

CHAPTER XXVI: MINISTRY OF POWER

National Hydroelectric Power Corporation Limited

26.1 Taxability of perquisites

The Company was treating three taxable perquisites as non-taxable in contravention of the provisions of the Income Tax Act. On being pointed out by Audit, these perquisites were categorised as taxable income with effect from the financial year 2004-05, thereby avoiding recurring loss to the exchequer.

National Hydroelectric Power Corporation Limited (Company) developed a software system for calculating the income tax payable by employees as per the Income Tax Act. The system was designed with a flexible code structure so that any new rule related to income tax could be incorporated/deleted from the system without involving any change in the program or database. All the components of the salary of the individual employee were categorised as 'Earnings' or 'Deductions'. For the purpose of income tax calculation, these components were defined into three categories, viz. Taxable, Non-taxable and Rebatable.

While reviewing the database at Corporate Office of the Company, it was observed in Audit, as detailed below, that three perquisites, viz. lease maintenance, leave travel concession (LTC) and conveyance allowance, allowed to the employees were being treated as non-taxable in contravention of the provisions of the Income Tax Act:

- (i) Employees availing the facility of leased accommodation were entitled to an amount equivalent to two months' rent per year for repair and maintenance of the house property on self-certification basis. While reviewing the system it was observed that the Company was treating this amount as non-taxable in the hands of employees.
- (ii) The Company introduced (December 2000) LTC scheme under which the employees were allowed LTC for distance of upto 1,400 kilometres on the basis of self-certification. Though the amount payable under this scheme was taxable in the hands of employees, the same was categorised as non-taxable.
- (iii) As per the Central Board of Direct Taxes (CBDT)'s circular dated 25 September 2001, the sum paid/various facilities provided by the employer to employees, over and above the prescribed limit, are treated as perquisites and are taxable in the hands of the employee. Regarding use of motor car, the circular provides that where an employee owns a motor car and the running expenditure is met or reimbursed by the employer and such reimbursement is for the use of the vehicle partly for official purpose and partly for personal purpose of the employee then the sum paid in excess of the limits specified in the circular would be treated as perquisites for the purpose of levy of income tax. It was seen that the entire conveyance allowance paid to employees was treated as non-taxable without

complying with the conditions stipulated by CBDT, such as maintaining user details in the form of log book, odometer reading etc.

On being pointed out in Audit, the Company revised (December 2004) the taxability of these perquisites by categorising the same as taxable income with effect from the financial year 2004-05, after taking the opinion of tax consultants.

The Management replied (May 2005) that the Company had recalculated the tax liability of the employees of the Corporate Office after re-categorisation of the three items. The difference between the tax liability before and after changing the taxability status of these three items was Rs.80.08 lakh (approximately) for the financial year 2004-05, which was deducted from the salaries of the employees (January to March 2005). Position regarding deduction of differential amount of tax in respect of other units of the Company was awaited.

Thus, by rectifying the category of perquisites at the instance of the Audit, recurring loss to the exchequer was avoided.

The matter was reported to the Ministry in December 2005; its reply was awaited.