.* and making clarifications from time to time as noted in the above observations.

2.4.6.4 Payment of dead-rent

‘Dead rent’ means the minimum guaranteed amount of royalty per year payable as per the rules or agreement under a mining lease. As per clause 9A of MMDR Act, 1957, a lease holder has to pay dead rent at such rate, as may be specified, for the time being. The details of dead rent due, paid and outstanding in respect of five blocks of limestone mines in Umrangshu since their allotment to the Company are given in **Table 2.4.6**.

Table 2.4.6: Details of dead rent

Area (in ha)	Amount Claimed and Paid		Amount unclaimed and outstanding	
	Period	Amount (in ₹)	Period	Amount (in ₹)
33	September 1990 - September 2020	6,86,051	October 2020 - September 2022	1,32,002 ¹²⁰
167	April 2014 - March 2021	21,19,539	January 2012 - March 2014	7,51,515 ¹²¹
167	--	--	April 2021 - September 2022	5,01,010 ¹²²
661	--	--	December 2016 - September 2022	77,11,820 ¹²³
Total		28,05,590		90,96,347

As can be seen from **Table 2.4.6**, the Company had paid ₹ 0.28 crore towards dead rent with an additional liability of ₹ 0.91 crore against the limestone mines in Umrangshu.

Manpower

The Company also had not properly utilised the services of manpower posted in the non-operational limestone mines. The summary of deployment is given in **Table 2.4.7**.

¹²⁰ ₹ 166.67 per month x 33 ha x 24 months

¹²¹ ₹ 166.67 per month x 167 ha x 27 months

¹²² ₹ 166.67 per month x 167 ha x 18 months

¹²³ ₹ 166.67 per month x 661 ha x 70 months

Table 2.4.7

Designation	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
Helper (Nos)	15	14	14	11	7	5	3
Salary (₹ in crore)	0.34	0.33	0.39	0.27	0.21	0.16	0.13
Driller, Blaster, Mines Forman, Electrician, Mechanic (Nos)	6	5	5	5	3	2	2
Salary (₹ in crore)	0.17	0.15	0.16	0.15	0.09	0.10	0.10
Driver, Handyman (Nos)	5	5	5	6	3	2	2
Salary (₹ in crore)	0.15	0.16	0.14	0.16	0.12	0.13	0.11
Office Staff, Field Assistant (Nos)	5	3	3	2	2	3	1
Salary (₹ in crore)	0.15	0.10	0.10	0.06	0.08	0.11	0.02
Total (Nos)	31	27	27	24	15	12	8
Salary (₹ in crore)	0.81	0.74	0.79	0.64	0.50	0.50	0.36
Security guard, <i>chowkidar</i> (Nos)	5	5	5	4	4	3	3
Salary (₹ in crore)	0.11	0.12	0.12	0.10	0.12	0.13	0.13

As can be seen from **Table 2.4.7**, the Company had 31 to 8 permanent employees (other than security guard and *chowkidar*) deployed in the idle limestone mines during 2015-22. As the limestone project was not operative, employees posted in the project should have been transferred to other operational projects, holding back only the security guards and *chowkidars* at non-operational mines to look after the project site. The Company incurred unfruitful expenditure of ₹ 4.34 crore¹²⁴ towards salary expenses on the idle manpower deployed in non-operational mines during 2015-22.

The Company stated (February 2023) that dead rent was paid in compliance to the statutory provision as per the demand raised by GoA. Further, it was stated that the Company shifted employees of inoperative limestone mines to GCEP and Head Office except security guard and Grade IV employees.

The reply is not tenable as the Company could have avoided payment against dead rent if it had carried out mining activities after complying with rules. Further, eight personnel (other than security guard/*chowkidar*) remained deployed in non-operational mines as on 31 March 2022 without any productive work.

2.4.6.5 Operation of mines without environment clearance

As per Section 18(1) of the MMDR Act, 1957, GoI would take all such steps as may be necessary for the conservation and systematic development of minerals in India and for the protection of environment by preventing or controlling any pollution which may be caused by prospecting or mining operations. Again, as per Section 18(2) of the above Act for the development of mineral resources in any area, the regulation for storage of minerals and stocks thereof, disposal or discharge of waste arising from any mine should be followed properly. Further, as per Environment Impact Assessment notification (January 1994) issued by GoI, mining projects shall not be undertaken in

¹²⁴ Excluding salaries of Security guards/*chowkidar* (₹ 0.83 crore), which were needed for security/upkeep of idle mines.

any part of India unless it has been accorded environmental clearance by the Central Government.

