

Chapter-IV

Transaction Audit Observations

Important audit findings arising out of test check of transactions carried out by the State Government companies and Statutory corporations are included in this Chapter.

Government companies

Madhya Pradesh State Mining Corporation Limited

4.1 Mining and marketing activities

4.1.1 The Company is engaged in acquiring mining leases, raising and selling minerals and acting as intermediary for trading of minerals. As on 31 March 2008, the Company had nine leases for five major minerals (Bauxite-three, Dolomite-one, Diaspore/ Pyrophyllite-one, Rock-phosphate-four), 16 leases for minor minerals (Granite-13, stone-three) and 431 sand quarrying rights. The Company raised minerals by subcontracting the mines. The Company was allotted (October 2006) 10 coal blocks by the Ministry of Coal (MOC) for which the lease order was yet to be received from the State Government.

The activities of the Company with regard to mining of minerals, marketing of products and acquisition of unviable quarries were examined in audit during July 2008 and important audit findings are discussed in the succeeding paragraphs.

Mining activities

Failure to take advantage of the market condition

4.1.2 The Company proposed (September 2004) a mining scheme for raising 1.22 lakh MT of metal grade bauxite out of minable reserve of 3.33 lakh MTs from their Naro hills mines for the period from April 2004 to June 2007. The mines were to be surrendered to the Government in June 2007 on expiry of lease. In June 2007 the mines were handed over to the Government after raising total quantity of 1.04 lakh MT of metal grade bauxite during August 2003 to June 2007.

It was observed in Audit that in July 2004, the Company entered into a tripartite agreement with Katni Bauxite Private Limited and Hindalco Industries Limited for supply of one lakh MT of mineral per annum from Chachandih mines. It was seen that production from Chachandih mines started only in December 2006. In order to meet the requirement of Hindalco, for the period from July 2004 to November 2006, JVC could have made use of the mineral available in Naro hills. The Company, however, failed to take advantage of the mine by suitably modifying the scheme for meeting the provisions of tripartite agreement and prepared mining plan/schemes for lesser quantity and raised 1.04 lakh MTs only from August 2003 to June 2007.

The Management stated (March 2008) that the JVC excavated mineral according to their needs. The reply does not explain the reasons for not utilising the available mineral reserve to meet the market demand by suitably modifying the mining schemes. Thus, failure of the Company to extract mineral as per mining plan and to exploit the advantageous market situation resulted in loss of commission of Rs. 12.90 lakh³⁴.

Marketing of Minerals

Non revision of selling price

4.1.3 The Company was selling low grade Rock phosphate raised from its mines at Meghnagar and Hirapur areas. The selling prices of the minerals were fixed by the Company on the basis of the price of similar product produced by the Rajasthan State Mining and Minerals Corporation (RSMMC).

The selling prices were fixed in December 2000 (Hirapur) and April 2001 (Meghnagar) which were revised only in April 2006. During 2003-04 to 2005-06, Rock Phosphate rates were Rs. 228.57 and Rs. 142.86 per MT in respect of Meghnagar and Hirapur mines respectively. During this period rates fixed by RSMMC was Rs. 800 per MT. The price of Meghnagar/Hirapur products was again revised by the Company in November 2006/December 2006 on the basis of the highest rates quoted in the open tenders invited. Audit observed that there was steady increase in the volume of sale from 2004-05. While the sales of Meghnagar increased from 9,401 MT (2003-04) to 64,449 MT (2005-06), it rose from 668 MT (2003-04) to 56,264 MT (2005-06) in respect of Hirapur. Thus, considering the phenomenal increase in rates, the Company should have revised the prices upwards in April 2005 itself.

