Chapter V

Compliance Audit Paragraphs

Department of Industries and Commerce

The Kerala Minerals and Metals Limited

5.1 Tendering Process for Procurement of Goods in The Kerala Minerals and Metals Limited

5.1.1 Introduction

The Kerala Minerals and Metals Limited (Company) was incorporated (February 1972) under the erstwhile Companies Act, 1956 as a fully owned company of Government of Kerala (GoK) and functions under the administrative control of Department of Industries and Commerce. It is engaged in the business of mining and processing of minerals and metals.

The Company has three production units, *viz:* the Mineral Separation (MS) Unit *(installed capacity of 76,000MT)* engaged in separating heavy minerals such as Monazite, Ilmenite, *etc.* from mineral rich black beach sand; the Titanium Dioxide Pigment (TP) unit *(installed capacity of 40,000MT),* which processes raw Ilmenite to produce Rutile grade Titanium Dioxide through Chloride-route[48] technology; and the Titanium Sponge (TSP) unit *(installed capacity of 500 MT),* a Joint Venture (JV) between the Company, the Vikram Sarabhai Space Centre (VSSC) and the Defence Metallurgical Research Laboratory, producing Titanium Sponge from Titanium Tetra Chloride (Tickle).

Further details regarding the products manufactured in each of the above said Units, their uses, major consumers, raw materials used for production and sources of procurement are listed in ***Appendix 23***.

5.1.2 Organisational setup

The management of the Company is vested in the Board of Directors (BoD) consisting of eight Directors (as of March 2023). The day-to-day affairs are overseen by the Managing Director (MD), who is assisted by three Heads of Unit, 14 Heads of Department (Deputy General Managers), and seven Assistant General Managers.

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[48] Involves reduction and leaching of raw Ilmenite to 90-92 *per cent* Titanium Dioxide, Ilmenite beneficiation, regeneration of spent acid, and conversion of beneficiated Ilmenite to Titanium Dioxide Pigment. It is considered better than the alternative Sulphate-route technology due to generation of less waste during manufacturing process.

5.1.3 Financial performance

The financial performance of the Company during 2020-23 is given in ***Appendix 24***. The total expenditure of ₹1,704.46 crore, on procurement of raw materials, power and fuel, and stores and spares for the three-year period from 2020-21 to 2022-23 constituted 73.02 *per cent* of total expenses of ₹2,334.12 crore for the said period. The procurement expenditure for the year 2022-23 (₹657.94 crore) showed an increase of 43.76 *per cent* over that of the year 2020-21 (₹457.66 crore) and thereby had a direct impact on the profitability of the Company.

5.1.4 Audit objectives

The objectives of Compliance Audit were to ascertain whether:

i. the prescribed policy, rules, regulations, and guidelines for tendering, evaluation of bids, and procurement of goods were duly adhered to; and

ii. procurement process was fair, equitable and transparent.

5.1.5 Scope of audit

The Compliance Audit reviewed the process of tendering, bid evaluation, and award of purchase/ supply orders for capital and revenue items during the period from 2020-21 to 2022-23.

Out of 14,717 Purchase Orders (POs)[49] issued during 2020-23, a sample of 170 POs[50] was drawn by employing Stratified Random Sampling method in IDEA software for detailed scrutiny, as indicated in **Table 5.1**.

Table 5.1 : Sampling of Purchase Orders for audit

(Value in ₹ crore)

Particulars	Population of POs		Sample of POs	
	Number	Value	Number	Value
PO value more than ₹ five crore	50	1201.57	50	1,201.57
PO value between ₹ one crore and ₹ five crore	119	282.69	24	52.09
PO value between ₹25 lakh and ₹ one crore	241	106.80	24	10.36
PO value less than ₹25 lakh	14,307	196.98	72	1.27
Total	**14,717**	**1,788.04**	**170**	**1,265.29**
Percentage of sample size			**1.16**	**70.76**

Additionally, 14 Supply Orders (SOs)[51] valued at ₹85.40 crore (including imports worth ₹64.55 crore), issued during 2020-23 for procurement of capital items, were also reviewed.

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[49] Purchase Orders (POs) are issued for procurement of raw materials, chemicals, packing materials, stores, and spares (categorised as revenue items).

[50] 47 contracts (₹241.75 crore) of 2020-21; 68 contracts (₹529.05 crore) of 2021-22 and 55 contracts (₹494.49 crore) of 2022-23.

[51] Supply Orders (SOs) are issued for procurement of project-related equipment and machinery (capital items).

5.1.6 Audit criteria

Audit findings are benchmarked against:

i. The Stores Purchase Manual issued by GoK.

ii. Guidelines/ instructions of Central Vigilance Commission (CVC).

iii. New Purchase Procedure drawn up by the Company; and

iv. Orders/ guidelines issued by GoK and recommendations of the Committee on Public Undertakings from time to time.

5.1.7 Audit methodology

Audit findings were developed based on scrutiny of records, analysis of available data, and responses received to requisitions and enquiries. An Entry Conference was held on 20 October 2023 with the Department of Industries and Commerce, Government of Kerala to discuss the audit objectives, criteria, scope and approach of compliance audit. The draft report was issued in March/ August 2024 to the Government, and the replies were received in April/October 2024. The audit findings were discussed in an Exit Conference with the Department of Industries and Commerce held on 03 October 2024. Replies from the Government have been suitably incorporated.

5.1.8 Procurement process in the Company

The Company has a decentralised system for procurement of goods and services. Project-related equipment and machinery are procured by the Project Department, while the rest of the purchases are made by the Materials Department. Procurement of goods for MS Unit are managed by the Purchase Section of that Unit.

The major raw materials procured during 2020-23 included Hydrated Lime, Hydrochloric Acid, Chlorine, Magnesium, Caustic Soda Lye, Sodium Silicate, Aluminium Chloride, Trimet, and Carbo Bead.

5.1.9 Audit findings

The audit findings relating to the Company's purchase policy and procedures for procurement of goods are discussed in the successive paragraphs.

5.1.9.1 Inconsistencies *vis-à-vis* Stores Purchase Manual

The Stores Purchase Manual (SPM) issued (June 2013) by GoK contains (clause 1.8) the general rules and instructions applicable to the procurement of goods and services by all Departments, Public Sector Enterprises (PSEs) and other institutions of the State. As per clause 1.6 of SPM, certain Departments[52] may supplement the provisions contained in SPM by special rules available in their Codes and Manuals. Since the Company did not fall in the category of the Special Departments mentioned above, it was bound to follow the SPM provisions in its procurement activities, without exception.

Though the procedures drawn up by the Company in NPP was intended to flow from and be attuned to the principles and practices enunciated in SPM, a review

[52] Public Works, Irrigation, Forests, Stationery, Police, Local Self Government Institutions, and other Special Departments.

of NPP revealed the following instances of exclusions, inconsistencies, and contradictions *vis-à-vis* the SPM:

- The NPP was silent with respect to provisions relating to rate/ running contract, acceptance of single bid, abnormally high variation in price against estimated cost, advance payment to suppliers of raw materials and project machinery, price and exchange rate variations, breach and cancellation of contracts, signing of contractual agreement, publication of tender result, forfeiture of Earnest Money Deposit (EMD), *etc*. The exclusion of such key provisions provided room for arbitrariness and bias in procurement process.
- With respect to these matters, decisions were taken not by referring to the provisions in the SPM but based on the recommendations of the Tender Committee[53] (TC) and approval of MD thereto. For instance, the Company was unable to recover the loss suffered by it on default in supply or breach of contract by suppliers due to non-execution of contractual agreement, as mentioned in ***Paragraph 5.1.9.8*** *ibid*. Similarly, instances of acceptance of single bid[54] in tenders without recording justification and non-publication of tender results[55] were also observed.
- The NPP diverged from the SPM in many key areas, as shown in **Table 5.2**:

Table 5.2 : Variations in NPP provisions *vis-à-vis* SPM

SPM provision	NPP provision
Earnest Money Deposit (EMD) should be one *per cent* of the total purchase cost, subject to minimum of ₹1,500.	EMD fixed at 2.50 *per cent* of the total purchase cost, subject to maximum of ₹ two lakh.
Micro, Small and Medium Enterprises (MSMEs) are exempted from furnishing EMD.	No exemption to MSME firms from payment of EMD.
Security Deposit (SD) equivalent to five *per cent* of total contract value should be obtained from successful bidders.	SD fixed at five *per cent* of basic contract value.
Government/ enlisted institutions and MSMEs are exempted from furnishing SD.	SD need not be insisted from Original Equipment Manufacturer (OEM) and overseas suppliers.
Tenders received after the specified date and time for receipt should not be considered	Head of Department (Materials) is authorised to accept late quotations, provided the remaining bids are not opened.

53 Consisting of officials from Finance, Technical, Materials, and Internal Audit Departments of the Company, its composition varied with purchase value and production unit involved.

54 Tender (November 2021) for purchase of High Pressure Oxygen Gas Cylinder Filling Compressor System from Jyotech Engineering and Marketing Consultants at a cost of ₹36.89 lakh, tender (October 2021) for purchase of Cooling Water Chemicals from Vasu Chemicals LLP at a cost of ₹25.85 lakh, and tender (October 2021) for purchase of High Purity Magnesium Metal from Shreeji Exports at a price of ₹6.64 lakh per MT.

55 Tender results for purchase of PFDS, Petcoke, Ambient Air Quality Monitoring System, Tickle pre-heaters, and Aluminium Trihydrate were not published in e-Tendering portal of GoK despite lapse of considerable time – ranging from five months to more than three years – after award of contract.

SPM provision	NPP provision
Liquidated Damages (LD) should be levied and recovered at the rate of 0.5 *per cent* per week or part thereof for delay, subject to maximum 10 *per cent* of contract value.	LD fixed at one *per cent* of contract value per month or part thereof, subject to maximum five *per cent* of contract price.

These deviations violated the principles emphasised in the SPM, *viz.*, economy, efficiency, transparency, fairness, objectivity, and equity in the procurement process, and were, therefore, not in accordance with the extant rules and guidelines of GoK.

Government replied (April 2024) that it has given direction to the Company to revisit the NPP and to make sure that the provisions of NPP were similar to the provisions of SPM. Government further stated (October 2024) that since OEMs and overseas suppliers were not ready to pay SD, exemption for collection of SD was essential for the above category of suppliers.

It may be however, noted that collection of SD is mandatory provision under SPM and any deviation in this regard needs to be included in the NPP after approval from the Government.

5.1.9.2 Absence of timelines for procurement activities

Clause 1.3 of SPM prescribes that appropriate timeline should be fixed for each stage of procurement and delineation of responsibility and delegation of powers to reduce delay. As per clause 7.33 of SPM, the tender should specify a validity/ firmness period of two months for rates quoted by bidders for all ordinary items of stores and a maximum period of three months for manufacture, supply, and erection contracts. As per clause 9.58, the entire process of scrutiny and evaluation of award of contract should be completed within three months from the date of tender opening.

As per clauses 7.4 and 7.7 of NPP, maximum period of 25 days and 90 days are prescribed for bidding in open tenders and for maintaining the validity of bids respectively.

Audit observed that:

- NPP did not prescribe timelines for completion of key stages of procurement like review of indent, issuing of tender, evaluation of bids, finalisation of tender, and award of contract.
- The firmness period of 90 days was not followed in procurement of project-related capital items, for which a period of 180 days was specified in all e-Tenders.
- The absence of specific timelines for procurement activities and fixation of longer firmness period for capital items led to considerable delay in completion of procurement process. Data made available by the Company for 13,379[56] (out of 14,717) POs involving purchase of raw materials, fuel and spares, which were finalised based on enquiry and not by inviting

[56] Absence of ERP system was the major reason for non-availability of data for the remaining 1,438 POs (14,717 – 13,379) as purchase data are not fully captured in the existing IT system.

tender, revealed delay (*i.e.*, more than 90 days from enquiry date) in finalising and issuing 1,561 POs, with the maximum delay being two years and four months (865 days[57]).

- Scrutiny of the audit sample comprising 184 POs/ SOs revealed delay (beyond 90 days from enquiry/ tender date) in issuing 49 POs/ SOs. The maximum delay was of 16 months (486 days[58]) in procurement of energy-efficient Tickle pre-heaters, which has not yet been concluded (April 2024). The delay was seen to be persisting even in the case of POs/ SOs finalised based on nominated purchase or enquiry, where out of 77 such cases reviewed by Audit, there was delay in finalising 12 purchases, with the maximum delay being eight months (240 days[59]) in procurement of Carbo Bead.
- There was also considerable delay (of more than 15 days) in sending enquiry to registered/ nominated vendors after receipt of indent from user department. Data on 13,379 POs that were finalised based on enquiry or nominated purchase showed that the Company took more than two weeks after receipt of indent to send enquiry in respect of 6,393 POs, with the maximum delay being two years and four months (865 days[60]).

The delay signified an inefficient procurement process.

Government replied (April 2024) that the Company was not having a complete ERP system and files were approved manually at various levels which caused the delay. It stated that with the implementation of ERP system, file movement and traceability would be faster which would further result in minimising the delay. Government further replied (October 2024) that the Company was directed to incorporate the timelines for completing tendering process of open e-tenders within 90 days in the NPP.

Recommendation: The Company may review its New Purchase Procedure to ensure that the provisions are aligned with those of SPM and conclude procurement activities within a reasonable time period.

Circumvention of Tender process

As per clauses 7.7 and 7.11 of SPM, tender should be invited for purchase of materials costing above ₹ one lakh, and public advertisement (Open Tender) should be invited for purchases costing above ₹10 lakh. As per clause 7.20, procurement by single tender enquiry from a selected source should be resorted to only in certain unavoidable situations[61].

[57] Enquiry for procurement of 'FRP Primary' was sent on 12 July 2019 and PO was issued on 21 February 2022.

[58] Global e-Tender was invited on 25 May 2020 and SO was issued to successful bidder on 22 December 2021.

[59] Enquiry was issued to a nominated vendor in June 2020 and PO was placed in May 2021.

[60] Indent for procurement of 'Cyclone Dia' was generated on 29 January 2020 and enquiry sent on 27 June 2022.

[61] In the case of emergency or where standardised machinery/components are required or when there is substantial economy in procuring from select suppliers or where competition is not expected to be advantageous.

As per clauses 4.3 and 4.4 of NPP, all purchases costing more than ₹ five lakh should be made by inviting e-Tenders except in the case of procurement from overseas suppliers/OEMs and for proprietary items, and purchases above ₹10 lakh should be made through open e-Tenders. As per clause 4.6, nominated purchase can be made from Government agencies/ PSEs where prices are fixed by Government.

5.1.9.3 Procurement without inviting tender

A review of the audit sample revealed that procurement of 14 materials costing ₹19.59 crore was made without inviting tender, thereby defeating the principles of economy, efficiency, transparency, and fairness in procurement process, as shown in ***Appendix 25***. The Company did not resort to tendering though the purchase value was more than ₹ one lakh in each case and (exceeded ₹ one crore in four purchases). The reasonableness of quoted price could not be ascertained in the absence of competition and updated price list for items so procured.

Government replied (April 2024) that most of the items, *viz.*, filter bags, radiant coil assembly, carbo bead, *etc.* were customised and the same should be got only from OEMs. The OEMs would not participate in the tender and hence, the Company would send enquiry directly to them for smooth functioning of the production process. Government further replied (October 2024) that the Company was directed to provide proper justification for procurement of high value items from single source of supply in future.

5.1.9.4 Undue favour extended to suppliers through nominated purchase

Clause 9.22 of SPM provides that procurement from State Government Departments/institutions and PSEs can be made without inviting tenders for the first five years after they had gone into production and after ascertaining the market price. As per clause 4.6, nominated purchases can be made only for proprietary items, purchases from Government agencies/PSEs where prices are fixed by Government, and from OEMs after obtaining the latest price list.

The Company's procurement practices revealed several instances of non-compliance with established norms, resulting in a lack of transparency and significant financial loss of ₹23.17 crore, as discussed below.

a. Procurement of Liquefied Natural Gas

The Company invited (April 2019) open tender for procurement of 100 MT of Liquefied Natural Gas (LNG) and received single bid from Bharat Petroleum Corporation Ltd. (BPCL). Meanwhile, it received (April 2019) a letter from AG&P Group[62] which stated that that the latter was authorised by the Petroleum and Natural Gas Regulatory Board (PNGRB) to develop City Gas Distribution Network (CGDN) infrastructure and to supply LNG to customers having requirement up to 50,000 standard cubic meters per day (SCMD) in Alappuzha, Kollam and Thiruvananthapuram districts (specified area).The Company's request (May 2019) for participating in its e-Tender for supply of LNG was, however, not accepted by AG&P. The Company, therefore, issued (July 2019) PO to BPCL for supply of 100 MT of LNG at a price of ₹37,636.49 per MT

[62] A private company headquartered in Singapore, which operates in India as M/s AG&P *Pratham*.

(equated price of ₹727.98 per MMBTU[63]). Subsequent procurements of LNG were, however, made from AG&P on nomination basis, as shown in **Table 5.3**.