Audit observed that the limestone mine under Block 2, Umrangshu (167 ha) was in operation since June 1992 without environmental clearance till suspension (December 2011) of mining activities in this Block by IBM for want of a valid MP. Accordingly, MoEFCC directed the Company to work out the damages payable for unauthorised operations of the mine (Block 2) for the period from June 1992 to December 2011 for environmental remediation. The Company assessed (November 2020) a damage cost of ₹ 2.16 crore for the environmental remediation, which was pending approval by MoEFCC (July 2022).

The Company stated (February 2023) that the operation of mines had to be stopped since January 2012 due to non-availability of EC. However, EC has been received for two blocks and is pending against other two blocks.

The reply is not tenable as the Company should not have carried out mining without a valid EC, which was detrimental to the ecological balance of the area.

2.4.7 Non maintenance of mandatory Mine Closure Deposit/Bank Guarantee

A. Coal

As per revised guidelines for preparation of Mine Closure Plan issued (January 2013) by Ministry of Coal, GoI, all coal mine owners, who are operating coal mines without an approved 'Mine closure plan' were required to obtain the mine closure plan within a period of one year (by January 2014) after issuing of the said guidelines. Further, a Mine Closure Deposit (MCD) of ₹ 6 lakh per ha for an open cast mine was to be deposited into an escrow account to be spread over the useful life of the mine and deposited annually, compounded at the rate of five *per cent* annually.

Audit observed that the Mine closure plan of GCEP was submitted to GoI in August 2020 along with the mining plan. Although GoI pointed out (September 2020-January 2021) several deficiencies in the MP (missing allotment order, land use plan, production schedule, *etc.*), the Company did not submit the revised/modified mining plan/mine closure plan. Further, the Company had never prepared and submitted any mine closure plan in respect of the other coal mine (KACEP) since its allotment (March 1994). The Company, however, carried out mining activities in GCEP and KACEP during 2013-14 to 2020-21 without maintaining the mandatory deposit of ₹ 33.78 crore¹²⁵ towards MCD in an escrow account contrary to the requirements of the above guidelines.

The Company stated (February 2023) that escrow account can be opened only after approval of the mining plan and mine closure plan. The reply is not tenable as the Company carried out mining activities even without mining plan and mining closure plan and as such should have maintained the mandatory deposits so as to ensure financial assurance on mine closure expenses relating to decommissioning of

¹²⁵ GCEP: ₹ 6,00,000 x 500 ha + KACEP: ₹ 6,00,000 x 63 ha

infrastructure, closure of entries to the mine, management of final voids, reclamation of vegetation/forest etc.

B. Limestone

Similarly, provisions of Mineral Conservation and Development Rules, 2017 (*refer clause 23*) prescribed that the holder of a limestone mining lease shall submit to the competent authority a progressive mine closure plan as a component of the mining plan, at the time of submission, modification and review of the mining plan. Further, as per clause 27(1) of the above Rules, the minimum amount of financial assurance to be furnished shall be ₹ 3 lakh for 'A' category mines¹²⁶ in the form of a bank guarantee (BG). Further, as per clause 62 of the Rules, whoever contravenes any of the provisions of these rules shall be punishable with imprisonment for a term which may extend up to two years or with fine which may extend up to five lakh rupees, or with both, and in the case of a continuing contravention, with additional fine which may extend up to fifty thousand rupees for every day during which such contravention continues after conviction for the first such contravention.

GoI approved (December 2016) the mine closure plan of the five limestone blocks in Umrangshu. Audit observed that the Company had not been depositing the bank guarantee for these blocks in a timely manner despite repeated warnings issued (November 2017 and January 2018) by IBM to suspend mining activities and impose penalty as per the above mentioned Rules. The Company furnished (October 2018) a BG for ₹ 1.51 crore against Block 1 & 2 mines (200 ha), which expired in October 2021 but the same was not renewed by the Company in violation of Rules.

The Company stated (February 2023) that mining plan of the five limestone blocks has been approved/renewed by IBM in 2016, but operations in the mines have still not started. It was also mentioned that the required BG would be submitted on the execution of the mining lease.

The reply is not tenable as the submission of the bank guarantee is a statutory requirement and is required even if mining is suspended as was seen from the warning given by IBM during November 2017 and January 2018.

2.4.8 Idle inventory

The inventory of the Company mainly comprised stock of coal and limestone. The production, sale and closing balance of coal and limestone during the period 2017-22 were as given in **Table 2.4.8**.