On being pointed out, the Company stated (April 2008) that there was no stability in sales. The reply is not consistent with the fact that increase in sale

³⁴ $122000-103841 = 18159 \text{ MTs @ Rs. } 71 \text{ per MT} = \text{Rs. } 12.90 \text{ lakh.}$

was evidenced by steady growth in the sale volume of the product of both units in 2004-05. Besides, selling price of the similar product of RSMMC during 2004-05 and 2005-06 was much higher than the rates finalised on tender basis subsequently in April and December 2006. Thus, non-revision of the selling prices in April 2005 itself resulted in loss of Rs. 57.48 lakh on the quantity sold during 2005-06 when compared with the price quoted in the open tender in April 2006.

Advance payment of royalty

4.1.4 The Company deposits royalty in advance with the mining branch of the respective Collectorates based on the previous month's production and obtains transit pass books. These passes are issued to each vehicle transporting the mineral. Any excess or shortages are adjusted at the time of assessment of royalty by Collectorate. The assessment has not been completed (period from which assessment is pending is not known). The year-wise opening balance, amount deposited and royalty due for the last five years ending 31 March 2008 were as under:

(Rupees in lakh)

Year	Opening Balance	Advance Royalty Paid	Royalty Due on Sales	Closing Balance	Excess royalty paid (in terms of months production)
(1)	(2)	(3)	(4)	(5)	(6)=(5/4*12)
2003-04	102.60	763.36	690.08	175.88	3
2004-05	175.88	1043.36	911.18	308.06	4
2005-06	308.06	1435.80	1358.39	385.47	3
2006-07	385.47	1735.96	1658.98	462.45	3
2007-08	462.45	1635.23	1597.34	500.34	4

From the above, it would be seen that the advance royalty paid to the Department was always more than the royalty due which indicated that there was no proper system for estimating the royalty to be paid in advance. This has resulted in locking up of Company's funds without any benefit.

The Management stated (April 2008) that the main reason for the depiction of higher amount was non-assessment of royalty by the concerned collectors. The reply was not acceptable as the assessment by collectors is only to finalise the amount due to them. The fact remains that Company could have avoided payment of excess advance royalty by proper monitoring of the production and sale of the mineral.

The matter was reported (September 2008) to the Government: their reply was awaited (November 2008).

Madhya Pradesh State Civil Supplies Corporation Limited

4.2 Avoidable payment of interest

Incorrect estimation of Income Tax liability resulted in payment of interest of Rs. 2.18 crore during 2001-02 to 2005-06.

Under Section 208 read with section 210 of the Income Tax Act, 1961 (Act), it is obligatory for an assessee to pay Advance Income Tax (AIT) during the financial year in case the estimated amount of income tax payable exceeds Rs.5000. The AIT on the current income is to be paid in four quarterly installments during the financial year. If the amount of AIT falls short by more than 10 *per cent* of the assessed tax, the assessee is liable to pay simple interest for default in payment of balance tax at the rate of one *per cent* per month (1.25 *per cent* till 2003-04) under Section 234B of the Act on the amount by which the advance tax paid falls short of the assessed income tax. Further, interest at the rate of one *per cent* per month (1.25 *per cent* till 2003-04) for deferment of AIT under section 234C of the Act is also payable if the total AIT fell short of total tax liability.

A scrutiny of records of Company revealed that the Company failed to estimate its taxable income in a fairly reasonable manner. As a result, advance tax paid by the Company fell short of assessed income tax during 2001-02 to 2005-06. Consequently, the Company paid Rs. 2.18 crore towards interest on short payment of advance tax under section 234B and 234C of the Act during the financial years from 2002-03 to 2006-07.

Audit analysis further revealed that:

- The shortfall in payment of advance tax was 51.73 and 46.05 *per cent* during 2002-03 and 2003-04 respectively, indicating that estimation process during these two years was defective.
- The Company had not paid advance tax due on 15 June 2002 and 15 September 2002 despite estimating profit during the year.
- Payment of advance tax on due dates was generally made by the Company on the basis of estimated profit earned before due date but without taking into account the profit likely to be earned up to the end of quarter.

Thus, avoidable payment of interest of Rs. 2.18 crore was made due to its failure in assessing the income with reasonable accuracy.