Table 5.3 : Procurement of LNG from AG&P during 2019-23

Year	Quantity procured (MMBTU)[64]	Average price (₹/ MMBTU)
2019-20	12,277.56[65]	669.58
2020-21	31,062.52	556.44
2021-22	3,634.46	1,278.81
2022-23	38,717	1,493.80
	85,691.54	

(Source: Company records)

Audit observed that AG&P did not submit a bid or quote against the limited enquiry that was floated (July 2020) by the Company to six vendors (including AG&P) and expressed its exclusive right to supply LNG in the specified area. The Company ceded to the claim of AG&P for supply of LNG sans independent verification and finalised the procurement on nomination basis without inviting open e-Tender, despite guidelines in the SPM and NPP that mandate competitive bidding for fair price discovery.

PNGRB Regulations granted (March 2019) an authorisation to AG&P to lay, build, operate, or expand CGDN with necessary infrastructure in the specified area. Till the time the infrastructure for CGDN is ready, commercial customers having a daily requirement up to 50,000 SCM[66] (*i.e.*, 1,984 MMBTU per day) were entitled to procure LNG from any other alternate source or supplier with the prior permission of PNGRB. As CGDN was not commissioned (September 2023) and the Company's requirement was less than the stated volume, the authorisation granted by PNGRB to AG&P had not set in and the Company was entitled to procure LNG from any supplier by inviting Open e-Tender. Disregarding this, the Company accepted AG&P's claim for exclusive rights to supply LNG in the specified area and procured 85,691.54 MMBTU from AG&P during 2019-23 at a total cost of ₹9.57 crore. It was also observed that the Company procured (April 2021) 7,200 MMBTU of LNG from Indian Oil Corporation Ltd. (IOCL) at a price of ₹675.98 per MMBTU based on manual limited tender. The nominated purchase from AG&P, therefore, lacked transparency, fairness, and equity.

It is also noteworthy that as per the directions (April 2022) of the Hon'ble High Court of Kerala[67], PNGRB had, in a similar case involving English Indian Clays Limited (EICL) and AG&P, ordered (June 2022) that since AG&P was not ready to supply to ECIL in the specified area through CGDN, EICL cannot be forced against its wish to source LNG.

An independent verification by Audit revealed that The Fertilisers and Chemicals Travancore Ltd, a Central PSE and major consumer of LNG in the

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[63] 1 MT = 51.7 Million Metric British Thermal Unit (MMBTU).
[64] Metric Million British Thermal Unit. One MT = 52.14 MMBTU.
[65] The Company procured 235.46 MT at an average price of ₹31,911.97 per MT (herein converted in terms of MMBTU for uniformity).
[66] Standard Cubic Meters. One MMBTU = 25.20 SCM.
[67] In Writ Petition (Civil) No. 6666 of 2022, 'EICL Limited *vs.* Union of India & Others.

State, floated open tender and procured 44.72 lakh MMBTU of LNG from IOCL at a basic price of ₹430.86 per MMBTU during 2020-21, 38.33 lakh MMBTU from BPCL at a basic price of ₹825.89 per MMBTU during 2021-22, and 760.45 lakh MMBTU from IOCL at a basic price of ₹1,230.05 per MMBTU during 2022-23.

It is evident that the Company neither gathered market intelligence to make its procurement economic nor approached PNGRB for relief (as done by EICL). As a result, the Company procured LNG at higher prices and incurred an extra expenditure of ₹1.70 crore on nominated purchase from AG&P.

Government replied (April/October 2024) that based on the public notices of PNGRB dated 2 June 2020 and 23 July 2020, the Company procured from AG&P till March 2021. Since AG&P had not laid any pipeline in Alappuzha, Kollam and Thiruvananthapuram districts, the Company had right to get supply of natural gas from any alternate supply source till CGDN was ready. Accordingly, the Company had floated limited tenders to potential suppliers of LNG during the period April 2021 to January 2022. However, it had not procured LNG due to its higher price than LPG during the period and after LNG price had fallen below LPG's price, the Company again started procuring LNG from AG&P without tender.

The reply, thus, confirms that the Company had ignored the terms and conditions of PNGRB authorisation granted to AG&P, based on which, the Company was eligible to procure LNG from other sources at competitive rates until CGDN was ready. The procurement from AG&P without inviting tender and independently verifying the facts led to bestowal of undue benefit of ₹1.70 crore to a private vendor and entailed extra expenditure for the Company.

b. Procurement of chemicals

The Company resorted (September 2020) to nominated procurement of Caustic Soda Lye[68], Hydrochloric Acid and Liquid Chlorine from The Travancore Cochin Chemicals Ltd. (TCC) on the basis of an unsolicited offer (September 2020) for continued supply of these chemicals during 2020- 2021 at the then existing price[69] and an increased freight[70]. Though the TC opined (September 2020) to invite open e-Tender in view of the cost involved (₹34.06 crore), it finally settled for nominated procurement from TCC as done in previous[71] years. Details of procurement of chemicals from TCC during 2019-23 are indicated in ***Appendix 26 (i)***.

An independent verification by Audit revealed that the average[72] sale price of all three chemicals supplied by TCC to the Company during 2020-2023 was

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68 Having 48 *per cent* concentration (on 100 *per cent* Sodium Hydroxide basis).

69 ₹30,500 per MT for Caustic Soda Lye, ₹6,500 per MT for Liquid Chlorine, and ₹2,700 per MT for Hydrochloric Acid.

70 ₹1,900 per MT for Caustic Soda Lye (previous year ₹1,800 per MT), ₹1,420 per MT for Liquid Chlorine (previous year ₹1,350 per MT), and ₹960 per MT for Hydrochloric Acid (previous year ₹900 per MT).

71 Supplies against POs placed during 2019-20 were received in 2020-21.

72 Total of sale price for periods corresponding to supplies to KMML, divided by the number of supplies.

higher than the price of supply to other buyers[73] during the same period, as shown in **Table 5.4.**

Table 5.4 : Supply of chemicals by TCC during 2020-23

Chemical	Average sale price charged by TCC (₹ per MT)	
	To the Company	To other buyers
Liquid Chlorine	5,717.50	3,504.75
Hydrochloric Acid	2,381.25	1,430.25
Caustic Soda Lye[74] (during 2020-21)	14,580.00	12,673.00

(Source: Information furnished to Audit by TCC, and Company records)

This indicated that the chemicals were available for supply at lower price than what were paid for by the Company. As open e-Tender was not invited to ensure competition and fair price discovery, the Company did not ensure economy in procurement and incurred an extra expenditure of ₹21.47 crore, as shown in ***Appendix 26 (ii)***. The Company was not found to have conducted an enquiry about the market price of the said chemicals in spite of the high cost of procurement.

Government replied (April 2024) that the procurement of Caustic Soda Lye, Hydrochloric Acid and Liquid Chlorine from TCC by the Company was based on Government directions (January 2010). Government assured that the matter would be examined. Government stated (October 2024) that it has directed the Company to procure items costing more than ₹10 lakh through e-tender and to accept SD from successful bidders as per the Government Order of September 2015 and to modify the NPP accordingly.

However, the Company procured the aforesaid chemicals without inviting e-Tender, which violated the provisions of SPM and NPP. Further, as per SPM, procurement from PSEs without tender was possible for the first five years after the supplier PSE had gone into production, and TCC has been in business for the past seven decades. The argument that the procurement was as per GoK directives, therefore, does not hold good. The Company could also not produce a copy of the said Government letter to Audit. Moreover, the price of chemicals supplied by TCC was not fixed by GoK to justify a nominated procurement.

Recommendation: The Company may invite open e-Tenders for procurement of raw materials to ensure competitiveness and transparency in procurement process.

Tender evaluation

Clause 9.58 of SPM states that the validity period of bids should not be unreasonably long as it entails the risk of increase in prices quoted by the bidders.

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[73] The Fertilisers & Chemicals Travancore Ltd., Tamilnadu Newsprint and Papers Ltd., Cochin Minerals and Rutile Ltd., Nitta Gelatin India Ltd., Kerala Paper Products Ltd., Sri Balaha Chemicals Pvt. Ltd., *etc.*

[74] KMML negotiated with TCC and obtained a better price for Caustic Soda Lye, as received by other buyers, during the period from December 2021 to March 2023.

Audit observed that the Company did not finalise the procurement of two energy-efficient Tickle pre-heaters within the validity period, which led to escalation in cost and loss of savings, as discussed below.

5.1.9.5 In-ordinate delay in finalising tender for procurement of Tickle pre-heaters led to loss of saving in consumption of fuel

The Comptroller and Auditor General of India, in its Audit Report No. 3 (PSUs) for the year ended March 2013, had observed that the Company lost the benefit of savings in cost of Liquefied Petroleum Gas (LPG) due to non-replacement of two Tickle pre-heaters with energy-efficient ones for more than five years after receipt (August 2010) of an offer from the OEM.

The Committee on Public Undertakings (COPU), in its 68th Report[75], had sought for (June 2018) further development in the matter. Responding through the Statement of Action Taken on COPU recommendations, GoK had stated (June 2020) that further processing of bids would be carried out after GoK accorded approval for revision in the estimated cost of the project to ₹20 crore for two pre-heaters.

Audit observed that the energy-efficient Tickle pre-heaters were not procured (as of April 2024) despite tendering on 10 occasions since December 2010 due to non-finalisation of tenders within the validity period and non-fulfilment of contract by the successful bidder where SO was issued on one occasion. The details pertaining to tenders issued for procurement of Tickle pre-heaters are given in ***Appendix 27***.

Though SO was issued (December 2021) to Lepton Projects Pvt. Ltd. (LPPL) for supply of two energy-efficient pre-heaters, the contract was not performed by the vendor. Pursuant to the latest e-Tender (May 2023) for procurement of one unit of pre-heater which elicited single bid from a new vendor, the Company's BoD decided (October 2023) to place order on the vendor for supply of one pre-heater at the quoted price of ₹12.05 crore and to obtain GoK approval for revision in the estimated cost from ₹10 crore to ₹12.70 crore[76] for the second pre-heater. The abnormal delay in procuring new pre-heaters, therefore, led to price escalation of ₹14.10 crore[77].

A cost-benefit analysis and detailed study[78] undertaken (July 2019) by Central Power Research Institute to assess the technical and financial viability of installation of energy-efficient pre-heaters revealed that replacement of old pre-heaters would generate tangible saving of 950.40 TPA[79] in LPG consumption

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[75] Based on Audit Reports of the Comptroller and Auditor General of India for years ended 31 March 2009 and 2013.

[76] Including erection charges of ₹0.65 crore in the Company's scope.

[77] ₹24.10 crore – ₹10 crore; being the difference between L1 offer of ₹12.05 crore received against latest e-Tender for one pre-heater and the original estimated cost for two pre-heaters.

[78] Undertaken pursuant to decision taken in a meeting (December 2018) chaired by the Minister for Industries and Commerce, GoK, for taking stock of the development in procurement of energy-efficient pre-heaters.

[79] Tonnes *per annum*; calculated as: (100 – 40) kg/ hour * 24 hours * 2 furnaces * 330 days/ year, where 100 kg/ hour is the LPG consumption per furnace and 40 kg/ hour is the expected future consumption after installation of energy-efficient pre-heaters.

and intangible saving of 2,395 TPA in Carbon footprint (by way of reduced Carbon Dioxide emission and less waste heat addition to the environment).

As per clause 7.20 of SPM, one of the grounds for adopting the single tender system is that the articles required are of a proprietary character and competition is not expected to be advantageous. Clause 4.6 of NPP states that nominated procurement can be made from OEMs subject to availability of the latest price list for items to be procured. Though Linde Engineering North America Inc. (formerly Selas Fluid Processing Corporation, USA) was the OEM for the existing pre-heaters and had offered to supply the item, the Company did not directly approach the OEM at any time for procurement of pre-heaters. The inordinate delay deprived the Company of savings in cost of 9,504 MT[80] of LPG, leading to avoidable expenditure of ₹50.40 crore[81] during 2013-23.

Government replied (April 2024) that the Company did not have an online file system and that consequently manual processing of the files at various levels caused slight delay. It was hoped that with the implementation of ERP system, file movement and traceability would be faster. Thus, in view of the required time for completing the processes, there might be chances that bid validity would expire before completion of approval process. Government in its further reply (October 2024) stated the reasons for cancellation of each tender since December 2010.

The reasons adduced by the Government do not provide valid justification for the delay in finalising the procurement for over a decade. As the SPM stipulates a period of 90 days for procurement of project related items, irrespective of the procedure followed. Further, the reply confirmed that the Company had floated several tenders for procurement of Tickle pre-heaters. Hence, the reply of the Government is not acceptable.

It is also pertinent to note that despite the approval of revision in the estimated cost of two pre-heaters to ₹20 crore by GoK in 2020 and a lapse of five years from the date of CoPU recommendation (June 2018), the Company has not procured the pre-heaters till date (April 2024) and could not achieve the benefit of savings in cost of LPG. The assurance given by GoK to COPU has, therefore, not been kept.

5.1.9.6 Improper evaluation of bids led to award of contract to ineligible bidders

To ensure transparency in procurement process, CVC prescribed (September 2003) that pre-qualification and evaluation criteria should be clearly and unambiguously incorporated in tender and price bids of only pre-qualified and technically qualified bidders should be opened. As per clause 9.7 of SPM, bids which do not meet the required qualification criteria in tender should be declared ineligible and not considered further. Further as per clause 1.2, any new condition which was not incorporated in tender document should not be brought into consideration while evaluating the bids.

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[80] 950.40 MT * 10 years (*i.e.*, 2013-23).

[81] 950.40 MT * ₹53,031.03/ MT, considering average procurement price of LPG during 2013-23. KMML procured 40,317.07 MT of LPG during 2013-23, at price varying from ₹30,197.04/ MT (2016-17) to ₹91,992.22/ MT (2022-23).

NPP prescribes (clause 7.6) three mandatory conditions[82], *viz.*, annual turnover, solvency, and capacity of having executed similar contract in the past, for pre-qualification of bidders, and requires submission of documents in support of having achieved those conditions.

Audit observed that the Company awarded contracts to ineligible bidders who did not meet the prescribed pre-qualification and/or technical criteria, as discussed below:

a. Purchase of Wooden Pallets

Open e-Tenders (June 2020 and November 2021) for procurement of 32,000 numbers of domestic-purpose and 4,000 numbers of export-quality Wooden Pallets stipulated (clause 7) that bidders:

i. should offer minimum 3,500 numbers of Wooden Pallets (domestic and export-grade combined).

ii. have an annual turnover proportionate[83] to the offered quantity during any one of the previous five years.

iii. submit proof of having executed a single order for supply of at least 50 *per cent* of similar material during any one of the last five years and.

iv. submit a solvency certificate for at least 50 *per cent* of the said turnover during any of the previous five years.

The e-Tender stipulated (clause 7) that price bids of vendors who did not satisfy any one of the pre-qualification criteria would not be opened.

Though seven (out of nine) bidders who participated in the e-Tender of June 2020 and two (out of seven) bidders in the e-Tender of November 2021 offered to supply full tendered quantity, the Company adopted a new procedure, shown in ***Appendix 28 (i)***, to arrive at 'qualified quantity' or 'eligible quantity' to be ordered on each supplier (at L1 rate) on the basis of turnover and solvency of bidders. This basis for evaluation as per 'qualified quantity' was, however, not specified/disclosed in e-Tender. The quantities ordered on bidders in each e-Tender after calculation of 'qualified quantity' are shown in ***Appendix 28 (ii)***.

Though all three vital parameters (*i.e.*, annual turnover, solvency and capacity) of each bidder were to be mandatorily ascertained from bid documents for the purpose of pre-qualification, the Company assessed only two parameters (turnover and solvency) for assessing the ability of bidders to supply. The other mandatory criterion of proof of having executed similar supply of specified value in previous five years was overlooked while arriving at the 'qualified quantity'. This led to pre-qualification and evaluation of all bidders who had

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[82] Annual turnover equivalent to the anticipated purchase value in any one of the previous five financial years; execution of at least a single order for supply of similar material for an amount equivalent to 50 *per cent* of anticipated purchase value during any one of the previous five years; and solvency certificate for an amount not less than 50 *per cent* of anticipated purchase value, issued by an Indian branch of a scheduled/ nationalised bank and dated not prior to 12 months from bid submission date.

[83] In November 2021 tender, annual turnover was specified as ₹1.84 crore (estimated cost of contract) for bidders who offered to supply full tendered quantity. If any bidder offered to supply less quantity (say, 4,000 numbers), the annual turnover was calculated as: (4,000 / 36,000) * ₹1.84 crore = ₹20.44 lakh.

submitted bid and EMD. Further, the bidders did not meet the prescribed turnover and/or solvency. By glossing over an essential pre-qualification criterion and by considering bidders who did not possess the tender-specified turnover and solvency, the Company procured Wooden Pallets from ineligible bidders. The evaluation process, therefore, compromised transparency and fairness in procurement.

The Company replied (September 2023) that the bidders were existing suppliers and had met the pre-qualification criteria, *viz.*, average turnover (₹13.77 lakh), solvency (₹6.89 lakh) and capacity (₹6.89 lakh). The reply (April/October 2024) of Government was silent on this aspect.