¹²⁶ 'A' Category mines means: (i) such fully mechanised mines where the work is being carried out by deployment of heavy mining machinery for deep hole drilling, excavation, loading and transport, **OR** (ii) such mines where the number of average employment exceeds 150 in all or 75 workings below ground, or mines where any of the mining operations like deep hole drilling, excavation, loading and transport is carried out with the help of heavy machinery.

Table 2.4.8: Details of inventory

Year	2017-18	2018-19	2019-20	2020-21	2021-22
Coal - GCEP (in MT)					
Opening Stock	241	59	46	87	38,838
Production	2,45,832	3,00,238	2,89,100	2,06,468	81,224 ¹²⁷
Sales	2,46,014	3,00,251	2,89,059	1,67,717	60,411
Closing Stock	59	46	87	38,838	59,651
Rate (in ₹)					4,214.84
Value of closing stock (₹ in crore)					25.14
Coal - KACEP (in MT)					
Opening Stock	38	31	9	59	--
Production	2786	3700	3920	4182	24,246 ¹²⁸
Sales	2793	3722	3870	4241	17,043
Closing Stock	31	9	59	--	7,203
Rate (in ₹)					3,667.47
Value of closing stock (₹ in crore)					2.64
Limestone - Umrangshu (in MT)					
Opening Stock	3,350.85	3,350.85	3,350.85	3,350.85	3,350.85
Production	--	--	--	--	--
Sales	--	--	--	--	--
Closing Stock	3,350.85	3,350.85	3,350.85	3,350.85	3,350.85
Rate (in ₹)					455.15
Value of closing stock (₹ in crore)					0.15

As can be seen from **Table 2.4.8**, the closing stock of coal and limestone at the end of March 2022 stood at 66,854 MT (coal) and 3,350.85 MT (limestone) valuing ₹ 27.78 crore and ₹ 0.15 crore as per the prevailing market rates respectively. It can further be noticed that during the preceding two years, the closing stock of coal under GCEP had increased significantly from 87 MT (2019-20) to 38,838 MT (2020-21) and 59,651 MT (2021-22). Similarly, in KACEP also, the closing stock of coal had registered considerable increase during 2021-22 from nil (2020-21) to 7,203 MT (2021-22). The abnormal increase in coal stock during 2020-21 and 2021-22 was attributable to discontinuance of sales activities of coal during January 2021, which could be re-started only in November 2021. Accumulation of high coal stock at project site was prone to the risk of theft and incidences of coal burning due to internal heating as also reported (September 2021) by the project-in-charge of the sites.

Further, Audit observed discrepancy (4,613 MT) in the quantum of unsold stock of coal at GCEP as recorded at the time of closure (January 2021) of extraction (38,838 MT) and as assessed by the Director General of Mines, GoA (34,225 MT) during physical verification (July 2021) of coal. The shortfall of coal stock (4,613 MT) had realisable value of ₹ 1.94 crore worked out at prevailing market rate (₹ 4,214.84 per MT). In view

¹²⁷ Although production was stopped in January 2021, the project in-charge (November 2021) and the Company in its reply (November 2022) informed that they have found some already extracted coal prior to closure of production which was not brought on record earlier.

¹²⁸ Although production was stopped in January 2021, the project in-charge (November 2021) informed that they have found some already extracted coal prior to closure of production which was not brought on record earlier.

of the inherent risks associated with high stocks of coal, the Company should take immediate steps for disposal of the stocks to avoid the risk of damage and pilferage of stock.

The Company stated (February 2023) that out of the stock holding of 59,651 MT, stock of 38,838 MT has been recovered and disposed. No documentary evidence was submitted to justify the claim.

The reply is not acceptable as the Company still had 20,813 MT of coal in stock which should be disposed of at the earliest.

2.4.9 Corporate Social Responsibility related obligations

Corporate Social Responsibility (CSR) is an entity's commitment to operate in an economically, socially and environmentally sustainable manner. The Company had been earning annual net profits of more than ₹ 5 crore and hence, covered under the provisions of Section 135 of the Companies Act, 2013 relating to CSR commitments. As per Section 135 (5) of the Companies Act, 2013, the Company was required to spend at least two *per cent* of the average net profits of the three immediately preceding financial years on CSR-related activities in pursuance of its CSR policy.

With the enactment of Companies Act, 2013, the BoD had constituted (February 2016) a CSR committee. The Company's CSR policy envisaged spending annually minimum two *per cent* and maximum five *per cent* of the Average Net Profit (ANP) in the preceding three years on CSR-related activities. The ANP and CSR expenditure of the Company during the years 2016-17 to 2019-20¹²⁹ were as given in **Table 2.4.9**.