Madhya Pradesh Audyogik Kendra Vikas Nigam (Bhopal, Indore) Limited & Industrial Infrastructure Development Corporation Limited, Gwalior

4.3 Loss of revenue

Loss of revenue of Rs. 24.64 crore due to non-charging of transfer fee in accordance with Government directives during May 2000 to January 2008.

The Madhya Pradesh Audyogik Kendra Vikas Nigams (Indore, Bhopal) Limited and Industrial Infrastructure Development Corporation Limited Gwalior – (Companies), the subsidiaries of Madhya Pradesh State Industrial Development Corporation Limited (MPSIDC) are responsible for development of industrial infrastructure within their jurisdictions. As per orders of the State Government issued at the time of formation of these Companies in 1981, these Companies enjoy the same rights for allotment of land for industrial use in industrial estates within their jurisdiction as are vested with the State Government and all basic terms and conditions, as amended from time to time, laid down by the State Government in this behalf are applicable to allotments made by these Companies. These companies fixed their charges for premium, lease rent etc. as per the rates fixed by the State Government from time to time in M.P. Industrial (Shed, Plot and Land Allotment) Act, 1974. The plots and sheds are transferable between parties on payment of transfer fee. The transfer fee, being a percentage of the premium, is fixed by the State Government from time to time and collected by the Companies on behalf of the Government.

The State Government amended the “MP Industrial (Shed, Plot and Land Allotment) Act, 1974” on 1 April 1999 enhancing the transfer fee to 100 *per cent* of the premium. However, the Companies did not take any cognizance of the revision of rates and continued to charge transfer fee at twenty *per cent* of the premium. This resulted into short collection of premium of Rs. 24.64 crore in respect of 184 transfer cases finalised during May 2000 to January 2008.

The Management stated (September 2008) that the rate of transfer fees was not changed from 20 to 100 *per cent* by the holding Company (MPSIDC). They further added that they were bound to follow the directions of the holding company as per the Articles of Association of these companies. The replies of the Companies were contrary to their formation orders which stipulated that all basic terms and conditions laid down by the State Government, were applicable to the Companies. Therefore, the holding company (MPSIDC) should have issued necessary instructions in this regard to its subsidiary companies.

Thus, due to non-implementation of the Government order, by the Companies, the Government suffered loss of Rs. 24.64 crore and the transferees got an undue benefit to that extent.

Madhya Pradesh Audyogik Kendra Vikas Nigam (Indore) Limited

4.4 Avoidable payment of interest

The Company paid avoidable interest of Rs. 22.29 lakh on the loans borrowed at higher costs during February 2006 to August 2007.

In order to meet the project cost for establishing a Software Technology Park (STP) and a Gems and Jewellery Park (GJP), the Company entered into a loan agreement (June 2004) for Rs. 40 crore from HUDCO at the rate of 8.25 *per cent* (floating) repayable in thirty five quarterly installments. The Company received Rs. 6.05 crore and Rs. four crore in September 2004 and September 2005 respectively. Meanwhile, the Board of Directors (Board) of the Company in its meeting, held in November 2004, observed that Bank of Punjab was lending loans at a comparatively lesser rate of 6.50 *per cent* and directed the Managing Director to explore the possibilities for obtaining loan at a reduced rate so as to repay the high cost borrowings of HUDCO. The Company, however, ignoring the directions of the Board, obtained (October 2005) a loan from State Bank of Indore at a rate of 7.30 *per cent* (fixed interest) after a lapse of 10 months and repaid (November 2005) the loan received from HUDCO. As against a loan of Rs. 40 crore sanctioned by State Bank of Indore, the Company drew Rs. 18.96 crore during the period from February 2006 to July 2006 and foreclosed (August 2007) the loan.

It was noticed in Audit that the Company did not fully explore the possibilities of availing the loan at competitive rates of interest from other Banks including the Bank of Punjab as directed (November 2004) by the Board. By borrowing from the State Bank of Indore at 7.30 *per cent*, the Company paid an avoidable interest of Rs. 22.29 lakh.