The reply of the Company is not convincing as the determination of 'qualified quantity' for each bidder was not specified in e-Tender and NPP did not prescribe calculation of proportionate turnover, solvency, and capacity for evaluation. Further, the bidders did not submit adequate proof of having executed similar supply in the previous five years, and the Company did not reckon this mandatory criterion for arriving at 'qualified quantity'.

b. Purchase of Power Cable

As per e-Tender invited (September 2021) for procurement of 2,400 metres of Power Cable, bidders were required to submit *inter alia* solvency certificate for not less than ₹22 lakh (50 *per cent* of estimated contract value) from an Indian bank, dated not prior to 12 months from bid submission date (*i.e.*, after October 2020) and proof of having executed a similar contract in any one of the previous five years. Central Marketing Syndicate (CMS), on whom PO was placed (December 2021), submitted solvency certificate (for ₹ one crore) dated 15 November 2019. Though the solvency certificate did not fulfil the requirement of being dated not prior to October 2020, the TC accepted the reasoning (October 2021) of CMS that obtaining new solvency certificate would entail additional bank charges, and pre-qualified (December 2021) CMS along with other two bidders. Notably, the bid submitted by CMS against the previous e-Tender of February 2021 also did not meet the pre-qualification criteria on solvency for the same reason and was rejected by the Company. The decision to accept the ineligible bid and award contract to CMS in re-tender violated tender conditions and favoured the bidder.

Government replied (April 2024) that the Company assured that steps would be taken to avoid the mistakes which happened in the tenders for procurement of power cables.

The reply is not acceptable as the Company had overlooked the non-fulfilment of pre-qualification criteria.

c. Purchase of Sodium Silicate

i. An Open e-Tender (April 2021) for procurement of 3,420 MT of Sodium Silicate on staggered delivery basis for a period of one year called for a solvency certificate for 50 *per cent* of turnover issued not prior to 12 months from bid submission date (clause 7) as one of the mandatory pre-qualification criteria.
   The bid evaluation statement prepared (July 2021) by Materials Department and recommended by the TC pre-qualified four bidders, all of whom offered to supply full tendered quantity. The evaluation was done by

calculating the 'qualified quantity' for each bidder based on their capacity and solvency (annual turnover was not considered). Such an evaluation procedure was neither prescribed in NPP nor specified in e-Tender.

The bid documents submitted by two bidders, Kiran Global Chem Limited (KGC) and Ezhil Chemicals Private Limited (ECP) indicated that they did not fulfil the prescribed solvency criterion. As against the requirement of ₹1.95 crore, KGC submitted solvency certificate for ₹1.75 crore and ECP furnished solvency certificate for ₹1.80 crore. The other two bidders, Minar Chemical Industries (MCI) and Shanthi Chemical Works (SCW), submitted solvency certificate for the required amount. Notwithstanding the ineligibility of KGC and ECP, the MD approved (July 2021) the proposal of TC to pre-qualify and award (July 2021) the contract to KGC and ECP for supply of 1,648 MT and 1,772 MT of Sodium Silicate respectively. As the e-Tender specified procurement from two suppliers only, the irregular evaluation of ECP and KGC (as L1 and L2 respectively) led to exclusion of MCI and SCW, who were technically qualified and eligible for award of contract. The evaluation process, therefore, suffered from arbitrariness and lacked transparency, fairness, and objectivity.

Government replied (April 2024) that the Company had considered submitted documents only for pre-qualification. Accordingly, eligible quantity was arrived at, and PO was placed for the same.

The reply is not tenable as both bidders (KGC and ECP) did not meet the specified pre-qualification criteria on solvency.

ii. Against an open e-Tender (May 2020) for procurement of 2,952 MT of Sodium Silicate, the bids received from two bidders, KGC and Sri Varahi Chemicals, were rejected on technical grounds as the samples provided by them were found to have failed[84] (3 July 2020) the Quality Assurance Test conducted by the Quality Control Laboratory of the Company. Despite the above and the report (9 July 2020) of Plant Manager reiterating the findings on poor quality, the Head of Department (Materials) acceded to KGC's request (July 2020/ August 2020) for re-considering its bid and advised (August 2020) collection of another sample from the bidder before opening the price bids. The decision was taken after the receipt (4 August 2020) of an e-mail communication from the office of the Principal Secretary (Industries), GoK, forwarding the request[85] of KGC. Consequently, a fresh sample[86] was obtained from KGC and sent (7 August 2020) by Manager (Purchase) for technical/ quality re-evaluation, which was reported (August 2020) as conforming to Quality Assurance Plan (QAP) and tender specifications. The Plant Manager accordingly revised (13 August 2020)

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84 The observed value of SiO_2 was 27.6 *per cent* (instead of the minimum 28.5 *per cent*) and that of 'Total Solids on Na_2O and SiO_2' was 36.3 (instead of the prescribed 37.6). Other values such as Weight Ratio, Specific Gravity, Fe, Cu, Cr, Pb and Ni were within permissible limits. Further, the sample appearance was reported as 'colourless, not clear' against the required 'water colour and clear' appearance.

85 KGC had approached (3 August 2020) the Principal Secretary (Industries & NORKA) with similar request.

86 The observed value of SiO_2 was 28.6 *per cent*, that of 'Total Solids on Na_2O and SiO_2' was 37.6, and the appearance of chemical was 'colourless clear solution'.

the earlier recommendation in respect of KGC and termed its bid/ sample as technically acceptable.

The aforesaid exercise was carried out after the due date for submission and opening of bids had ended on 24 June 2020 and 26 June 2020 respectively, which was improper. The arbitrariness in the evaluation process indicated bias and lack of transparency and equity in procurement.

The Company replied (August 2023) that KGC was a proven supplier for the past 10 years and the decision to obtain a new sample before opening the price bids was taken in a meeting chaired (August 2020) by MD in the wake of KGC's request as forwarded by the Principal Secretary (Industries). On the other hand, new sample was not obtained from Sri Varahi Chemicals as it was a new vendor.

The reply is not acceptable as the new sample was obtained after the due date of opening price bids and no other similarly placed bidder was given such an opportunity, indicating arbitrariness and favouritism on the part of the Company.

Government replied (October 2024) that it has directed the Company to ensure that the successful bidder satisfies the pre-qualification criteria.

d. Purchase of Pressure Filtration and Drying System

In an overt deviation from NPP provisions, the global e-Tender (November 2019) for procurement of '5 TPH Pressure Filtration and Drying System' (PFDS) specified (clause 2.3) that bidders should satisfy any two out of three mandatory conditions during any one of the previous three years (instead of five years) ending March 2019 for pre-qualification, which tantamount to fixation of another set of pre-qualification criteria.

The reply of GoK was silent on the above observation. The Company replied (September 2023) that NPP did not specify pre-qualification criteria for global e-Tenders and, hence, the convention of accepting lower solvency as per old procedure was followed for project-related procurement.

The reply is not tenable as NPP specified pre-qualification criteria for all types of tenders and items.

Recommendation: The Company may ensure that the bids are evaluated as per applicable rules and regulations and e-Tender terms and conditions.

Tender finalisation

The POs/SOs should contain essential terms and conditions of tender, which should be accepted by bidders, and a formal agreement should be executed with bidders to bind them with purchase terms.

5.1.9.7 Splitting of order quantity

Clause 9.50 and clause 12.0 of SPM and NPP respectively prescribe that the lowest eligible bidder should be awarded the order for supply of full tendered quantity and dividing or splitting the order quantity may be resorted to when the lowest eligible (L1) bidder is unable to offer full tendered quantity or when dependence of single supplier for critical and vital items is to be avoided.

As per e-Tenders invited by the Company, splitting of quantity was primarily governed by the status (*i.e.*, existing supplier or new supplier) and the capacity (*i.e.*, full quantity or part quantity) of L1 bidder. The standard e-Tender terms and conditions specified (clauses 27 and 29) splitting[87] of supply quantity among (maximum) four qualified bidders at L1 rate, to ensure an effective control over supplies.

Audit observed deviations in POs regarding splitting of order quantity among bidders, which introduced bias, obscured transparency and fairness in procurement, and led to extra expenditure of ₹4.87 crore, as discussed below:

a. Purchase of Calcined Petroleum Coke

Against an open e-tender (November 2020) for procuring 17,103 MT of Calcined Petroleum Coke (CPC), India Carbon Ltd. (ICL) which had offered to supply full tendered quantity, was the L1 bidder at a price of ₹30,730 per MT. The Company issued (March 2021) Letter of Intent (LoI) to ICL for supply of 60 *per cent* of tendered quantity (10,262 MT) and requested (March 2021) the other three vendors to match L1 rate for placement of order for balance quantity. While two other bidders, Petro Carbon and Chemicals Pvt. Ltd. and Rain Cii Carbon Ltd., expressed (March/ April 2021) their unwillingness to do so, Goa Carbon Ltd. (another bidder) sought a month's time (till 30 April 2021) for responding. Meanwhile, the TC decided (3 April 2021) to issue POs to ICL for supply of 14,823 MT and to Goa Carbon Ltd. for 2,280 MT subject to the latter matching L1 rate. Post-award of contract (April 2021) to ICL for supply of 14,823 MT, Goa Carbon Ltd. expressed (14 June 2021) its inability to match L1 rate. Though the Company approached (July 2021) ICL for supply of balance/additional quantity of 2,280 MT, the supplier did not accede to the request citing its committed production plan and schedule.

The residual quantity of 2,280 MT was loaded (October 2021) to the requirement for next year (2021-22) and tendered (November 2021) for procurement of 20,402 MT[88] of CPC. Of the eight bids received, six were evaluated as technically suitable but all of them offered to supply less quantity than that tendered. ICL once again quoted (January 2022) the lowest rate (₹52,100 per MT) for offered quantity of 12,250 MT, which was higher than L1 rate of previous e-Tender by 69.54 *per cent*. As other vendors did not match L1 rate, the Company issued (March 2022) PO to ICL for supply of 12,250 MT of CPC at the new price of ₹52,100 per MT.

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[87] If L1 is qualified and offers to supply full tendered quantity, it would be allotted 60 *per cent* of the tendered quantity and the remaining 40 *per cent* quantity would be divided among L4, L3 and L2 in the ratio of 1:1.1:1.2. In case L1 offers to supply only part quantity, the allocation would be maximum 30 *per cent* of tendered quantity for L1 and 70 *per cent* among L4, L3 and L2 in the ratio of 1:1.1:1.2. The allocation would be 50 *per cent* for L1 and 50 *per cent* for L4, L3 and L2 (at L1 rate) if L1 was a new supplier and offered to supply full quantity.

[88] 18,122 MT budgeted for 2021-22 *plus* 2,280 MT carried over from 2020-21.

Audit observed that since ICL had offered to supply full tendered quantity against the e-Tender of November 2020 and other bidders did not match the L1 rate, the Company should have awarded contract for supply of full tendered quantity (17,103 MT) to ICL at the price of ₹30,730 per MT, without splitting as per SPM and NPP terms. The decision of the TC to consider Goa Carbon Ltd. for supply of 2,280 MT without obtaining consent/response of the bidder for acceptance of L1 rate was hasty and injudicious. It eventually led to procurement of CPC at a higher rate, entailing avoidable expenditure of ₹4.87 crore[89].

Government replied (April 2024) that CPC, being a critical raw material for the Company's production, depending on single supplier involved high risk in getting the material and might lead to shutdown of the plant. Hence, the Company granted time extension to Goa Carbon Ltd. Government further replied (October 2024) that the left over quantity of 2,280 MT was not procured in the next PO.

The reply is unacceptable because the PO for part of the quantity was placed on Goa Carbon Ltd. without ensuring its willingness to match L1 rate. Thus, while the Company did not award the entire 14,823 MT to an initially willing L1 bidder at ₹30,730 per MT, it irregularly placed the remaining order of 2,280 MT to an unwilling party that had not agreed to supply at L1 price and ultimately conveyed its inability. This resulted in a lost opportunity for the company to acquire its raw material at ₹30,730 per MT as against ₹52,100 per MT of the subsequent tender.

b. Purchase of Sodium Silicate

In an open e-Tender issued in May 2020 for the supply of 2,952 MT of Sodium Silicate, the tender documents (clause 27) specified that the order quantity would be split between the L1 and L2 bidders according to the Company's standard allocation norms—60 *per cent* of the tendered quantity to L1 and 40 *per cent* to L2. All three technically qualified bidders offered to supply the full tendered quantity. KGC emerged as the L1 bidder with a price of ₹11,390 per MT, and ECP, the L2 bidder, agreed to match the L1 rate. According to the standard norms, KGC, as the L1 bidder, should have been awarded 1,772 MT (60 *per cent* of the tendered quantity). However, the Company deviated from these norms and awarded the contract by splitting the order in a 70:30 ratio, with KGC receiving 2,066 MT (70 *per cent*) and ECP receiving 886 MT (30 *per cent*). No explanation or justification for this deviation was provided in the records.

In a subsequent Open e-Tender in April 2021 for the supply of 3,420 MT of Sodium Silicate, the contract was awarded in July 2021, with POs issued to ECP (L1) for 1,772 MT (51.81 *per cent*) and KGC (L2) for 1,648 MT (48.19 *per cent*). This allocation did not align with any pre-specified ratio or standard norms in the e-Tender, and the basis for determining the "eligible quantity" for each supplier was not clearly outlined.

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89 (₹52,100 - ₹30,730) * 2,280 MT.

These deviations from standard tender norms introduced inconsistencies and lack of transparency in the procurement process, raising concerns about the fairness and rationale behind the allocation of order quantities.

The Company replied (August 2023) that ECP was a new bidder against the e-Tender of May 2020 and splitting of order quantity was decided on the basis of 'eligible quantity' as per submitted proof (PO copies) of capacity.

Government replied (October 2024) that it was mentioned in the tender document that new supplier who were qualified for part quantity may be allocated a maximum of 30 *per cent* of tender quantity and accordingly, the Company allocated 70 *per cent* to L1 and 30 *per cent* to L2.

The reply is not tenable as the e-Tender specified allocation of supply quantity between L1 and L2 on the basis of status of L1 only. Similarly, splitting on the basis of eligible quantity was not a condition mentioned in the tender. KGC (L1) was an existing supplier and had offered to supply full quantity while ECP, being L2, was eligible for 40 *per cent* of tendered quantity. The e-Tender of April 2021 too contained the same criteria for splitting of order quantity, but actual allocation was done in a different ratio.

c. Purchase of Petcoke

In an open e-Tender (November 2020) for procurement of 8,832 MT of Petcoke – NPF Grade, the tender documents specified (clause 29) splitting of ordered quantity among maximum four bidders as per standard allocation ratio, considering the critical and vital nature of material and to have an effective control over supply.

Popular Lime Industries (PLI), the L1 bidder, offered to supply full tendered quantity while the two other bidders, Popular Chemicals and Sea-Som Carbon Company (SCC), offered to supply part quantity of 4,000 MT and 3,500 MT respectively. The Company arrived at the 'qualified quantity' for each bidder (on the basis of proportionate turnover and solvency) and awarded contract to PLI (L1) and Popular Chemicals (L2) for supply of 5,300 MT and 3,532 MT respectively, *i.e.*, in the ratio of 60:40, after the L3 bidder declined to match L1 price. Determination of order quantity based on 'qualified quantity' was not specified or disclosed in e-Tender. As Popular Chemicals did not meet the pre-qualification criteria (its annual turnover was ₹2.48 crore against the required ₹5.08 crore and capacity of execution of similar supply in the past was for a value of ₹1.52 crore against the required ₹2.54 crore) and SCC refused to match L1 price, the tendered quantity of 8,832 MT should have been ordered on PLI which fulfilled all conditions for pre-qualification and offered the lowest price.

Government replied (April 2024) that since the L3 party declined to match L1 price, the Company had awarded the balance quantity of 40 *per cent* to Popular Chemicals, to ensure continuous supply of material. Government also stated (October 2024) that it had directed the Company to ensure that rules and regulations of e-tender including pre-qualification criteria in selection of bidders are complied with.

The reply is not tenable as no justification was provided for awarding contract to an ineligible bidder who had not satisfied the pre-qualification criteria of

annual turnover and execution of similar contract for the required value. Thus, the award of contract to an ineligible bidder was irregular.

5.1.9.8 Legal infirmity due to absence of formal agreement with suppliers and consequent inability to recover the loss suffered on default

As per clause 9.60 of SPM, an agreement should be entered into with the successful bidder for satisfactory fulfilment of the contract, embodying the conditions of the order and providing for necessary penal clauses for any breach of conditions of the contract. Clause 10.31 provides for termination of contract at the risk and cost of supplier, after deducting the maximum amount of LD, if the contractor fails to deliver the ordered items within the specified time/period, and does not provide satisfactory reasons for the delay/default or apply for extension of delivery period.

Audit observed that the Company did not execute formal agreement with the successful bidders for supply of any material/machinery, post-issuance of POs/SOs, despite having a Legal Section/Officer for drafting and vetting contracts. Non-execution of agreement weakened the position of the Company in the event of breach of contract by suppliers as it could not legally proceed against suppliers or invoke the risk-and-cost clause while resorting to alternate procurement.