Table 2.4.9: Details of CSR activities

(₹ in crore)				
Year	Average Net Profit (ANP)	2 per cent of ANP	Amount spent on CSR	Cumulative unspent balance
2016-17	5.21	0.10	--	0.10
2017-18	8.72	0.17	--	0.27
2018-19	17.32	0.35	--	0.52
2019-20	NA	NA	0.44	0.08

As can be seen from **Table 2.4.9**, the Company did not spend any amount on CSR-related activities till 2018-19 thereby accumulating its CSR-related obligation to ₹ 0.52 crore as on 31 March 2019. The Company, however, started spending on CSR activities from July 2019 and booked total expenditure of ₹ 0.44 crore on CSR-related activities as of August 2022. Audit observed that out of total CSR expenditure of ₹ 0.44 crore claimed by the Company to have been spent on CSR, ₹ 0.24 crore (paid towards donations and advertisements) was not covered under the definition of CSR related expenditure as per the guidelines of Ministry of Corporate Affairs, GoI. As such, the Company was liable for penal action under Section 454(8), the quantum of which would be decided by the adjudicating officer appointed by GoI.

¹²⁹ The Company has finalised its accounts upto the financial year 2019-20.

The Company stated (February 2023) that compliance to the CSR has been started and unspent CSR funds has been cleared and the expenditure has been regularly incurred in compliance with the provision of the Companies Act, 2013. The reply is not tenable as funds have been utilised on activities not covered under CSR in violation of CSR guidelines.

Conclusion

The Company operated two coal mines namely Garampani Coal Extraction Project (GCEP) and Khota Ardha Coal Extraction Project (KACEP). The Company was also allotted (June 1992 to July 2012) five limestone mine blocks (area: 861 hectare) in 'Umrangshu'; of which four blocks (694 ha) were not in operation since their allotment.

The Company continued unauthorised mining activities in two coal mines and one limestone mine despite not having GoI approved mining plans/mining leases or environment clearances. Although GoI and GoA were aware of the irregularity while terming the mining operations of the Company as illegal, no action was taken against the Company to prevent the illegal mining by imposing deterrent penalty in this regard. The mining sites were thus, exposed to the risk of possible environmental damages and consequential health hazards to the surrounding population.

Recommendations

GoA/Company may ensure:

- *preparation and submission of the mining plans in a timely manner; and*
- *fixing responsibility for taking up mining activities without an approved mining plan/lease/EC.*

Assam Petro-Chemicals Limited

2.5 Wasteful expenditure

Injudicious decision of the Company to launch two pilot projects simultaneously on alternative use of methanol as fuel without waiting for the first pilot study report led to a wasteful expenditure of ₹ 1.36 crore

With a view to diversify business, the Board of Directors (BoD) of Assam Petro-Chemicals Limited (Company) decided (November 2017) to embark upon a pilot project within its township at Namrup for use of methanol as an alternative cooking fuel. The Company procured (March 2018) methanol stoves and canisters (cost: ₹ 59.91 lakh) from M/s Cleancook, Sweden AB. The Company also awarded (September 2018) the work of assessing performance of methanol stoves, quantifying consumer response along with other works to M/s Project GAIA Energy Revolution, USA (Consultant). The Company thereafter launched (05 October 2018) the first pilot project.

The Company, without waiting for the Consultant's Report on the viability of the first pilot project, planned (20 October 2018) a second pilot project for use of methanol as an alternative fuel in tea manufacturing industries. The Company accordingly signed (December 2018) an agreement with Tea Research Association, Toklai (TRA) for use of methanol in tea manufacturing activities with the intent of replacing existing coal/gas burners used in tea processing factories for withering and drying of tea with methanol burners developed and manufactured by M/s Wesman Thermal Engineering Processes Private Limited (M/s WTEPPL). The project was to be started at the TRA model factory and various tea estates. The Company procured (December 2018) two burners (cost: ₹ 16.20 lakh) from M/s WTEPPL, which remained idle in the store till date (February 2023). TRA, while submitting its report (February 2020), concluded that the use of methanol was not economically viable considering the price of LPG and coal.