Thus due to failure in taking loan at cheaper rates from Bank of Punjab, as directed by its Board, the Company incurred an avoidable payment of interest of Rs. 22.29 lakh.

The matter was reported (June 2008) to the Company and the Government and their reply was awaited. (October 2008).

Madhya Pradesh Paschim Kshetra Vidyut Vitaran Company Limited

4.5 Blockage of funds

Delay in issue of bills to franchisees and failure to collect outstanding amount from the franchisees resulted in blockage of funds of Rs. 3.53 crore and loss of surcharge of Rs. 62 lakh during November 2006 to November 2007.

In order to improve revenue collection and reduce arrears, the Company entered into Distribution Agreement (October and November 2006) for one year with three franchisees³⁵ for distribution of electricity to low tension consumers in Rural Distribution Centres, Dewas (Tonkkala, Tonk kurd and Gandarvpuri).

As per the terms and conditions of the contract/order, the Company was required to issue monthly bills to the franchisee within three days from the date of joint reading of interface meter. The franchisees were required to settle the bills by paying the amount within the due date and in case of default, a surcharge at the rate of two *per cent* per month on diminishing balance was recoverable for every day of delay from the franchisees.

It was, noticed in audit that the Company failed to issue bills to franchisees up to July 2007 and the bills for the period from November 2006 to July 2007 amounting to Rs. 7.11 crore were issued only in August 2007. It was further observed that franchisees did not make the payment of entire billed amount within the due dates. As against Rs. 11.02 crore, billed during August to November 2007 for the period from November 2006 to November 2007, only Rs. 7.19 crore were paid by the franchisees and an amount of Rs. 3.83 crore (Tonk kalan Rs.1.48 crore, Tonk kurd Rs. 1.16 crore and Gandharvpuri Rs. 1.19 crore) was outstanding against the franchisees (September 2008). The Company did not take any concrete action to recover the amount except forfeiting the bank guarantee of Rs. 30 lakh provided by the franchisees.

Thus, failure of the Company to issue bills on time and not taking prompt recovery action resulted in short receipt of revenue by Rs. 3.53 crore after taking into account the forfeited Bank Guarantee of Rs. 30 lakh. Further, due to non issue of bills in time, the Company was deprived of surcharge of Rs. 62 lakh on delayed payments by the franchisees which otherwise, the Company would have been entitled to recover in terms of the Distribution Agreement with the franchisees.

³⁵ (1) M/s Ashirwad Electrical & Construction Services, (2) M/s Narendra Singh Rajput, (3) M/s Raghuvveer Singh Baghel.

The Company accepted (June 2008) the fact and stated that action under Debt Recovery Act had been initiated. The fact remains that outstanding amount of Rs. 3.53 crore had not been recovered so far (October 2008).

The matter was reported to the Government (May 2008) and their reply was awaited (October 2008).

Madhya Pradesh Madhya Kshetra Vidyut Vitaran Company Limited

4.6 Loss of revenue due to short billing

Failure to bill the short drawal of power, in violation of the orders of MPERC, resulted in loss of revenue of Rs. 1.15 crore during 2002-03 to 2006-07.

GAIL India Limited (GAIL), Vijaipur (Guna district), a HT consumer (Consumer) with a contracted demand of 5500 KVA on 132 KV supply line, applied (February 2002) for permission to Madhya Pradesh Electricity Regularity Commission (MPERC) for installation of 9000 KVA co-generation plant (waste heat recovery) at its premises in Vijaipur, to be commissioned in March 2004. The consumer was already in possession of three captive power plants with an installed capacity of 6.75 MW³⁶ in Vijaipur complex as of that date.

MPERC granted permission (May 2002) to GAIL for installation and commissioning of 9000 KVA generator for five years from the date of commissioning. While granting permission, MPERC converted existing captive power plants of GAIL as permitted power plants with the condition to purchase at least 50 per cent of monthly power requirement from Company's system. In case of any shortfall, the consumer (GAIL) was liable to pay the Company, for minimum of 50 per cent of its actual monthly consumption.