Audit observed the following cases of default in supply or breach of contract by suppliers and consequent procurement from alternate sources at higher prices, where, risk-and-cost clause could not be effectively invoked in the absence of a legally enforceable agreement, entailing loss of ₹39.27 crore.

a. Purchase of High Purity Magnesium Metal

The default in supply of High Purity Magnesium Metal by two vendors, Jinxin Minmetals International Ltd and Calcutta Metal Depot, led to procurement (January/ August 2022) of 50 MT and 100 MT at a higher price of ₹6.64 lakh per MT and ₹6.47 lakh per MT respectively from alternate sources. This resulted in extra expenditure of ₹4.86 crore[90]. Further, the shortage of High Purity Magnesium Metal adversely affected the production of Titanium Sponge in TSP Unit for a period of 10 months (11 November 2021 – 5 August 2022) leading to loss of production of 182.16 MT valued at ₹32.33 crore. In the absence of a formal agreement binding the supplier to the contract, the Company did not take action to make good the loss suffered on this account at suppliers' risk and cost.

Government replied (April 2024) that the Company had taken legal proceedings against Jinxin Minmetals International Ltd and Calcutta Metal Depot. The party had to acknowledge the POs with their seal/signature and send it back to the Company as per existing procedure.

The reply is untenable as the Company could not recover the huge loss suffered due to default in supply of High Purity Magnesium Metal as there was no formal agreement for performance of contract and the risk-and-cost clause could not be invoked while making alternate procurement. Further, the Company's reply did

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[90] ([₹6,64,000 - ₹3,28,759] * 50 MT) + ([₹6,47,000 - ₹3,28,759] * 100 MT).

not contain details of amount withheld from payments due to defaulter suppliers.

b. Purchase of Sodium Silicate

The POs issued (July 2021) on ECP and KGC for supply of 1,772 MT and 1,648 MT of Sodium Silicate at a price of ₹10,500 per MT stipulated a weekly delivery schedule of 37 MT and 34 MT respectively, and completion of supplies by October 2022. As both suppliers defaulted in effecting delivery as per schedule – ECP delivered 547.77 MT and KGC supplied 390.35 MT – the stock of Sodium Silicate depleted to 44 MT (*i.e.*, requirement for three days) in the beginning of November 2021. Citing emergency, the Company procured (November/December 2021) additional quantities of 450 MT at a price of ₹15,900 per MT and 500 MT at a price of ₹13,850 per MT from alternate sources to meet production requirement. This entailed an extra expenditure of ₹0.41 crore[91]. To meet the balance requirement, the Company invited (January 2022) open e-Tender and procured (February 2022) 1,959.96 MT from MCI and SCW at a landed price of ₹16,350 per MT, which resulted into extra expenditure of ₹0.90 crore[92].

The Company replied (August 2023) that it took earnest efforts to avoid shortage of material by resorting to procurement from alternate sources at the risk and cost of suppliers.

The reply is not tenable as Company did not furnish any evidence to establish that procurement from alternate sources was made at the risk and cost of defaulter suppliers and that the loss suffered was recovered from defaulters.

c. Purchase of Hydrated Lime

The Company issued (November 2020/January 2021) POs to Raj Lime Products (L1) and six other vendors for supply of 19,500 MT of Hydrated Lime at a landed cost of ₹7,800 per MT. The scheduled delivery period was staggered over a period of one year till December 2022. Raj Lime Products and Bright Industries (L6) defaulted in supplies while Mahesh Lime Products (L2) did not supply any quantity. Citing production requirement, the Company procured (December 2021/January 2022) the defaulted (balance) quantity of 3,574.72 MT from nine vendors (including three existing suppliers who had delivered as per schedule against earlier PO), based on enquiry/tender (November 2021), at higher prices varying from ₹9,650 per MT to ₹16,500 per MT. This resulted in an extra expenditure of ₹1.51 crore. The Company recovered (February 2023) SD of ₹10.80 lakh and ₹7.20 lakh, and withheld ₹19.05 lakh and ₹36.73 lakh, from invoices of Raj Lime Products and Bright Industries respectively. The net loss on procurement worked out to ₹0.77 crore[93].

Government replied (April 2024) that legal notices were issued to Raj Lime Products and Bright Industries during January 2024 and filing of legal suit was under progress.

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[91] ([₹15,900 – ₹10,500] * 450 MT) + ([₹13,850 – ₹10,500] * 500 MT).
[92] ([₹16,350 - ₹10,500] * 1,531.88 MT).
[93] (₹1.51 crore) – (₹0.19 crore + ₹0.37 crore + ₹0.11 crore + ₹0.07 crore).

The fact remained that the Company suffered loss due to non-execution of contractual agreement and non-invocation of risk-and-cost clause on defaulters.

d. Non-compliance of COPU recommendation

COPU, in its 68th Report, had recommended that a valid agreement should be executed, incorporating provisions for fixed price, uninterrupted supply of materials and imposition of penalty, for realising the loss incurred due to premature stoppage of supplies. GoK had then assured remedial action through recovery of LD and insistence of SD in contract documents as per NPP.

The audit findings described above demonstrate that the recommendations of COPU were not implemented.

Government stated (April 2024) that it had issued directions to the Company to make sure that the provisions in the NPP are similar to the provisions of SPM, based on the audit findings. Government further assured (October 2024) that the Company shall modify its purchase procedure to incorporate formal agreement with successful bidders including LD clauses and to collect SD from bidders.

5.1.9.9 Delay in opening Letter of Credit for supplies led to loss of saving in fuel consumption

The PFDS was a constituent of the TP Unit capacity expansion project[94], for which the Company had submitted (March 2018) a Detailed Project Report (DPR) to GoK for approval. The estimated cost of PFDS as per DPR was ₹65 crore. Citing low capacity/performance of the plant and possible non-availability of spares for the existing Tunnel Dryer and Drum Filter System, the Company's BoD decided (September 2019) to delist PFDS package from the TP Unit capacity expansion project and implement it separately. The implementation of PFDS was expected to generate fuel saving of ₹14.60 crore annually.

The SOs issued to Advent Tech DMCC, Dubai, and Advent Tech Projects Pvt. Ltd. (Indian arm of the foreign company) stipulated completion of the entire supply of PFDS (foreign as well as Indian component) within 18 months (*i.e.*, by December 2022) subject to opening of an operable Letter of Credit (LoC) by the Company within three weeks from the date of order. The Company, however, delayed the opening of LoC for supply of the foreign component of PFDS by four months (October 2021) and for supply of the Indian component by 11 months (May 2022). Supply of the foreign component was completed in September 2022 but that of the Indian component was delayed by a year due to belated opening of LoC. As the Indian component was not received (as of April 2024), the PFDS could not be commissioned/used for a year despite the receipt of foreign component. The delay in supply of PFDS resulted in loss of savings of ₹14.60 crore in fuel consumption.

Government replied (October 2024) that the delay in opening LoC was due to Advent Tech DMCC's delay in submission of necessary data/ information/ documents. Government also stated that significant work on the project had

[94] Proposed for enhancing the capacity of the plant from 40,000 TPA to 60,000 TPA.

been completed at site and after commissioning, a delay analysis report would be prepared.

The reply is not acceptable as the delay in commissioning has resulted in loss of savings in fuel consumption and the Company may explore the possibility of levying LD as per the Supply Order.

Recommendation: The Company may, in future, execute formal agreements with successful bidders for supply of critical and vital material.

Internal control

5.1.9.10 Effective internal control over procurement processes is maintained through the separation of duties among involved personnel and regular, thorough internal audits. According to the NPP (clause 11.0), a Tender Committee (TC) comprising officials from various departments must evaluate and recommend the purchase of all materials, including capital items. The TC must include a representative from the Materials Department, particularly for evaluating and recommending purchases by the TP and TSP Units. Additionally, for purchases exceeding ₹25 lakh, the Head of Department (Materials) is required to be a member of the TC.

However, an audit revealed that the Head of Department (Materials) was not involved in the procurement of high-value, project-related capital items, contrary to the provisions of the NPP. All proposals and approval notes related to the tendering and procurement of capital items from the tendering stage to the issuance of the supply order (SO) were prepared and initiated solely by the Project Department. This lack of involvement from the Materials Department, specifically the absence of the Head of Department (Materials) in the TC, was a clear deviation from the NPP's requirements.

In response to this finding, the Government stated in April/October 2024 that the Company will ensure the inclusion of the Head of Department (Materials) in the TC for the procurement of high-value project-related capital items in the future, in compliance with the NPP.

5.1.10 Conclusion

The BoD approved NPP contained deviations from the Stores Purchase Manual of GoK, which led to inconsistencies and deviations in the purchase procedures followed by the Company. The tendering process suffered from deficiencies such as purchase of high-value raw materials from chosen suppliers without inviting e-Tenders, abnormal delay in finalising tenders leading to cost escalation and significant loss of savings, improper evaluation of bids by modifying or disregarding essential pre-qualification criteria leading to award of contract to ineligible bidders, absence of contractual agreement with suppliers which exposed the Company to the risk and loss on procuring materials from alternate sources in the event of breach of contract by suppliers, and non-insistence of security deposit from overseas suppliers. It introduced bias, inequity, and non-transparency in procurement process. Internal control system over procurement activities was weak due to non-compliance of COPU recommendations and non-involvement of the Head of Department (Materials) in project-related purchases.

Kerala State Industrial Development Corporation Limited

5.2 Non-banking Financing Activities of Kerala State Industrial Development Corporation Limited

5.2.1 Introduction

Kerala State Industrial Development Corporation Limited (the Company) was incorporated (July 1961) as a fully owned company[95] of Government of Kerala (Government) with the main objectives of promoting, facilitating, and financing large and medium-scale industries, and catalysing the development of physical and social infrastructure required for industrial growth in the State. The Company is engaged in financing industrial units by providing various types of loans, establishing Industrial Growth Centers and Industrial Parks, and implements various projects and initiatives on behalf of the Government. It is a Public Financial Institution within the meaning of Section 2 (clause 72) of the Companies Act, 2013. The Company is also registered as a Non -Banking Financial Company (NBFC -non-deposit taking) under Section 45- IA of the Reserve Bank of India Act, 1934. The Company is working under the administrative control of the Department of Industries and Commerce, Government of Kerala.

5.2.2 Organisational Setup

The management of the Company is vested in the Board of Directors (BoD) consisting of ten directors. The day-to-day affairs are overseen by the Managing Director (MD), who is assisted by one Executive Director, three General Managers (GMs) and six Deputy GMs in charge of separate functional departments.

5.2.3 Financial performance

The financial performance of the Company during the three years ended 31 March 2023 is given below in **Table 5.5**:

Table 5.5 : Financial performance of the Company during 2020-23

(₹ in crore)

Particulars	2020-21	2021-22	2022-23
Income			
Interest income from loans and advances	30.03	48.83	64.23
Interest on bank deposit and dividend	14.72	23.16	16.43
Other income	9.18	23.00	35.02
Total income	**53.68**	**94.99**	**115.68**
Expenses			
Employee benefit expenses	10.71	9.03	9.71
Finance cost and Bad debt	0.03	9.91	20.05
Other expenses	17.70	21.12	21.18
Total expense	**28.44**	**40.06**	**50.94**
Profit for the year	**25.49**	**54.93**	**64.74**

[95] The Governor of Kerala held 100 *per cent* shares valued at ₹301.24 crore (*i.e.*, 30,12,435 shares of ₹1,000 each.

5.2.4 Audit objectives

The objective of Compliance Audit was to examine whether the non-banking finance activities of the Company, *i.e.*: sanction, disbursement and recovery of loans were made complying with the credit appraisal norms and loan policy of the Company.

5.2.5 Scope of Audit

The Company provides various types of loans, *viz.,* term loan, corporate loan, working capital term loan *etc*. to industrial and business units in the State. It also provides loans under specific schemes introduced by the Government from time to time for promoting establishment of business units in specific segments like women and young entrepreneurs, Micro, Small and Medium Enterprises (MSMEs) *etc*. The Compliance Audit covered the non-banking financing activities of the Company from 2020-21 to 2022-23. Audit sample included the following:

Table 5.6 :Total population and samples selected for audit

(₹ in crore)

Particulars	Sample Universe		Sample	
	No. of loans	**Sanctioned value**	**No. of loans**	**Sanctioned value**
Standard Loans	247	1,071.01	20	199.23
Non-Performing Loans	76	199.67	11	64.12
Loans closed under OTS	23	69.48	6	6.06
Pre-Closed loans	24	188.53	6	55.07
Normally closed loans	24	124.77	6	27.61
Total	**394**	**1,653.46**	**49**	**352.09**
Percentage of sample size			**12.44**	**21.29**

5.2.6 Audit criteria

Audit findings are benchmarked against:

- Government Orders and Circulars.
- NBFC directions issued by the Reserve Bank of India (RBI).
- Memorandum and Articles of Association of the Company.
- Agenda and minutes of Board meetings.
- Loan and interest policy.

5.2.7 Audit methodology

Audit findings were developed based on scrutiny of records, analysis of available data, and responses received to requisitions and enquiries. An Entry Conference was held on 20 October 2023 with the Department of Industries and Commerce, Government of Kerala to discuss the audit objectives, criteria, scope and approach of compliance audit. The draft report was issued in April/ August 2024 to the Government, and the replies were received in June/August 2024. The audit findings were discussed in an Exit Conference with the Department

of Industries and Commerce held on 03 October 2024. Replies from the Government have been suitably incorporated.

Audit findings

The audit findings are discussed in the successive paragraphs.

5.2.8 Credit Appraisal

As per the Company's policy, loan facility is extended to those applicants who secure a score of 45[96] and above in the credit appraisal process, wherein applicants are assessed based on various parameters such as experience of the promoter in the proposed activity, past performance (turnover growth, profit growth and return on equity), extent of security offered, profitability of the project *etc*. Rate of interest applicable for each loan is arrived at based on the total score obtained in the credit rating.

5.2.8.1 Deficiencies in credit rating framework

As per the credit rating framework, loanees with lower credit rating are considered as having higher risk exposure and consequently, a higher interest rate is charged, and *vice-versa*. The Company's credit rating framework (2016-17 onwards) is a nine-stage slab system with incremental increase in the interest rate by 0.25 *per cent* for every reduction in the credit score by five marks. The credit rating framework and the criteria used for assigning credit score to the applicants is detailed in ***Appendix 29***.

Audit reviewed the credit rating framework of the Company and noticed the following deficiencies in fixing the scores against the criteria as shown in **Table 5.7**:

Table 5.7 : Deficiency in fixing score

Criteria	Deficiency in fixing score
Past Performance – b. Profit growth	Average of three-year profit after tax as a percentage of sales turnover was considered, instead of considering the growth in the past three years, resulting in assignment of higher score for companies with negative growth in profits.
Return on Equity (RoE)	Reserves and surplus were not considered for arriving at the Shareholders' Fund used in the formula (Net income/Shareholders' fund), thereby giving an inflated RoE.
Profitability a. Debt Service Coverage Ratio	Debt Service Coverage Ratio (DSCR)[97] measures an entity's ability to repay its debt obligations over a period of time. While calculating forward looking DSCR of projects, it was observed that the Company calculated the same either without considering the future repayments against existing debts of the loanee and/or without considering the future repayments against the loan to be sanctioned by the Company. Thus, the

[96] The credit appraisal score consists of: (a) experience of promoter in the proposed activity (score ranging from 1-10); (b) past performance including turnover growth, profit growth, return on equity (score ranging from 0-15); extent of security offered (score ranging from 4-10) and profitability of the project including payback period and DSCR (score ranging from 2-5).

[97] DSCR = net operating income/total debt service.

Criteria	Deficiency in fixing score
	future repayments in its totality were not included in the calculation, resulting in incorrect credit scores and sanctioning of loans at a lesser rate of interest.
b. Payback period	Payback period calculation considered expected cash flow from operation without discounting (factoring in the time value of money), leading to inaccurate payback period assessment.

The deficient credit rating system has resulted in inflated credit scores being assigned to the loanees, which eventually led to charging lesser rate of interest as well as financing of ineligible projects. The instances in support of the above deficiencies are discussed in the successive paragraphs.

5.2.8.2 Defective credit rating

Audit noticed deficiencies in the application of the approved credit rating system in the evaluation of loan applications. The instances where such deficiencies were noticed are stated below:

a. Solar Offset Printers Private Limited (Loan of ₹12.50 crore sanctioned in February 2015)

The Debt-Equity (DE) ratio is used to evaluate a company's financial leverage by dividing a company's total liabilities by its shareholder equity. The Debt Service Coverage Ratio (DSCR) is a measure of the cash flow available to pay debt obligations. Lenders use the DE ratio to measure business's financial leverage and the DSCR to determine whether a business has enough net operating income to pay back loans.

Audit observed that the DE ratio and DSCR were being calculated without considering the then existing loans of the loanee from other financial institutions. Herein, if the then existing entire borrowing cost of ₹2.46 crore been considered, the average DSCR for the loan tenure of six years would have worked out to 1.57, leading to a score of 3 instead of 5 as assessed by the Company. Thus, the correct financial leverage and the ability to correctly assess the repayment ability were not being considered.