Meanwhile, the Consultant submitted (November 2019) its report to the Company on the first pilot project. Based on the same, the Managing Director (MD) submitted (July 2020) a detailed report to the Chairman of the Company on the findings mentioned in the report of the Consultant. As per the report of the Consultant, based on the energy content of LPG and methanol, heat energy generated by use of 168.30 gram of LPG is equivalent to the heat generated by 371.25 gram of methanol. Therefore, the energy content ratio of methanol and LPG works out to 1:2.20. The Consultant, based on the price during that period, stated that the cost of 168.30 gram of LPG and 371.25 gram of methanol would be ₹ 6.51 and ₹ 8.91 respectively. Hence, the MD concluded (July 2020) that the project would not be a viable one.

The details of expenditure in both the pilot projects are given in **Table 2.5.1**.

Table 2.5.1: Details of pilot projects

Sl. No.	Name of work	Date of award of work	Name of party involved in carrying out the work	Amount incurred (in ₹)
Alternative cooking fuel				
1.	Cost on procurement of cooking stove and canister	March 2018	M/s Cleancook	0.60
2.	Expenses on inauguration and demonstration	October 2018 – March 2020	Assam Petro-Chemicals Limited	0.23
3.	Cost of methanol	October 2018 – March 2020	Assam Petro-Chemicals Limited	0.18
Tea manufacturing industries				
4	Use of methanol in tea manufacturing activities through Tea Research Association	December 2018	Tea Research Association, Toklai	0.18
5	Procurement of methanol burner for Tea Research Association	December 2018	Wesman Thermal Engineering Processes Private Limited	0.16
6	Cost of methanol	November 2019	Assam Petro-Chemicals Limited	0.01
	Total			1.36

In this regard Audit observed that:

1. The household project was declared (July 2020) as ‘unviable’ on the ground that the LPG consumption for standard cooking was 168.30 gram, whereas methanol requirement was 371.25 grams. Higher unit cost of methanol was also mentioned against both the household and tea industries projects as the factors behind non-viability of the projects. Audit observed that the non-viability of the above projects could have been ascertained even before launching the project. Audit noticed that the ‘energy content ratio’ of methanol and LPG as per standards¹³⁰ already available in public domain was 1:2.18¹³¹ which is almost similar to the ratio of 1:2.20 reported by the consultant.
2. Audit further noticed that while launching the pilot study of two projects, the Company completely ignored the observation (11 October 2019) of Bureau of Indian Standards about toxicity of methanol vapour, not being good for human health and the efforts being planned by BIS for scientific investigation to reduce the toxicity. As such taking up a pilot project ignoring the human safety standards beforehand was dangerous and not justified.
3. Even before obtaining the findings of the Consultant (November 2019) on the use of methanol as an alternative fuel in households in the first pilot project, the Company planned (20 October 2018) a second pilot project for use of methanol as an

¹³⁰ Biomass Energy Date Book – 2011 at “<https://info.ornl.gov/sites/publications/files/Pub33120.pdf>”

¹³¹

Particulars	Energy Content	
	Megajoules/KG	Ratio (LPG : Methanol)
Methanol	22	1:2.18
LPG	47.94 (Butane: 47.39 x 75 % + Propane: 49.58 x 25 %)	

alternative fuel in tea manufacturing industries. The Company could have avoided the expenditure on the second pilot project by deferring the decision till the viability report of the Consultant on the first project was received.

Thus, the launch of pilot projects without ensuring human safety standards and certification by BIS was not justified. Further, due to injudicious decision of the Company to launch two pilot projects simultaneously on use of methanol as alternative fuel led to a wasteful expenditure of ₹ 1.36 crore, whose viability could have been ascertained in advance through analysis of thermal efficiency even before launching the pilot study.

The Company stated (November 2022) that the controlled cooking test was required to ascertain the fuel consumption ratio. The Company also mentioned that it can approach the tea companies for commercial use of methanol only after doing necessary R&D activities at TRA.

The reply is not tenable as the energy content ratio could have been ascertained even without a pilot study as the standard thermal efficiency of LPG and methanol was already available in public domain. Further, it is a fact that the Company did not proceed with both the pilot projects due to their non-viability based on the recommendations of the Consultant (November 2019) and TRA (February 2020) as well as the MD of the Company (July 2020).

Recommendation: *The Company should check commercial viability of a new project before implementation considering its financial implications and human safety standards and also fix responsibility for wasteful expenditure incurred by launching the unviable projects.*

2.6 Undue benefit

The Company extended undue benefit of ₹ 7.64 crore to EIL by not recovering penalty for delay in work completion (₹ 6.85 crore) and cost of additional works (₹ 0.79 crore) caused due to defective design/drawings and delay in providing revised drawings to the works contractor.

Assam Petro-Chemicals Limited (Company) awarded (October 2014) the work of licensing, engineering, procurement, construction and management contract to M/s Engineers India Limited (EIL) for setting up of 500 TPD Methanol plant (Project) at a cost of ₹ 78.77 crore with a completion schedule of 36 months (*i.e.*, by October 2017).

The scope of work of EIL included:

- preparation of design/drawings, specifications and other documents required for the Project. (clause 1.3.2)
- In case of any delay in the performance of work in whole or in part due to reasons solely attributable to EIL, resulting in delay in the completion of commissioning of the plant, EIL shall pay the Company 0.50 *per cent* of the total fee payable for each

week of such delay subject to a maximum of 10 *per cent* of the said total fee. (clause 5.1)

- EIL was to prepare and be responsible for the design/engineering documentation for the project. In the event of any errors/deficiencies/shortcomings in EIL's design/engineering requiring correction, at any stage during the execution of the work, EIL was to re-design the same and if the design change required amendment or cancellation of any purchase orders or dismantling or reconstruction of works once constructed, resulting in additional cost to the Company, EIL was to fully bear these costs. (clause 5.3)

EIL provided (June 2016) an assessment of 1,345 Metric Ton (MT) of steel reinforcement for erection of 3,200 piles. Based on the same, the Company awarded (March 2017) a supply and erection order against piling works of 3,200 piles to M/s Keller Ground Engineering India Private Ltd (M/s Keller) at a cost of ₹ 41.87 crore with the contract completion date as 15 March 2018. The scope of work, among other items, included supply of 1,345 Metric Ton (MT) of reinforcement steel costing ₹ 8.41 crore at the rate of ₹ 62,540.50 per MT.

EIL subsequently felt that the earlier design prepared by it was faulty and recommended for increasing the number of piles needed on three occasions, to 4,300 piles (February 2018), 4,630 piles (June 2018) and 4,650 piles (July 2018). For procurement of steel against this additional requirement, an amended LoA was issued (August 2018) to M/s Keller at a cost of ₹ 68.53 crore with the work to be completed by January 2019. The revised scope of work included a total supply of 2,593.63 MT¹³² steel costing ₹ 16.23 crore at the same rate of ₹ 62,540.50 per MT as earlier. The work was completed in March 2019 and a total payment of ₹ 76.28 crore was released (September 2017 to September 2019) against the project cost with the final requirement of steel being 2,599.39 MT.

In this connection, Audit observed that the delayed procurement of additional 1,254.39 MT of reinforcement steel was caused because of the faulty design prepared (June 2016) by EIL thereby assessing the requirement of reinforcement steel at 1,345 MT at initial stage of work, which was revised to 2,599.39 MT at later stage. This unwarranted delay in procurement of reinforcement steel resulted in additional cost of ₹ 0.79 crore to the Company towards price variation on steel as detailed in **Table 2.6.1**.

Table 2.6.1

Period of Supply	Quantity (in MT)	Price variation (₹ in crore)	Average Price per MT (in ₹)
July 2017 to January 2018	1,345.00	0.74	5,503.14
January 2018 to February 2019	1,254.39	1.49	11,839.38
Total	2,599.39	2.23	

¹³² including 1,345 MT

The Company also expressed (July 2018) its dissatisfaction on the incorrect assessment of piles being given by EIL from time to time leading to corresponding increase in project cost. Since the additional cost of ₹ 0.79 crore¹³³ towards price variation on steel was attributable to the incorrect assessment of input material provided by EIL, the same should have been recovered from EIL in terms of the work order conditions (*clause 5.3*).

Besides, EIL was also responsible for delay in release (February 2019) of corrected/revised drawings to M/s Keller as against the scheduled date (October 2018) leading to corresponding delay in completion of work (March 2019) than originally scheduled (March 2018). As such, the Company should have also imposed a penalty of ₹ 6.85 crore¹³⁴ on EIL for the time overrun of one year in work completion caused due to delay in providing corrected/revised drawings to the works contractor.

Thus, the Company extended an undue benefit of ₹ 7.64 crore to EIL by not recovering penalty for delay in work completion (₹ 6.85 crore) and cost of additional works (₹ 0.79 crore) caused due to defective design/drawings and delay in providing revised drawings to the works contractor in terms of *Clause 5.1* and *5.3* of the work agreement.

The Company, in its reply, stated (December 2022) that EIL has not charged any additional amount for rectification or providing and redoing of necessary design/engineering services and that the liquidated damage would be calculated after closure of the contract.