The Government replied (August 2024) that a minimum DSCR of 1.80 is required for loan approvals, and adjustments to the repayment period are made based on cash flows and DSCR. KSIDC also acknowledged an inadvertent omission of ₹220.31 lakh from the debt-equity calculation but stated that this does not impact the financial outcome or credit rating.

b. Propyl Packaging Private Limited (Loan of ₹10.80 crore sanctioned in August 2010)

The Company relied on the projected operational results provided by the loanee, without factoring in the performance, resulting in undue favourable performance outcomes. Return on Equity (RoE) was calculated without considering reserves and surplus, all of which resulted in the loanee receiving a higher credit score and consequently lower interest rate.

In addition, negative turnover growth up to 6.69 *per cent* in the preceding three years, net profit ratio of meagre one *per cent* of the sales revenue, continuous

declining trend of profit *etc.* which pointed to a critical cash flow situation of the loanee unit, thereby adversely affecting loan serviceability and consequently project viability were also not considered.

The Government replied that (August 2024) the unit was engaged in manufacturing and trading of mono layer and 3-layer packing films while the proposal was for a new high barrier 5-layer film manufacturing unit which cannot be compared with the existing capacity in terms of product, demand, and profitability. The proposal was also for enhancing capacity from 750 ton *per annum* to 5,040 ton *per annum*. It was also replied that the company was expecting its existing clients to switch over to usage of high barrier films for packaging.

The reply is not tenable as there was lack of assessment regarding the company's capability to market a significantly higher volume of 5-layer packaging when the company identified customers with an aggregate consumption of 2,160 tonnes *per annum,* while the proposed production capacity is 5,040 tonnes after expansion. The reply is also silent on the other audit observations regarding Return on Equity (RoE).

c. Accel Limited (Loan of ₹23 crore sanctioned in September 2019)

While assessing (August 2019) the loanee's credit score, turnover growth was calculated by incorrectly including income from exceptional items, while RoE was calculated without considering reserves and surplus. Similarly, extent of available security was calculated by including the net-worth of guarantors though it was neither mortgaged to the Company nor was its non-alienation insisted for.

The Government replied (August 2024) that the Company used total revenue to assess turnover growth, considering it appropriate since credit rating guidelines do not specify using only sales revenue. Also, profits from asset sales in 2017-18 were disclosed during the appraisal process. The Company calculated Return on Equity (ROE) as Net Profit divided by Share Capital alone, following its credit rating guidelines to focus on returns to equity shareholders. Including reserves and surplus could artificially inflate ROE and benefit projects operating at a loss. It was also stated that the Company has revised its credit rating mechanism with effect from January 2022 to include reserves and surplus, maintaining balance and avoiding undue advantage to non-performing units. Regarding security, the consideration of the promoter's net worth for security cover calculation aligned with the credit rating mechanism in place at that particular time. Therefore, there will be no adjustments made to the marks awarded based on this calculation.

The reply is not acceptable as the criteria was 'turnover growth' which implied that exceptional income could not be treated as turnover. The reply confirmed that the Company followed an incorrect method for calculating the ROE which had led to fixation of lower interest rate. Regarding security, the reply is not acceptable since the loan policy stipulated primary as well as collateral security for sanction of loan. Hence, inclusion of net worth as part of security for credit rating was not correct.

d. Joy's The Beach Resorts Private Limited (JBRPL) (Loan of ₹35 crore sanctioned in April 2021)

Reserves and surplus were not considered (November 2020) for arriving at the value of shareholders' fund used in the formula for RoE (Net income/Shareholders' fund), thereby giving an inflated value.

The Government replied (August 2024) that Reserves and Surplus were not considered as it did not reflect from out of the routine operations of the Company but from the amalgamation with a group entity or in the form of revaluation reserve representing difference in the market value and book value of land.

The reply is not acceptable as reserves and surplus forms part of owner's equity and hence liable to be considered for calculation of ROE.

e. Kumarakom Aqua Serene Private Limited (KASPL) (Loan of ₹4.97 crore sanctioned in August 2010)

The Company arrived at an average DSCR of 1.98, which made KASPL eligible for a credit score of 4. However, upon verification of the DSCR in Audit, the average DSCR worked out to 1.61 which would have made the loanee eligible for a score of 3 alone. In addition, though KASPL was a new unit, the criteria of 'prompt servicing of existing loan' which was applicable only to existing units, was applied for arriving at the loanee's credit score, leading to undue higher scores.

The Government replied that (August 2024) under the Company's previous credit rating system, marks were given as "Standard Assets" or "Substandard Assets" for existing customers. For new units, the Company used reports from the bankers of their existing bank accounts and for satisfactory bank reports full marks were awarded. In this case, 10 marks were given based on a satisfactory report. This practice applied to all new units. The new policy now uses CIBIL scores for marking.

Since the said parameter was applicable for existing units only, giving full marks under this parameter to a new project was against the norms fixed by the company and hence the reply is not acceptable.

f. KGR Gems and Bullion Private Limited (Loan of ₹3.75 crore sanctioned in July 2021)

The loanee, though a new unit, was incorrectly allowed (July 2021) score under the criteria 'prompt servicing of existing loan' which was applicable only for existing units.

The Government replied (August 2024) that, although the company was newly constituted, a sister concern of the promoter was already functional and had an operational bank account with HDFC Bank. The operations of this sister concern were to be merged with that of KGR Gems. The operations of the sister concern and its equipment have since been transferred to KGR Gems. Hence, points due for past performance were awarded.

The reply is not tenable as consideration of existing loan of a sister concern for past performance of first-generation promotor was not in line with credit rating framework.

g. Parison Agrotech Private Limited (Loan of ₹13 crore sanctioned in February 2020)

Profit growth, payback period and debt-equity ratio were calculated incorrectly.

The Government replied that (August 2024) the method of calculation of Profit growth, payback period and debt-equity ratio apply to the overall methodology adapted by the Company while appraising the loan cases of the corporation.

The reply is not tenable as the calculation of significant ratios for determining interest rate should have been correctly calculated for identifying the risk involved so as to fix an interest rate in accordance with the risk.

Thus, the Company did not evaluate various parameters in the credit rating assessment framework in the prescribed manner in some cases, and/or in accordance with the Generally Accepted Accounting Principles (GAAP) in some other cases. As a result of the above discrepancies in credit rating assessment, the above loans were sanctioned at low interest rates which were not commensurate with the risk profile of these companies and resulted in loss of interest revenue to the tune of ₹4.40 crore as detailed in ***Appendix 30*** and **Table 5.8** below.

Table 5.8 : Statement showing interest loss

Name of loanee	Period of Sanction	Amount of loan sanctioned (₹ in crore)	Total marks		Applicable Interest rate (%)		Loss (₹ in crore)
			Awarded by KSIDC	Calculated by Audit	As per KSIDC	As per Audit	
Solar Offset Printers Private Limited	February 2015	12.50	70.00	64.00	11.25	11.75	0.13
Propyl Packaging Private Limited	August 2010	10.80	77.50	64.00	11.50	12.50	2.04
Accel Limited	September 2014	23.00	66.50	49.00	10.00	11.00	0.62
Joy's The Beach Resorts Private Limited	April 2021	35.00	94.00	79.00	8.75	9.25	1.01
Kumarakom Aqua Serene Private Limited	August 2010	4.97	71.00	60.00	11.00	11.50	0.15
KGR Gems and Bullion Private Limited	July 2021	3.75	70.00	60.00	9.75	10.00	0.05
Parisons Agrotech Private Limited	February 2020	13.00	77.00	65.50	8.90	9.40	0.40
Total interest loss							**4.40**

5.2.9 Sanction of loan to ineligible units

The loan policy prescribed eligibility criteria required to be satisfied by applicants for sanction of each type of loan. Audit, however, noticed that in the following cases, the Company sanctioned loans despite the units not meeting the specified criteria.

5.2.9.1 The Kerala Tourism Development Corporation (KTDC)

As per lending norms effective from 30 October 2017[98], proposal for takeover of loans was to be considered only from companies with 'good track record' and that met the following criteria, *viz.,* (i) positive net-worth, (ii) cash profit in the immediately preceding five years, in three years of which net profit should have been recorded, (iii) turnover growth during the previous three years, and (iv) no over dues to other financial institutions.

The Kerala Tourism Development Corporation (KTDC) incurred a cash loss of ₹5.16 crore and could not achieve a turnover growth in the immediately preceding three financial years (2016-17 to 2018-19). Though non-compliance to these conditions rendered KTDC ineligible, the Company sanctioned ₹26.65 crore (March 2020) to it for take-over of an existing bank loan.

Similarly, while assessing the credit score of KTDC, the Company accepted exorbitantly higher operational results (Earnings Before Interest, Tax, Depreciation and Amortisation -EBITDA) for calculation of parameters like pay-back period and debt service coverage ratio, without giving due consideration to actual performance of the loanee in previous years. The actual EBITDA of KTDC deteriorated steadily as shown below during 2015-16 to 2018-19, whereas the projections for the first five years (after availing loan) relied on by the Company for loan sanction, were in extreme variance with the loanee's actual past performance.

Table 5.9 : Actual *vis-à-vis* Projected EBITDA

(₹ in crore)

Actual EBITDA				Projected EBITDA				
2015-16	2016-17	2017-18	2018-19	2019-20 (Y1)	2020-22 (Y2)	2022-23 (Y3)	2023-24 (Y4)	2024-25 (Y5)
6.28	5.82	3.07	-3.58	27.45	33.60	31.52	29.20	26.56

The Government replied that (August 2024), the KTDC has shown significant growth by expanding its services and improving infrastructure and marketing strategies, leading to higher tourist arrivals and occupancy rates. The Company prudently evaluated KTDC's potential, approving the loan based on projections and modernisation efforts. Currently, KTDC's business is at a record high, and the loan is being serviced without any defaults.

Government has not addressed any of the key points raised by Audit such as failure to ensure good track record as per the then existing lending norms and the loss of interest revenue due to deficiencies in credit rating *i.e.,* in calculation of PBP and DSCR. As per its actual financials, KTDC incurred a loss of ₹16.43

[98] Subsequently amended in November 2020 and December 2022.

crore in 2019-20. As against the projections of EBITDA ranging from ₹26.56 crore to ₹33.60 crore during 2019-20 to 2024-25, KTDC reported EBITDA of ₹(-)45.41 crore and ₹(-)40.42 crore for the year 2020-21 and 2021-22 respectively. Thus, it was highly irrational of the Company to accept the projection that KTDC, which had been incurring losses continuously and had recorded a loss of ₹3.58 crore as at the end of 2018-19 would, at the end of the next year (2019-20) make a turnaround to generate a profit of ₹27.45 crore. This indicated that the Company failed to diligently assess the veracity of the projections made by KTDC with reference to their past performance.

5.2.9.2 Kairali Steels and Alloys Private Limited

The Government introduced Vyavasaya Bhadratha Scheme (May 2020) and Covid-19 Samashwasa Padhathi to assist the Micro Small and Medium Enterprises (MSME) sector in the wake of Covid-19 pandemic. The Company sanctioned two loans of ₹2 crore each to Kairali Steels and Alloys Private Limited under Vyavasaya Bhadratha Scheme (September 2020) and Covid-19 Samashwasa Padhathi (October 2021), though the applicant unit was not eligible to be considered as MSME, as their turnover exceeded ₹250 crore. The Company's Audit Committee noted (September 2022) these irregular loan sanctions and the same was ratified (December 2022) by the Board of Directors, though it was not competent to approve deviation, if any, in the schemes introduced by the Government.

The Government replied that (August 2024) the loan was sanctioned to Kairali Steels and Alloys Private Limited by emphasising the company's good track record and the need to support industries during the Covid-19 pandemic. It was noted that while the company exceeded the MSME turnover limit, the financial assistance was approved as a regular loan at a lower interest rate without the benefits of the Covid-19 Samashwasa Padhathi.

The reply is not tenable as the schemes were specifically designed to support the MSME sector, and Kairali Steels and Alloys Private Limited did not meet the MSME criteria due to its turnover exceeding ₹250 crore. Furthermore, the Board of Directors was not authorised to approve deviations in government-approved scheme guidelines, making the loan sanction irregular. This also resulted in a non-intended Scheme beneficiary receiving the advantage of Government's subsidised interest rates.

5.2.9.3 Taj Kerala Hotels and Resorts Limited (TKHRL)

As per loan policy, sanction of corporate loan should be purely based on the strength of balance sheet, profitability, volume, and prospects of the existing business, and to meet long term fund requirement for acquisition of assets/shares or expansion/modernisation or diversification of the business. Against the above, the Company, sanctioned (February 2021), a corporate loan of ₹17 crore to Taj Kerala Hotels and Resorts Limited (TKHRL) for sustaining operations on account of revenue loss during 2018-19 and 2019-20 and for takeover of an existing working loan from State Bank of India.

Audit noticed that the unit did not satisfy the criteria of net profit for the preceding five years (2.23 *per cent* against 5 *per cent* required) and the profit showed a declining trend while the net loss increased up to 13.28 *per cent* in 2019-20. It also failed to meet the criteria of turnover growth for four years out

of the immediately preceding five years since the turnover declined during the years 2018-19 and 2019-20. The requirement of sufficient cash flow from current business operations for servicing the loan was also not satisfied as the unit incurred cash loss in 2018-19 and 2019-20 (₹11.87 lakh and ₹402.23 lakh).

The Government replied that (August 2024) that credit rating system assigns marks based on a three-year average PAT-to-sales ratio. The Company is revising credit rating system as part of new core financial software to address anomalies identified if any and the observation will be considered in this process.

5.2.10 Deviation from loan policy

The following instances of deviations from the declared loan policy were noticed during sanction of loans:

5.2.10.1 Accel Limited

As per loan policy, maximum Debt-Equity (DE) ratio for loans to infrastructure sector was 1.50:1 (*i.e.,* maximum amount of loan would be 1.5 times of the promoter contribution). Debt-equity ratio up to a maximum of 2:1 could be accepted with collateral security for the amount above 1.5 times of the promoter contribution.

The Company sanctioned (August 2019) term loan of ₹23 crore to Accel Limited with a debt-equity ratio of 1.77:1 (*i.e.,* against promoter contribution of ₹13 crore, loan was proposed for ₹23 crore) which required collateral security equivalent to ₹3.50 crore (*i.e.,* ₹23 crore - ₹19.50 crore[99]).

Against the above requirement, the Company obtained collateral security worth ₹1.40 crore alone (property worth ₹0.73 crore and lien-marked fixed deposit of ₹0.67 crore), though the loan policy stipulated for building or land only as collateral security. Further, based on a request of the loanee, the Company arranged (October 2019) for revaluation through the Revenue Department and revalued (February 2021) the property given as collateral at ₹2.68 crore, and released the lien-marked fixed deposit.

The Government replied (August 2024) that for a project cost of ₹36 crore, the maximum loan amount without additional collateral was ₹21.60 crore. Since the company required ₹23 crore, extra collateral security for ₹1.40 crore was needed to meet the Company's lending requirements. The Company noted that it had the flexibility to approve loans with a debt-equity ratio of up to 2:1, provided additional collateral was secured for the amount exceeding the 1.5:1 ratio.

The reply is not tenable as the amount reckoned for calculation was not correct. Since the promoter's contribution was ₹13 crore, the loan amount (without collateral) at 1.5 times of the promoter contribution worked out to ₹19.50 crore. Since the Company provided loan of ₹23 crore, collateral securities equivalent to ₹3.50 crore (*i.e.* ₹23 crore - ₹19.50 crore) should have been obtained.

5.2.10.2 Joy's The Beach Resorts Private Limited

The Board of Directors of the Company approved (December 2022) modified loan policy enhancing the maximum credit exposure in a specific project from

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[99] 1.5 times of promoter's contribution (1.5*₹13 crore).

₹35 crore to ₹60 crore. The Board of Directors reconstituted (February 2023) the Executive Committee and authorised the Committee to approve proposals for financial assistance over and above ₹5 crore up to ₹25 crore per case/ project proposal. Accordingly, the Executive Committee considered and approved (March 2023) a proposal for sanction of additional loan of ₹15 crore to Joy's The Beach Resorts Private Limited in addition to the loan of ₹35 crore sanctioned earlier (October 2020) by the Board of Directors, thereby enhancing the total exposure of the Company in this project to ₹50 crore.

Any enhancement of credit exposure in this project should have been approved by the Board of Directors since the financial limit prescribed for the Executive Committee was for approval of loan up to ₹25 crore only.

The Government replied (August 2024) that the project and its viability were established and approved by its Board wherein the total loan content was ₹85 crore limiting KSIDC loan at ₹35 crore, being the maximum amount sanctionable to a firm at that point of time. As this limit was increased (₹60 crore), the additional loan of ₹15 crore was approved to ensure financial closure for the project. Since the total loan component and the project parameters remained the same, the additional loan was considered as a standalone loan within the overall debt limit considered by the Board. The members of the Executive Committee are only a subset of the larger Board and the appraisal notes being placed before the Board and Executive committee contained the same details as such. Hence, there is no discrepancy in Executive Committee sanctioning a loan of ₹15 crore to the company, as it is within their powers and the project has been approved by Board of KSIDC earlier with same loan content.