The reply is not tenable because as per the agreement itself, EIL was responsible for the design/engineering for the project. In the event of any errors/deficiencies/shortcomings in EIL's design/engineering requiring correction, at any stage during the execution of the work, EIL was liable to re-design the same and if the design change require amendment or cancellation of any purchase orders or requiring dismantling or reconstruction of works once constructed, resulting in additional cost to the Company, EIL was to fully bear these costs. Since the piling works awarded to M/s Keller was completed in March 2019, delaying the imposition of LD for this portion of the completed work is not justified and is tantamount to giving further undue benefit to EIL.

Recommendation: *The Company should take necessary steps to fix responsibility on the issue and recover damages from EIL for delay in work completion and additional works cost caused due to providing delayed/defective design and drawings to the works contractor.*

¹³³ 1,254.39 MT x ₹ 6,336.24 (*viz.* ₹ 11,839.38 *minus* ₹ 5,503.14)

¹³⁴ ₹ 68.53 crore x 10 *per cent*

Assam Seeds Corporation Limited

2.7 Avoidable expenditure

Due to imprudent tax management, the Company had to make an avoidable payment of ₹ 2.31 crore towards income tax and interest for default in furnishing ITR and payment of advance tax

The Income Tax Act, 1961 (Act) *inter alia* provides that:

- Every person, including a company or firm should furnish income tax return (ITR) before the due date, if the assessee's total income assessable under the Act, exceeded the maximum amount which is not chargeable to income tax. (Section 139);
- Where the ITR for any assessment year (AY) is furnished after the due date, or is not furnished, the assessee shall be liable to pay simple interest at the rate of one *per cent* for every month or part of a month. (Section 234A);
- Advance tax shall be payable during a financial year where the amount of such tax payable by the assessee, as computed in accordance with the provisions of the Act, is ₹ 10,000 or more. Where the calculation is made by the assessee for the purposes of payment of advance tax, he shall first estimate his current income and income-tax thereon shall be calculated at the rates in force in the financial year. (Section 208 and 209(1)(a));
- Where the advance tax paid by an assessee is less than 90 *per cent* of the assessed tax, the assessee shall be liable to pay simple interest at the rate of one *per cent* for every month or part of a month. (Section 208 and 234B); and
- Where the advance tax paid by an assessee on or before 15th June is less than 15 *per cent* of the tax due or the amount of such advance tax on or before 15th September is less than 45 *per cent* of the tax due or the amount of such advance tax on or before 15th December is less than 75 *per cent* of the tax due, the assessee shall be liable to pay simple interest at the rate of one *per cent* per month. (Section 234C).

The Income Tax Office, Guwahati (ITO) issued (March 2021) two notices to Assam Seeds Corporation Limited (Company) to submit the ITRs for the AYs 2015-16 and 2016-17 as it believed that income chargeable to tax had escaped assessment. On receipt of the notices, the Company submitted (March 2021) ITRs for the AYs 2015-16 and 2016-17. The ITO thereafter imposed tax and interest on the Company payable under Sections 234A, 234B and 234C as shown in **Table 2.7.1**.

Table 2.7.1: Details of tax imposed

(*₹ in crore*)

Assessment year	Gross income from business	Tax	Interest under Section		
			234A	234B	234C
2015-16	1.88	0.61	0.39	0.43	0.03
2016-17	1.24	0.41	0.20	0.22	0.02
Total	3.12	1.02	0.59	0.65	0.05

Audit observed that:

- The Company neither assessed its income tax dues nor filed ITRs, till the ITO issued (March 2021) notices for submission of ITR for the AYs 2015-16 and 2016-17, after which an interest of ₹ 1.29 crore was levied for default in furnishing ITR under Section 234A, default in payment of advance tax under Section 234B and deferment of advance tax under Section 234C. In spite of payment of the above interest, the Company did not take steps to address the issue and had not filed the ITRs for the AYs from 2018-19 to 2022-23.
- The Company has not been estimating its taxable income for each year, which would have helped it in ascertaining the income tax liability, if any, and statutory obligation to pay advance income tax for every quarter as per the requirement of the Act.
- As per Section 44AB of the Act, every person, carrying on business shall, if his total sales, turnover or gross receipts exceed ₹ 1 crore in any previous year get his accounts audited for assessment of tax liabilities by a Chartered Accountant (tax auditor) before the specified date and furnish the tax audit report to tax authorities. In case of failure to submit the audited accounts and tax audit¹³⁵ report, the person concerned shall be liable to a penalty of half *per cent* of the total sales, turnover or gross receipts subject to maximum of ₹1.50 lakh. As the gross receipts of the Company during 2008-09 to 2020-21 ranged between ₹ 2.48 crore to ₹ 200.92 crore, the Company should have appointed a tax auditor. The Company however appointed a tax auditor (May 2021) for tax audit and assessment of tax liability only for three years (2014-15 to 2016-17). The Company, however, did not appoint a tax auditor for period after 2016-17. The issues relating to assessment of tax dues as well as filing the ITRs could have been addressed through appointment of tax auditor in a timely manner.
- As per Section 72 of the Act, where for any AY, the net result of the computation under the head – ‘Profits and gains of business or profession’ is a loss to the assessee, it can be carried forward to the following eight AYs for setting off against the profits and gains, if any earned during these eight years. Further, loss under the

¹³⁵ Tax Audit is an examination or review of Accounts of any business/profession carried out by tax payers from an income tax viewpoint. It makes the process of income computation for filing of return of income easier.

head 'Profits and gains of business or profession' can be carried forward only if the ITR of the year in which loss was incurred had been furnished on or before the due date, as prescribed under Section 139. It was seen that the Company earned profit of ₹ 6.05 crore during the periods 2010-13, 2014-17 and 2020-21 and incurred losses of ₹ 13.62 crore during the periods 2006-10, 2013-14 and 2017-20 as per their books of accounts (including provisional accounts for 2017-21). The Company could have set off the losses, if any, against the years in which it had earned profits, after calculation as per the Act, subject to filing of ITRs within the due dates for all the years concerned. As can be seen from **Table 2.7.1**, the Company paid tax of ₹ 1.02 crore during the AYs 2015-16 & 2016-17 (against gross income from business of ₹ 3.12 crore), which could have been avoided if the ITRs were filed in a timely manner and the benefit of setting off of losses was availed, as the Company had incurred net loss (₹ 10.39 crore¹³⁶ as per books of accounts) during 2006-14.

- As per Section 239 of the Act, every claim for refund shall be made by furnishing ITR in accordance with the provisions of Section 139. No condonation application for claim of refund/loss shall be entertained beyond six years from the end of the assessment year for which such application/claim is made. Although an amount of ₹ 0.18 crore was deducted by various banks as tax deducted at source during the financial years 2013-14 and 2017-18 to 2021-22, the Company had neither claimed the TDS refund nor filed the ITRs.

As such, due to non-filing of ITRs in a timely manner and imprudent tax management, the Company had to make avoidable payment of ₹ 2.31 crore towards income tax (₹ 1.02 crore), interest for default in furnishing ITR (₹ 0.59 crore), default in payment of advance tax (₹ 0.65 crore) and deferment of advance tax (₹ 0.05 crore).

The Company, in its reply, stated (January 2023) that the financial statements were not finalised till January 2022 and filing of income tax return in absence of the audited financial statements would have been a futile exercise since the filing of return without filling the particulars of the financial statements would have made the return liable to be treated as an invalid return in accordance with the provisions of Section 139(9) of the Act.

The reply is not acceptable as the Act provides for filing of ITRs and payment of advance tax based on assessment of taxable income & tax liability through a tax professional. Hence, finalisation/certification of annual accounts of the Company is not a pre-condition for filing ITRs and payment of advance tax. Further, the similar plea of the Company submitted to ITO against default in furnishing ITRs/payment of advance tax was rejected and applicable penalty was imposed by the ITO on the Company.

¹³⁶ As the Company has not carried out the Tax Audit during 2006-14, the figure of net loss was subject to variation on the basis of calculation as per the Act.

Recommendation: *The Company should devise appropriate mechanism for estimation of tax/advance tax liability and filing of the ITR within the prescribed timeline through a tax professional so as to avoid payment of interest/penalty on this account.*



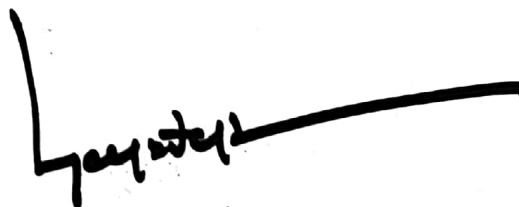
(JOHN K. SELLATE)

Principal Accountant General (Audit), Assam

Guwahati

The: 06 July 2023

Countersigned



(GIRISH CHANDRÁ MURMU)

Comptroller and Auditor General of India

New Delhi

The: 13 July 2023