The reply is not tenable. The sanction of new loan of ₹15 crore increased the Company's credit exposure to ₹50 crore. Since the same was beyond the financial limit (₹25 crore) of the Executive Committee, it should have been approved by Board of Directors. As both these loans were for a single project (beach resort), application for the additional loan cannot be treated as a standalone loan. Further, the credit exposure and sanction limits were prescribed per case/project proposal and not per application.

5.2.11 Absence of specific policy/guidelines

Audit noticed that the Company did not have a specific policy or guidelines regarding the period up to which the project appraisal and credit rating assessment once carried out could be relied upon for sanction of additional loans to the same project at a later stage. Consequently, project appraisal and credit rating assessment carried out for the purpose of sanction of one loan was being used for sanction of additional loans even after a gap of three years, as discussed below:

5.2.11.1 Joy's The Beach Resorts Private Limited

The Company sanctioned (March 2023) an additional loan of ₹15 crore to Joy's The Beach Resorts Private Limited, thereby enhancing its total exposure in the project to ₹50 crore. But the additional loan was sanctioned based on the project credentials (2017-18 to 2019-20) used at the time of sanction of the first loan (₹35 crore) in October 2020, thereby adversely affecting the reliability and accuracy of the credit rating process.

The Government replied that (August 2024) the project was initially approved by the Board with a total loan content of ₹85 crore and the promoters agreed to cover any overruns. Also, the Managing Director is authorised to approve up to 15 *per cent* overrun. Reassessing the project would create an undue burden on KSIDC's limited workforce, as the project parameters remain unchanged. The project's viability has already been established, and considering the significance of the tourism sector, there was no need for a reappraisal.

The reply does not address the ambiguity in the existing loan policy regarding the need for conducting fresh appraisal of a project before granting further assistance.

5.2.11.2 Kairali Steels and Alloys Private Limited

The Company sanctioned (September 2019) term loan of ₹15 crore to Kairali Steels and Alloys Private Limited, after conducting project appraisal and credit rating assessment as required. The next year, the Company sanctioned (October 2020) another term loan of ₹20 crore to the unit based on the same project credentials and credit rating assessment of September 2019. Since the credit rating assessment in 2019 considered the past performance of the unit up to 2018-19, at the time of sanction of second loan (October 2020), one more year had elapsed and performance of 2019-20 should have been included in the period under consideration to assess the eligibility and performance of the unit.

Government stated (August 2024) that Board had approved the project as viable with a total loan limit of ₹35 crore and the promoters agreed to cover any overruns. Also, the Managing Director is authorised to approve up to 15 *per cent* overrun. Reassessing the project would impose an unnecessary burden on KSIDC's limited resources, as the project parameters have not changed. Given the project's stability and the significance of the steel rod manufacturing sector in Kerala, a reappraisal was not required.

The reply is not tenable as it fails to address the necessity of including the 2019-20 performance data in the credit rating assessment for the second loan sanctioned in October 2020. Relying on outdated project credentials and financial assessments from September 2019 without considering the latest fiscal year's performance undermines the accuracy and reliability of the credit appraisal process.

5.2.11.3 Propyl Packaging Private Limited

The Company sanctioned two loans amounting to ₹11.85 crore to Propyl Packaging Private Limited in August 2010 (₹10.80 crore) and October 2011 (₹1.05 crore). While the first loan was to be repaid by March 2019, the second loan was to be repaid by June 2020. The loanee failed to service the loan repayments and interest and the Company did not take any fruitful action against the loanee or promoters to recover the dues. The loanee went into closure from July 2018 and the total overdue amount in respect of the loan sanctioned by the Company stood at ₹30.17 crore (February 2024). Based on the petition filed by another creditor of the loanee for insolvency resolution process under Insolvency and Bankruptcy Code 2016 (IBC), liquidation process is in process (February 2024).

Audit noticed that the loans were secured against fixed assets of the unit of which 83 *per cent* were depreciable assets like plant and machinery, building, *etc.* Considering the applicable rate of depreciation, the value of plant and machinery would have reduced from ₹12.55 crore to ₹9.30 crore after two years when the outstanding amount of loans would be ₹14.46 crore, resulting in the loan becoming unsecured by ₹3.93 crore. Further, the value of primary security kept on declining year after year, and the unsecured element of loan touched ₹6.60 crore by 2016-17, while the loan outstanding stood at ₹10.80 crore. Even if recovery action was initiated in the event of default, the value of primary security would have been much lesser compared to the original cost due to passage of time and advancement of technology.

Since the Company obtained collateral security purely based on debt-equity ratio, and in the absence of specific policy guidelines, collateral security was not obtained in this case to safeguard possible reduction in the value of primary security.

The Government replied that (August 2024) the 31.55 *per cent* security margin met KSIDC's policy requirements for loan coverage. They prioritise loans based on expected cash flow rather than on collateral security, aiming at industrial and economic development in Kerala. The matter of requiring additional security for projects having substantial machinery components will be brought before the Risk Management Committee for consideration.

5.2.12 Loans granted without following due procedures under the directions of Government

Government issued (April 2016/ March 2018/ June 2019) the following directions to the Company to release funds to Kerala State Textile Corporation Limited (KSTCL), a State PSE in the form of:

1. interest free working capital loan of ₹1.50 crore on condition that the loan would be repaid by Government.
2. Temporary loan ₹10 crore with minimum applicable interest for purchase of raw materials, to be repaid by KSTCL within six months of release of loan.
3. Payment of ₹2 crore to Indian Overseas Bank (IOB) against settlement of loan dues of KSTCL, to be refunded to the Company by KSTCL.

Accordingly, the Company sanctioned three loans aggregating to ₹13.50 crore without carrying out credit rating assessment, at an arbitrary rate of interest and without any security. In an assessment in audit, the loanee obtained a total score of 45, which called for an interest rate of 11.25 *per cent,* while the Company sanctioned loans with interest rates of 9.25 *per cent* and 11 *per cent.* The combined loss of interest income to the Company on account of sanctioning of two loans at lesser rate of interest and one loan free of cost was ₹1.55 crore.

Out of the above, KSTCL has repaid ₹ one crore (September 2016) alone, with the remaining loan amount of ₹20.63 crore (including interest overdue of ₹8.13 crore) being outstanding (September 2023).

The Government replied that (August 2024) KSIDC had communicated the terms for sanction of loans of ₹10 crore to KSTCL, like Government guarantee for the principal and interest and considering the loan amount as budgetary

provision. KSIDC sanctioned and disbursed the loans as per Government order and as per clause 143(i) of Articles of Association of KSIDC.

The reply is not tenable since the Company deviated from / violated its own lending norms.

Recommendations: The Company may:

1. ***revise its scoring criteria to assess profit growth based on actual growth rates and incorporate all relevant financial aspects in credit assessments.***
2. ***revise the credit rating system by addressing deficiencies in evaluation, adhere to loan eligibility criteria, proper assessment of financial viability, requirement of adequate security and compliance with loan policies to avoid sanctioning loans to ineligible units.***

5.2.13 Disbursement of loans

Non-fulfilment of pre-disbursement conditions

The Company prescribes standard terms and conditions, including specific conditions, if required, on a case-by-case basis which are required to be complied with by the borrower before commencement of disbursement. Audit examined the extent of adherence to the pre-disbursement conditions stipulated at the time of sanction of loan and noticed the following discrepancies:

5.2.13.1 Joy's The Beach Resort Private Limited (JBRPL) and Seraphine Dev Impex Private Limited (Seraphine)

The following table indicates the adherence/non-adherence to the pre-disbursement conditions set by the Company in the cases of two loans of ₹35 crore and ₹33 crore sanctioned (October 2020/March 2022) to Joy's The Beach Resort Private Limited (JBRPL) and Seraphine Dev Impex Private Limited (Seraphine) respectively:

Table 5.10 : Status of adherence to pre-disbursement conditions

Loanee	Pre-disbursement condition	Status of adherence
JBPRL	Tie-up the entire cost of the projects and obtain sanction letters for the balance amount of the loan to achieve financial closure for the project.	The release of two tranches of funds amounting to ₹10 crore was made by the Company without JBRPL achieving financial closure.
	Enhance authorised share capital to at least ₹62 crore prior to commencement of disbursement and allotment of shares to the extent of promoter's contribution raised at the time of each disbursement	Authorised and paid-up capital was not enhanced as required before the disbursement of loan funds in July 2021 and April 2022.
Seraphine	Enhancement of authorised share capital to at least ₹15.20 crore prior to commencing disbursement.	As per the details available in the website of the Ministry of Corporate Affairs, Government of India, authorised share capital of

Loanee	Pre-disbursement condition	Status of adherence
		the loanee continues to remain at ₹ one lakh only.

Though the loanee units did not comply with the above conditions as required to commence the disbursement of sanctioned amount, the Company either relaxed these conditions or opined that they were not required to be complied with at that point of time and released the sanctioned amount (₹10 crore in the case of JBRPL and one tranche of ₹6 crore in the case of Seraphine).

In case of JBRPL, the Government replied that (June 2024) KSIDC received in-principle sanction letter for a loan of ₹50 crore from Indian Bank at Kollam prior to disbursement of funds from KSIDC. Although enhancement of share capital was mandated as a pre-disbursement condition, it is a standard practice to permit the promoters to raise the share capital in proportion to the funds being raised from time to time for better utilisation of funds raised towards capital expenditure. In this background, the share capital has been enhanced to ₹14.25 crore.

The reply is not tenable as for JBRPL, KSIDC included the revaluation of reserve of land along with actual funds raised by the promoters, because of which the fund raised was assessed at 50.43 *per cent*. KSIDC neither received final credit sanction from any financial institution nor ensured financial closure before disbursement of funds. Regarding increase of authorised capital, it may be noted that extension of relaxation to pre-disbursement conditions weakens the safeguards envisaged through such conditions.

In the case of Seraphine Dev Impex Private Limited, Government replied (June 2024) that raising of funds through the approved means of finance was ensured strictly in every case by the middle of project implementation. As on date, Seraphine Dev Impex Pvt Limited has enhanced the authorised capital and it is now ₹20 crore.

Government further replied (August 2024) that increasing authorised capital causes significant costs without immediate benefits; hence, the company ensures periodic increases in authorised capital according to project progress. Disbursement in case of JBPRL was based on an in-principle sanction letter from their Bank and to avoid project delays, as obtaining a final sanction involves extensive documentation.

The fact, however, remains that the pre-disbursement condition regarding enhancement of authorised capital and financial closure were not adhered to at the time of disbursement.

5.2.13.2 Solar Offset Printers Private Limited

The Company sanctioned (February 2015) an equipment loan of ₹12.50 crore to Solar Offset Printers Private Limited to finance an expansion programme with an outlay of ₹16.15 crore and scheduled to be completed by June 2015. The loanee unit was required to purchase 16 items of machinery from 16 different suppliers. As per the terms and conditions of sanction, the Company reserved a right to release sanctioned amount directly to machinery suppliers.

Audit noticed that the Company released ₹3.29 crore directly to the suppliers only in two cases and the balance ₹9.20 crore was transferred (31 March 2015)

to the loanee unit's bank account. The loanee procured machineries worth ₹8.09 crore (December 2015) only, *i.e.,* only 50 *per cent* of the projected investment, and diverted the remaining funds of ₹4.73 crore. Since no further purchase of machinery was forthcoming, the Company issued (March 2016) a show cause notice, stating 'diversion of loan fund and utilisation of the same for unintended purposes', which was not replied to.

RBI had advised (March 2014) all NBFCs to engage their own auditors for certification purpose without relying on certification given by borrower's auditors. However, the Company relied on the unaudited provisional financial statements of the loanee for the years 2012-13 and 2013-14 for credit appraisal and did not carry out an independent analysis of the financial statements of the loanee to identify early signs of liquidity crunch faced by the loanee unit at that point of time such as high accounts receivable (40 *per cent* to 80 *per cent* during the period 2012-13 to 2013-14) compared to sales along with an average collection period of more than six months to realise cash from debtors. The loanee unit, in a review meeting (December 2015) had itself confirmed that it had diverted loan funds for meeting working capital due to delay in realising receivables.

Due to failure of the loanee in timely repayment of principal and interest dues, the Company declared (March 2016) the loan as NPA and initiated (June 2017) Revenue Recovery proceedings against the loanee.

Thus, negligence in reviewing the financial position of the borrower led to release of funds in disregard to the conditions of loan sanction and consequent diversion of loan funds by the loanee along with creation of non-performing assets. It may be noted that since the machinery to be purchased under the expansion project was to form the primary security, the Company did not hold any other security except machineries worth ₹8.09 crore, the value of which might have deteriorated considerably in view of passage of time.

The Government replied that (June 2024) the loanee urgently needed funds to import machinery and as per terms with suppliers, payment must be through an irrevocable letter of credit, hence the transfer to a No lien account of loanee unit. As per RBI guidelines and Company's practice, verification of documents was done before fund release, ensuring proper use of funds. The working capital shortage was mainly due to delay in payment from government contracts, but the Company adhered strictly to security requirements at sanction and disbursement. Further, the Government stated that (August 2024) the funds were released directly to the company on the basis of excellent prior experience for faster implementation of the projects after obtaining the approval of Managing Director.

The reply is not acceptable as the 292nd Board Meeting in January 2015 had approved releasing funds directly to machinery suppliers. However, ₹9.20 crore was transferred directly to the loanee's account, failing to create primary security for the Company. Additionally, the Company did not comply with RBI's directive to engage a separate auditor, instead relying on NBFC staff.

Recommendation: The Company may strictly enforce compliance with pre-disbursement conditions, conduct independent financial analysis of borrowers, and ensure loan funds are released directly to suppliers to mitigate risks and prevent fund diversion.

5.2.14 Monitoring of loans

The Company's loan policy highlighted the importance of loan monitoring by stating that there should be continuous monitoring and interaction with the borrower to assess incipient default so that preventive action is taken well in time. Before processing each disbursement request from the borrower, the Company is required to conduct field visit as well as book verification of the statement of accounts of the project, after receipt of details of fund raised by the promoters and expended in project as duly certified by a chartered accountant. In the following cases, Audit, however, noticed inefficiencies in the monitoring of loan.

5.2.14.1 Propyl Packaging Private Limited

The Company sanctioned (August 2010 and October 2011) term loan of ₹11.85 crore to Propyl Packaging Private Limited. As per the terms and conditions of loan, the promoters executed an undertaking for non-disposal and non-transfer of shares and that promoter directors shall not resign/vacate office without written consent of the Company. The loans were guaranteed by the four promoter directors who held 79 *per cent* equity shares in the loanee unit. The following aspects are noted in this regard:

- The Company did not monitor changes in the shareholding pattern of the loanee unit from time to time, and the percentage of shares held by the guarantors reduced to 6.28 *per cent* in December 2013. This rendered the personal guarantee of the promoters virtually meaningless.
- The guarantors also did not obtain prior consent of the Company for disposal/ transfer of shares and sold the controlling stake in the loanee unit to others violating their undertakings furnished at the time of sanction of loan. The Company did not initiate any action against the promoters for breach of the loan conditions.
- As per affidavits submitted by guarantors, personal assets would not be disposed of or alienated until the loan was repaid fully, and agreed to create first charge over the personal property when the loan outstanding exceeded the security margin. However, the personal properties of promoters were pledged with State Bank of India for taking further loans and the Company failed to enforce any of the rights, even though the loans became unsecured from the second year itself.

The Government replied that (June 2024) KSIDC, a developmental financial institution, prioritises promoting industries and reviving struggling units. Project failures often result from market issues, working capital shortages, technology failures, promoter disputes, or external factors. In this case, the main reason for the unit's failure was a delay in obtaining proper working capital loans from banks. Government further stated that (August 2024) KSIDC received ₹4.78 crore from the liquidation proceedings. KSIDC filed an application for bankruptcy proceedings against the guarantors of Propyl Packaging Ltd. on 24 January 2024, and order from the NCLT is awaited.

The reply is not tenable as KSIDC is not mandated to promote industries at the cost of its sustainability. The loan policy of the Company and the NBFC norms stipulate that the Company should take prudent decision to safeguard its financial interest and to ensure recovery of the loans disbursed.

5.2.14.2 Sun Power Cement Company (P) Limited

The Company sanctioned (May 2007) a term loan of ₹5.23 crore to Sun Power Cement Company (P) Limited for setting up a clinker grinding cement plant at an estimated cost of ₹10.48 crore. Since the project suffered cost overrun due to delay, the Company sanctioned (January 2010) an additional loan of ₹2.50 crore to fund the cost overrun.

Audit noticed that though the plant commenced commercial operation in November 2011, it could not sustain the production due to non-availability of clinker. To address this issue, the promoters proposed import of large quantity of clinker with associated storage facility and enhancement of production capacity from 250 ton per day to 720 ton per day. The Company sanctioned (June 2016) another term loan of ₹9.67 crore for this expansion project. It may be noted that the nominee director of the Company in the board of directors of loanee unit suggested that without having firm tie-up for continuous supply of clinker from overseas suppliers, the expansion project could fail. Accordingly, the Company stipulated in the terms and conditions of third loan a specific condition to tie-up with overseas suppliers for regular supply prior to disbursement of sanctioned amount. The Company, however, released ₹6.80 crore (out of ₹9.67 crore) without ensuring that the pre-disbursement condition was adhered to, but the loanee unit could not import the clinkers as envisaged.

The Government replied that (August 2024) the company submitted documents stating the willingness of suppliers to supply clinker on commissioning the unit, in support of regular supply of clinker to the unit. The availability of raw material and the supply were ensured this way prior to release of loan funds. At the time of inspection conducted at the unit, huge quantity of raw material was seen. It was not the raw material availability but the problems due to flood, covid and working capital shortage had affected the working of the unit. Further, Government stated that as per KSIDC, firm tie-up for clinker supply would only be possible after project completion. KSIDC has initiated steps for recovery under the SARFAESI Act.

The reply is not tenable as the fact remains that the loanee unit did not achieve final tie-ups for supply of specified quantity before disbursal of loan funds.

Recommendations: The Company may

1. ***enhance its loan monitoring practices by ensuring strict adherence to pre-disbursement conditions and conducting regular assessments of borrower compliance to safeguard its financial interests and mitigate risks.***
2. ***establish guidelines for loan monitoring process, including periodic assessment of project viability, revisiting loan conditions in case of project delays or cost overruns, and disposal or transfer of mortgaged assets.***

5.2.15 Loan Recovery

Loan recovery includes recovery of principal and interest thereon against loans sanctioned from time to time. The loan policy provided for early recall of loan, in case of default and to take legal measures for taking coercive action to take over the mortgaged property and recover the dues.

The following **Table 5.11** shows the targets fixed for recovery and actual recovery made during 2020-21 to 2022-23.

Table 5.11 : Annual target *vs.* Actual – Recovery

(₹ in crore)

Particulars	2020-21		2021-22		2022-23	
	Target	Actual	Target	Actual	Target	Actual
Principal	35.00	50.89	90.85	98.70	100.60	236.21
Interest	40.00	30.07	61.25	49.40	72.00	66.28
Total	**75.00**	**80.96**	**152.10**	**148.10**	**172.60**	**302.49**

(Source: Information furnished by KSIDC)

From the above, it may be noted that recovery exceeded the target fixed for 2020-21 and 2022-23 and the actual recovery was 107.95 *per cent* and 175.25 *per cent* respectively of the targets. The target fixed for the year 2021-22 was not achieved with a shortage of 2.63 *per cent*. If the efficiency of recovery with respect to principal and interest was looked at separately, it gave a different picture and the Company could not achieve the target with respect to interest in any of the years during 2020-23, while it exceeded the targets with respect to principal recovery in all the years. This was attributed to significant amount of loan pre-closure and settlement of loans under OTS.

The efficiency of recovery was reviewed in audit by detailed scrutiny of loans categorised under NPA and those settled under OTS, and the findings are discussed in the succeeding paragraphs.

5.2.15.1 Non-adherence to direction of Executive Committee

- **Vysali Pharmaceuticals Limited**

The Company sanctioned five loans aggregating to ₹14.16 crore during 2007 to 2019 to Vysali Pharmaceuticals Limited. This included two loans which were sanctioned in 2007 as part of rescheduling the first loan sanctioned in 1998. Due to default in payment of interest and repayment of principal, all the loans turned NPA, and the total outstanding stood at ₹72 crore as of September 2023.

Audit noticed that, at the time of sanction of the loans in 2007, the Executive Committee directed (August 2007) to closely monitor the loan repayment and for collection of additional security in case the security offered by the loanee unit fell short of the outstanding dues, and to recall the loan in case of default. Despite the loan policy providing for security of at least 125 *per cent* of the sanctioned amount, the outstanding loan (₹4.69 crore) was in excess of (June 2007) the value of mortgaged securities (₹4.35 crore) immediately after the sanction of the second batch of loans (April/May 2007). The dues continued to mount to ₹43.78 crore against which the available security was only ₹29.93 crore (June 2019). In spite of the above, an additional loan of ₹3 crore was sanctioned in August 2019.

The Government replied that (June/August 2024) the Board of KSIDC is the ultimate authority for sanction of loans and that the details of loan outstanding and the value of available security was explained to the Board of Directors for taking an informed decision.

Further, KSIDC initiated action against Vysali Pharmaceuticals through the NCLT to recover dues and NCLT ordered CIRP proceedings against loanee in October 2023.

The fact, however, remains that the Board of Directors disregarded the objections raised by the officials against sanction of loans to the Company, which was a habitual defaulter.

5.2.15.2 Undue favour to loanee units

- **Cochin Kagaz Limited**

The Company sanctioned six loans aggregating to ₹15.69 crore during September 1996 to January 2007 to Cochin Kagaz Limited which turned NPA since 2009. The loans were secured against 6.80 acres of land having a distress value of ₹9.35 crore and were guaranteed by the promoters.

Audit noticed that the loanee unit closed its operations in 2014-15 and approached (September 2015) for OTS which was not accepted by the Company since the offered settlement value (₹7.50 crore) was lower than the distress value (₹9.50 crore) of available security. The Company approved (April 2017) OTS for ₹9.50 crore but the loanee failed to comply with the terms of OTS sanction within one year from the date of approval, leading to expiry of OTS scheme. Though the OTS guidelines and standard procedures required resumption of revenue recovery and legal action against the loanee immediately after the expiration of the OTS approval, the Company did not resume the revenue recovery action.

Audit further noticed that the Company again approved OTS in October 2020 for ₹6.65 crore, extending the benefit and settlement amount as per the scheme which expired in 2017. In this regard, it may be noted that the compensation as per prevailing OTS policy worked out to ₹8.03 crore, against which the Company applied the expired OTS policy and settled for ₹6.65 crore (reduction of ₹1.38 crore). The undue benefit passed on to the loanee unit, therefore, worked out to ₹1.38 crore. Further, the Company also extended the benefit of non-enforcing personal guarantee of the promoters and did not present the post-dated cheques furnished by the promoters for securing timely repayment to avoid criminal cases against the promoters.

The Government replied that (June 2024) the reason for reinstatement of expired OTS instead of applying the prevailing OTS policy was that the total repayment exceeded the loan amount and that recovery through litigation would be time consuming. The Government further replied that (August 2024) the Board approved the extension of the earlier OTS scheme as it was deemed more beneficial compared to the Covid OTS Amnesty Scheme, which would have resulted in a lower settlement amount.

The reply is not tenable as the total repayment made against the loan account is not a valid criterion for reinstating the expired OTS scheme, which also constitutes violation of OTS policy of the company. Further, the comparison of settlement amount with the Covid OTS Amnesty Scheme is not acceptable as

the approval of Covid OTS Amnesty Scheme was under consideration of the Board, whereas the application of the loanee was received as per the New OTS policy 2020.

5.2.16 Absence of timely remedial action

The terms and conditions of loan sanction empowers the Company to call for repayment before the agreed period in the event of the loanee failing to comply with any terms of the contract or if the Company has any apprehension that the loanee will be unable to pay its debts or if the pledged property depreciates in value to a great extent and no additional security is given by the loanee, among others. However, Audit noticed that the Company did not take timely action for enforcing available legal remedies as per the terms and conditions of loan sanction, leading to prolonged delay in recovering overdue amounts with considerable loss as discussed below:

5.2.16.1 Alwaye Fertiliser Industries (P) Limited

The Company sanctioned three loans aggregating to ₹84.50 lakh to Alwaye Fertiliser Industries (P) Limited[100] during 1989 to 1991. The security offered for loan was 5.89 acres of land along with building and machinery therein and personal guarantee of promoters. Due to poor performance, the loanee unit could not repay the principal (₹11.09 lakh alone was paid towards interest) and the loanee unit ceased to operate from 1996. The total outstanding amount of ₹203.54 crore was settled (November 2020) in OTS for ₹1.86 crore.

Audit noticed that the Company initiated revenue recovery action in 2015. Though the loanee unit requested for OTS settlement, the same were not accepted by the Company due to low settlement amount compared to the value of securities. The Company, however, could not recover the dues by disposal of available securities through regular follow-up with revenue authorities. KITCO, which was engaged (November 2007) by the Company, valued the mortgaged land at ₹2.29 crore (distress sale value) which was valued at ₹6 crore by another independent valuer. Based on a request from the loanee unit, KITCO was again engaged (November 2017), for valuation and the distress sale value was arrived at ₹2.98 crore, in spite of ten years having elapsed from the first valuation. In contrast, team of officials from the Company valued (March 2016) this property at ₹13.42 crore as against the fair value of ₹17.67 crore assessed by the Revenue Department. In spite of the wide variation in valuation, the Company did not take any action to appoint another independent valuer for valuation of mortgaged property before approval of OTS in November 2020, which was a crucial element for fixation of compensation for the OTS. Further, the Company did not initiate other legal proceedings including filing petition before the National Company Law Tribunal as recommended (January 2018) by the NPA committee or insolvency petition against the guarantors or action under SFC[101] Act and SARFAESI[102] Act or under IBC Code.

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[100] The project was financed jointly with Kerala Financial Corporation (KFC) and KFC sanctioned ₹68.00 lakh.

[101] State Financial Corporation Act 1951.

[102] Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002.

The Government replied (August 2024) that the loan is settled by Covid OTS Amnesty scheme in which the value of assets will not be the criteria for fixation of OTS amount. Hence, the distress value of the property is not at all relevant in the settlement of loan under OTS.

The reply is factually incorrect as the Covid OTS Amnesty Scheme was within the overall existing OTS Policy 2020 and hence the distress value of the property is an important criterion for deciding on the OTS eligibility.

5.2.16.2 Propyl Packaging Private Limited

The Company sanctioned (August 2010)/ October 2011) two loans amounting to ₹11.85 crore to Propyl Packaging Private Limited to be repaid by March 2019 and June 2020 respectively. The loans were secured with mortgage of lease land and movable and immovable assets therein along with personal guarantee of promoters. The loanee unit could not service the loans as per the stipulated schedule and stopped its operations in 2018.

Audit noticed that though the loanee unit defaulted in repayment of loans and interest thereon from 2011-12 onwards, neither did the Company take any action to recall the loan nor did it resort to any legal measures to recover the overdue amounts like liquidating available securities and enforcing personal guarantee of the promoters, till March 2017. Though the Company moved (March 2017) for revenue recovery action, the same was withdrawn upon payment (July 2017) of ₹1.35 crore by the loanee unit with an assurance to remit the remaining overdue amount. The Company, however, did not resume the revenue recovery action even though the loanee failed to remit the balance amount, despite the primary security of plant and machinery (constituting 83 *per cent* of the total security) depreciating in value due to passage of time.

Based on the liquidation petition filed by one of the operating creditors, the Company received (September 2022 to November 2023) ₹3.76 crore and the loan outstanding stood at ₹30.17 crore (February 2024).

Thus, inability to take timely action for recovery of dues by exploring all the possible legal remedies available as per the terms of loan sanction resulted in a loss of ₹28.64 crore[103]. It may be pertinent to state that had the Company initiated action as per SARFAESI Act 2002 or Revenue Recovery Act, 1968, the possibility of sharing proceeds upon liquidation could have been avoided.

The Government replied (August 2024) that the Company had filed (January 2024) bankruptcy proceedings against the personal guarantors and NCLT orders are awaited.

The reply is not tenable as the fact remains that the delay in taking timely action proved detrimental to the interests of the Company since the expected realisation from remaining legal process was ₹1.56 crore only while the total outstanding as of February 2024 worked out to ₹30.17 crore.

5.2.16.3 Kumarakom Aqua Serene Private Limited

The Company approved (February 2020) OTS settlement for ₹11.45 crore to Kumarakom Aqua Serene Private Limited (KASPL), against an outstanding

[103] Net loan outstanding balance after adjusting for ₹1.56 crore recoverable from the liquidator stands at ₹28.61 crore.

dues of ₹17.71 crore with the entire dues to be paid by March 2021. Since the loanee unit failed to remit even the first instalment (10 *per cent*) of the settlement amount by the deadline (March 2021) the Company moved (February 2022) application before NCLT under the Insolvency and Bankruptcy Code (IBC Code).

Based on KASPL's petition (March 2022), the Hon'ble High Court of Kerala granted (March 2022) extension of time to avail OTS facility, subject to the condition that the loanee should remit 10 *per cent* of the OTS amount. Based on KASPL's remittance of ₹1.15 crore (10 *per cent* of the OTS amount), the Company granted time extension to remit the balance OTS amount of ₹10.35 crore by December 2022 with simple interest @8.75 *per cent*. On failing to meet the deadline, KASPL petitioned (April 2023) the Hon'ble High Court once again for extension of time to make the remaining payment. Against the above, the Hon'ble High Court directed (April 2023) KASPL to pay 20 *per cent* of the outstanding amount within one month and the Company was directed not to take any action against KASPL till the end of the one-month deadline. Though KASPL failed to adhere to the court order, the Company granted (July 2023) further time till December 2023 for payment of the balance OTS amount. In this respect, Audit noticed the following:

- Though the loanee failed to remit the remaining 90 *per cent* of the OTS dues (₹10.35 crore with simple interest @8.75 *per cent*) by the extended timeline of December 2022, the Company withdrew (December 2022) the case filed with NCLT, on the basis of a request to such effect from the loanee.
- The Hon'ble High Court had restricted the Company from taking any action against KASPL for the one-month extended period (April-May 2023) alone. However, in spite of the loanee violating the directions of the Hon'ble High Court regarding remittance of 20 *per cent* of the OTS amount within the said deadline, the Company did not initiate any recovery measures against KASPL. Instead, the Company granted (July 2023) a further six-month time extension to the Company (up to December 2023).
- The Company also did not take any action as per SARFAESI Act 2002 or Revenue Recovery Act, 1968 or legal action for enforcing personal guarantee of the promoters.

Thus, the Company failed to initiate timely action to recover the dues from the defaulting loanee by resorting to any of the remedial measures available to it.

The Government replied (August 2024) that KSIDC sanctioned an OTS package to the company under the Covid OTS Amnesty Scheme and stated that they granted additional time to facilitate fund-raising and potential investment, emphasising their preference to revive the unit rather than enforce stringent recovery measures. KSIDC aims to balance recovery efforts with support for ongoing operations, adhering to their policy of offering honourable exits for failed businesses while improving loan recovery efficiency. Further, KSIDC again filed NCLT proceedings to recover dues and action would be taken against the personal guarantors after the proceedings.

The reply of the Government was not tenable as withdrawing the case from NCLT after the loanee failed to remit the OTS dues by the extended deadline was against the best interests of the Company. Despite the loanee violating the

High Court's directive to remit 20 *per cent* of the OTS amount within the specified deadline, the Company did not initiate recovery measures and granted further time extension without valid reasons. Additionally, the Company did not provide specific justifications for not invoking the personal guarantees of the promoters.

Recommendation: The Company may promptly take decisive actions in loan recovery to avoid undue favouritism to loanee units, including timely initiation of legal proceedings, adherence to stipulated timelines.

Conclusion

The deficient credit appraisals before sanction of loans and deviation from loan policy and laid down government guidelines resulted in fixation of lower interest rate leading to consequent revenue loss of ₹5.95 crore as well as sanction of loans amounting to ₹47.65 crore to ineligible borrowers. Non-adherence to or relaxation of pre-disbursement conditions resulted in early/undue release of loan tranches. Recovery efforts were delayed due to non-adherence to directives, undue favours to loanee units and absence of timely remedial action.

Travancore Cements Limited

5.3 Avoidable expenditure due to delayed payment of GST

Belated payment of GST and delay in filing of GST returns resulted in avoidable expenditure towards interest and late fee of ₹1.59 crore

As per Section 50 of the Central Goods and Services Tax Act, 2017 (CGST Act) and Section 50 of the Kerala State Goods and Services Tax Act, 2017 (SGST Act), every person who is liable to pay but fails to pay the tax within the period prescribed would be liable to pay interest at the rate notified by the respective Governments. Further, Section 39(1) of both the CGST and SGST Acts state that every registered person should electronically furnish a return of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid *etc*. on or before the twentieth day of the month succeeding such calendar month. As per Section 47(1) of CGST and SGST Acts, failure to furnish such returns attracts a late fee of one hundred rupees per day subject to a maximum amount of ₹5,000 for each month.

Travancore Cements Limited (Company) is engaged in the production of White Cement. The Company was liable to pay ₹7.26 crore towards GST[104] for the period from July 2017 to March 2022. Audit noticed that though the output GST was already collected from the dealers/ consumers, the Company failed to remit the GST to the Department and to file GST returns in time, as required under the CGST and SGST Acts. As a result of delay in payment of GST and filing of returns, the Company had to pay interest (under section 50 of CGST and SGST Acts) for belated payment of GST and late fee (under section 47(1) of the CGST and SGST Acts) amounting to ₹1.59 crore[105] from July 2017 to March 2022. The actual GST liability of ₹7.26 crore for the period July 2017 to March 2022

[104] Central GST, Integrated GST and State GST.

[105] ₹1.54 crore towards interest for the belated payment of GST + ₹0.05 crore towards late fee for late filing of returns.

together with the interest and late fee of ₹1.59 crore was paid by the Company during the period from November 2019 to April 2022.

The Government replied (October 2023) that due to acute shortage of working capital by the end of 2016-17 and reduced production in 2017-18, they were forced to divert the output GST collected from dealers and consumers for operational activities of the Company. This resulted in non-payment of GST and delay in filing of GST returns.

The reply of the Government confirmed that there was delay in payment of GST as well as in filing of GST returns because of diversion of output GST for other working capital purposes. The reply of the Government is not tenable, since the GST dues have to be paid on time as per the CGST and SGST Acts.

Thus, due to the delay in remitting GST and filing GST returns, the Company had to incur avoidable expenditure of ₹1.59 crore towards interest and late fee, which was 21.90 *per cent* of the actual GST liability.

Recommendation: Government should ensure that the Company pays GST and files GST returns without delay so that expenditure on interest and late fee is not incurred.

5.4 Avoidable extra expenditure on procurement of white clinker

Delay on the part of the Government in constituting the Board of Directors resulted in procuring White Clinker at higher rates at an extra expenditure of ₹0.45 crore

Travancore Cements Limited (Company), a Public Company owned by the Government of Kerala (GoK), is engaged in the production of White Cement. The Company had been procuring White Clinker, a raw material used for manufacturing White Cement by inviting tenders on annual basis.

The annual contract entered with M/s. Sreelekshmi Cashew Exports (SCE) for procurement of White Clinker upto 2,000 Metric Tonnes (MT) per month expired on 16 September 2021. As the contractor refused (August 2021) to extend the contract at the existing rate of USD 89.89 per MT for a further period of six months, the Company invited (September 2021) tenders under rate contract basis for procurement of White Clinker, for one year. The monthly requirement of White Clinker was estimated at around 2,000 Metric Tonnes (MT). As per the General Terms and Conditions of the Tender, the last date of submission of bids was 16 October 2021 and the price quoted should be valid for 120 days[106] from the last date of bid submission and the same rates shall be firm till the end of the contract. Clauses 11 and 29 of the Tender stipulated that on acceptance of Tender, an Agreement with a validity of one year was to be executed in stamp paper incorporating the terms and conditions of the Tender. Clauses 18, 22 and 24 of the Tender enabled the Company to cancel the contract in case of breach of contractual obligations by the supplier and to purchase the item from elsewhere at the risk and cost of the supplier.

The Company received (October 2021) three bids in response to the Tender. SCE, who quoted the lowest rate of USD 94.89 per MT, was the successful bidder. The total estimated value of the contract to be executed was ₹17.49

[106] *i.e.,* up to 13 February 2022.

crore[107]. As per the delegation of financial powers, the Managing Director was authorised to approve purchases only up to ₹50 lakh and hence, sanction of the Board of Directors was necessary to enter into a contract with the successful bidder.

As per Section 149(1)(a) of the Companies Act 2013, every public company shall have a minimum of three directors in its Board of Directors. The Company had only two Directors in its Board as on 04 October 2021 to 14 February 2022, as the vacancies which arose out of resignation / retirement[108] were not filled up by GoK. This was not only insufficient to constitute the Board of Directors but was also in contravention to the provision of Section 149 of Companies Act, 2013. Though the Managing Director requested (October 2021) the GoK to appoint the necessary number of Directors as required by law, the GoK did not act upon the request of the Company till February 2022.

Since the number of directors fell below the lawfully required number of directors to constitute and convene a Board Meeting, the Company could not (November 2021) execute the necessary contract with SCE. As the stock of White Clinker with the Company was depleting and came down to just one month's production requirement, the management entrusted (November 2021) the Tender Committee to negotiate with the supplier and buy the required minimum quantity. After negotiation, the Company purchased (December 2021 to June 2022) 5,135.41 MT of white clinker from SCE at the agreed rate of USD 94.89 per MT. Nevertheless, these purchases were made without a legally enforceable contract.

In February 2022, the GoK appointed one more director to the Board thus increasing the number of directors to three. As the Board of Directors with its full strength came into existence, the Company decided (22 March 2022), to execute an agreement with SCE in accordance with clause 29 of the Tender. SCE, however, refused to execute an agreement and informed (10 April 2022) their inability to supply clinker at the agreed rate of USD 94.89 per MT and demanded a hike in price by USD 24 per MT.

Audit observed that the Company could not contemplate any legal remedy against the supplier because the validity of their offer had expired (13 February 2022) and there was no enforceable contract with the supplier. Hence, the Company invited (28 April 2022) fresh e-tender[109] for the supply of Clinker for a period of one year. The Company received two bids in response to the tender and SCE was again the L1 bidder who quoted at USD 134.69 per MT and agreed to supply at USD 130 per MT after negotiation. As the rate was higher compared to the previous rates received, the Company decided (July 2022) to procure only 2,500 MT Clinker for two months and to invite fresh e-tender for further procurement. Meanwhile, the Company issued (13 July 2022) PO for 2,500 MT against which SCE supplied (August 2022) 1,580.21 MT[110] at higher rate of

[107] 24,000 MT (estimated purchase quantity) x USD 94.89 (rate per MT) x ₹76.82 (exchange rate).

[108] From Government service.

[109] Tender No. TCL/MM/ETEND/2022-23/3.

[110] Vide three invoices dated 02/08/2022, 24/08/2022 and 31/08/2022.

USD 130 per MT, resulting in excess expenditure of ₹0.45 crore[111].

Thus, the delay on the part of the Government to constitute the Board of Directors of the Company prevented it from executing a contract with the supplier. Hence, the Company could not insist on the contractor to supply the item at the agreed rate. A formal agreement incorporating clauses 18, 22 and 24 of the Tender would have helped the Company to purchase the item from alternate source at the risk and cost of the supplier and avoided the extra expenditure of ₹0.45 crore. It is pertinent to mention that such a clause was incorporated in the previous agreements entered into by the Company for the purchase of Clinker.

The Government replied (October 2023) that the delay in appointing Directors to the Board of the Company was due to administrative reasons. Further, the issue was discussed in the next Board Meeting of the Company in which it was opined that the tender committee could negotiate, execute agreement and place order for the materials and the same should be informed in the next Board Meeting. It also stated that presently, the Government is closely monitoring such cases and ensuring the timely appointment of Directors to the Board of various PSEs.

The reply of the Government confirmed that there was a delay in appointing the Directors to the Board and Audit observed that the authorisation given to the Tender Committee for purchase of materials was on case-to-case basis and not a standing order for all purchases.

Thus, the Company incurred an avoidable extra expenditure of ₹0.45 crore due to delay on the part of the Government to constitute the Board of Directors and consequent non-execution of an agreement with the supplier.

Recommendation: Government should ensure that the Company has the required number of Directors in its Board so that its functioning is not affected adversely.

Handicrafts Development Corporation of Kerala Limited

5.5 Undue benefit earned by way of interest from Grants-in-aid of Central Government

The Company violated the provisions of General Financial Rules, 2017 as it failed to remit to the Consolidated Fund of India, the interest of ₹1.16 crore earned from deposit of Central Government's Grants-in-aid

Handicrafts Development Corporation of Kerala Limited (Company) functioning under the Industries Department, Government of Kerala (GoK), was incorporated in 1968 for undertaking developmental, marketing and welfare activities in the handicrafts sector of Kerala.

With an aim of creating a sustainable and remunerative livelihood for the artisans/ weavers in Kerala, the Ministry of Textiles (MoT), Government of India (GoI) sanctioned (February 2016) the 'Integrated Development and Promotion of Handicrafts' (IDPH) project in Kerala at a total estimated cost of

[111] 1,580.21 MT at USD 35.11 per MT (USD 130 per MT less USD 94.89 per MT) at average exchange rate of ₹80.71 for the last three invoices.

₹25.15 crore. The main objectives of the project were to scale up infrastructural components, modernisation of tools and machines and providing market linkage for products to sustain the livelihood of the State's artisans.

The first instalment of ₹9.09 crore[112] as grant-in aid was released (February 2016) by the Implementing Agency[113] (IA) to the Company, for implementing different components of the project. As per the terms and conditions of the sanction, the activities of the project were to be completed within 12 months from the date of release (26 February 2016) of first instalment.

Based on the Company's request (October 2017/August 2019) the IA granted (June 2018/May 2020) extension till 31 March 2021 to complete the project. However, as the Company was unable to complete the project even in the extended period, IA announced (June 2021) expiration of the Scheme and called for the Utilisation Certificate (UC)/refund of the unspent balance. Out of the total expenditure of ₹8.78 crore on the project, the GoI share was ₹7.56 crore and the Company refunded (December 2021) ₹1.53 crore[114] to the GoI.

In this regard the following aspects were noticed by Audit:

(i) The Principles and Procedure for award of grants-in-aid have been laid down in Rule 230 of General Financial rules (GFR) 2017, which is applicable to the institutions/organisations receiving the Grants-in-aid from the Government of India. Rule 230 (8) of the GFR stipulates that, "All interests or other earnings against grants in aid or advances (other than reimbursement) released to any grantee institution should be mandatorily remitted to the Consolidated Fund of India immediately after finalisation of the accounts". This was reiterated (March/June 2021)[115] by the Ministry of Finance (Department of Expenditure) wherein the Single Nodal Agencies (SNAs) were to ensure that interest earned from the funds released was mandatorily remitted to the Consolidated Fund.

(ii) Out of the total grant amount of ₹9.09 crore received from GoI, the Company deposited (April 2016) ₹7 crore as short-term deposit. The Company earned an interest of ₹1.16 crore ***(Appendix 31)*** from the deposit during the period from 2016-17 to 2020-21.

(iii) The interest so earned was utilised by the Company for its own working capital requirements, payment of statutory dues on EPF, payment to suppliers *etc*., thereby availing an undue benefit of ₹1.16 crore from the grant by way of interest, in violation of GFR.

The Company stated (March 2024) that most of the employees in its showrooms and head office were involved in various components of the project, which affected the day to day activities and also sales revenue of the Company. Further, it had to incur additional expenses in implementation of the project,

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[112] In two installments of ₹1.50 crore (sanction number 11011/22/2015-16/IDPH/Kerala (1) dated 26/02/2016 and ₹7.59 crore (11011/22/2015-16/IDPH/Kerala/1718 dated 26/02/2016).

[113] Development Commissioner (Handicrafts) [DC(H)], MoT, GoI.

[114] ₹9.09 crore less ₹7.56 crore.

[115] OM No.FNo.1(13)/PFMS/FCD/2020 &2021 dated 23.03.2021 and 30.06.2021 on 'procedure for release of funds under the Centrally Sponsored Schemes (CSS) and monitoring utilisation of the funds released'.

which were over and above the parameters prescribed in the sanction order, for the benefit of the artisans. Additionally, the Company faced severe financial crisis triggered by natural calamities/Covid-19 pandemic as well as several litigation issues due to non-remittance of statutory payments. Hence, the interest received from the project fund was utilised for meeting urgent statutory payments on the assumption that the amount could be recouped after getting financial assistance from the State Government, which was not received as anticipated.

Government endorsed (April 2024) the reply of the Company.

The reply is not tenable as the appropriation of interest revenue belonging to GoI for meeting the Company's financial outlays or for meeting expenditure stated to have been incurred over and above the parameters prescribed in the sanction order, was an irregular act in violation of the provisions of the GFR 2017.

Thus, the Company obtained an undue benefit of ₹1.16 crore through irregular appropriation of interest earned on deposit of GoI grant, which may be remitted to the Consolidated Fund of India.

Recommendation: Government should ensure that the Company refunds to the Consolidated Fund of India, the interest earned on deposit of Grant -in-aid funds received from Government of India.

Transport Department

Kerala State Road Transport Corporation

5.6 Avoidable payment of GST

Failure to apply the relevant provisions of Goods and Services Tax in the execution of contract with a private party resulted in avoidable payment of Goods and Services Tax of ₹1.55 crore

Kerala State Road Transport Corporation (Corporation) invited (02 August 2017) limited tenders from vehicle manufacturers for hiring of 25 premium segment diesel fuelled Multi-Axle (Semi-Sleeper Class- BS IV) buses on wet lease[116] basis for a period of five years. The successful bidder had the option to operate the buses either directly or engage an operator for this purpose. Scania Commercial Vehicles India Private Limited (Scania) emerged (August 2017) as the successful bidder and appointed Maha Voyage LLP (Maha Voyage) as its operator. Consequently, on experimental basis, the Corporation hired (August 2017) 10 Scania buses from Maha Voyage for a period of five years. As requested (August 2017) by Scania, an agreement was signed (15 September 2017) between the Corporation and Maha Voyage for hiring Scania buses on wet lease basis. Maha Voyage would provide driver, take care of the operational expenses of the buses and the Corporation would pay hiring charges to Maha

[116] Under the wet lease model, the lessor who owns the buses will provide buses as well as one or more crew members to the lessee, for a fixed rate per-kilometre.

Voyage at the accepted rates, ranging[117] from ₹23 to ₹27.72 per kilometre. During the period of the contract from November 2017 to October 2022, the Corporation paid ₹17.11 crore[118] towards hire charges to Maha Voyage.

Clause 51 of the agreements mentioned above stated that Goods and Services Tax (GST) on hiring charges, if applicable and paid by Maha Voyage, would be reimbursed by the Corporation on production of proof of payment. However, as per the Government of India Notification No.09 of 2017 dated 28 June 2017, the applicable GST rate for 'services by way of giving on hire to a state transport undertaking a motor vehicle meant to carry more than twelve passengers' was 'Nil'. Hence, neither Maha Voyage nor the Corporation was liable to pay GST on the hire charges. This was also confirmed (February 2022) by the Central and State GST Departments.

During the period from November 2017 to March 2019, the Corporation reimbursed the claim of Maha Voyage for ₹1.55 crore towards GST. Though the Corporation stopped the reimbursement of GST for the above service from April 2019 onwards, Maha Voyage continued to raise GST reimbursement claims through the rest of the contract period from April 2019 to October 2022. However, the Corporation failed to persuade Maha Voyage not only to refrain from raising such claims but also to file refund claim of the GST remitted (November 2017 to March 2019) by them, within the timeframe of two years from the date of remittance as prescribed under section 54(1) of Central Goods and Services Tax Act 2017. As the period for raising refund claims has since expired (March 2021), the Corporation has incurred an avoidable expenditure of ₹1.55 crore.

The Corporation replied (October 2023) that there was lack of proper and clear guidelines and it had got clarity about the exemption rule only during 2019. From that point onwards, the Corporation had been paying only the invoice amount to Maha Voyage excluding GST. The Government endorsed (November 2023) the reply of the Corporation.

The reply of the Corporation is not acceptable. Though the notification issued by the Central and State Governments (28 and 30 June 2017) regarding the above said exemption had come into force before the agreements were entered into (September/October 2017), the same were not considered and incorporated in the agreements.

Thus, lack of awareness about the provisions of GST laws, failure to incorporate the same in the agreement and to initiate timely action to persuade Maha Voyage to claim refund of GST within the prescribed time limit, resulted in an avoidable expenditure of ₹1.55 crore towards payment of non-applicable GST.

Recommendation: Government should direct the Corporation to take legal action against Maha Voyage to make good the loss suffered on account of failure to claim GST refund within the permissible time limit.

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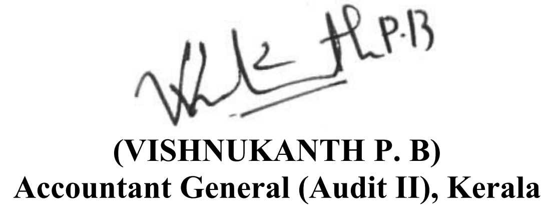
[117] (i) 600 to 649 kms - ₹27.72 per km; (ii) 650 to 699 kms - ₹26.40 per km; (iii) 700 to 749 kms - ₹25.50 per km; (iv) 750 to 799 kms - ₹24.00 per km and (v) 800 kms and above - ₹23.00 per km.

[118] inclusive of ₹1.55 crore towards GST from November 2017 to March 2019.

Responsiveness on the Paras by Government on this Report

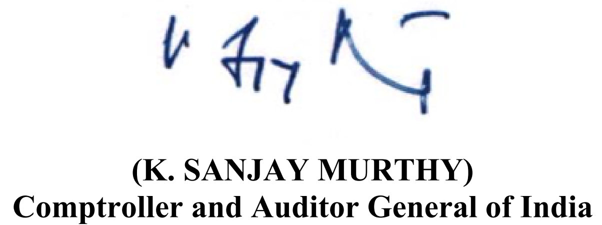
5.7 Statements of Facts followed by Draft Audit Paragraphs proposed for inclusion in this Report of the Comptroller and Auditor General of India were forwarded to the Principal Secretaries/ Secretaries of the two Departments[119] concerned drawing their attention to the audit findings and requesting them to send their response within four weeks. Replies to all the Audit Paragraphs were received from Government which are suitably incorporated in this Report.



Thiruvananthapuram,
The 04 March 2025

(VISHNUKANTH P. B)
Accountant General (Audit II), Kerala

Countersigned



New Delhi,
The 07 March 2025

(K. SANJAY MURTHY)
Comptroller and Auditor General of India

[119] Industries and Commerce, Transport.