On scrutiny of records in Audit, it was observed (February 2008) that despite MPERC order, the consumer failed to use 50 per cent of the total monthly consumption from the Company's system and the Company also did not bill for the short drawn units during the periods when the actual consumption was less than 50 per cent. This resulted in short billing of Rs. 1.15 crore for the period from 2002-03 to 2006-07.

The Government stated (June 2008) that necessary instructions had been issued to the Company to issue revised bills for recovery. Further progress was awaited (October 2008).

³⁶ 2x2.7 MW natural gas based and 1x1.35 MW diesel based.

Madhya Pradesh Power Trading Company Limited

4.7 Undue benefit to a power supplier

Undue benefit of Rs. 57.04 lakh was extended to a power supplier during 2005-06 due to non deduction of penalty as per letter of intent.

In response to a request made (August 2005) by the erstwhile Madhya Pradesh State Electricity Board for supply of power to the State during the quarter October to December 2005, Adani Exports Limited (Supplier) agreed (August 2005) to supply energy stipulating payment of compensation at 50 paise per KWH for the quantum of power that fell short of 70 *per cent* of the contracted supply. Accordingly, the Company issued orders (LOI 2599 dt 2 September 2005) for supply of power, followed by letters of intents (LOI no. 2718 dated 15 September 2005 and LOI no.2758 dated 19 September 2005) on the same terms and conditions for supply of power up to December 2005.

Audit observed that the quantity of power supplied in respect of LOIs 2758 and 2718 was 8.91 and 6.14 million units, which was short of 70 *per cent* of the agreed quantity and the Company deducted Rs. 21.61 lakh in respect of LOI no. 2758 and Rs. 35.43 lakh in respect of LOI no. 2718 towards short supply. However, the Company, without citing any reasons on records, did not deduct Rs. 57.04 lakh on account of short supply against LOI 2599 and extended undue benefit to supplier.

The Company stated (April 2008) that the offers received from the supplier did not contain default clause for payment of compensation. However, the Board on its own included the default clause with the intention to pressurise the trader to make best effort to supply maximum power against such LOIs. Therefore, the Board could not enforce the same unilaterally.

Reply of the Management was not based on facts as the offer of the supplier of August 2005 included a clause for compensation for shortfall in supply, and this condition was withdrawn by the supplier on 23 November 2005 i.e. after supplying the power against LOI 2718 and 2758. Therefore, the withdrawal of condition after effecting the supplies was not acceptable. Hence, non recovery of Rs. 57.04 lakh, was unjustified.

The matter was reported to the Government (July 2008); their reply was awaited (October 2008).

Madhya Pradesh Poorva Kshetra Vidyut Vitaran Company Limited

4.8 Undue favour to a contractor

Extension of delivery period with price variation clause on the request of the supplier resulted in undue benefit of Rs. 29.91 lakh during 2007-08.

The Company placed an order (March 2006) on Hi Tek Powercon Limited, Bhubaneswar for supply of 2900 Kms AAA conductors at a total cost of Rs. 5.70 crore (ex-works excluding taxes) with price variation clause.

As per delivery schedule, the supply of the conductor was to commence within one month from the date of receipt of the order and the entire quantity was to be supplied at 550 Kms per month, i.e. supply of first lot was to commence by 8 May 2006 and entire quantity to be supplied by 8 November 2006. The Company amended (4 July 2006) the delivery clause on the request of the supplier, thereby modifying the commencement of supply as 'within one month' from the date of issue of this amendment. The extension was allowed with price variation and without levy of penalty.

It was noticed in audit that as against the ordered quantity of 2900 Kms the firm supplied only 1554.891 Kms of conductors till January 2007 and no supply was made after January 2007. It was also observed that Rs. 29.91 lakh was paid towards price escalation for the quantity supplied during extended period.

Thus, extension of delivery period with price variation clause on the request of the supplier resulted in undue favour of Rs. 29.91 lakh to the supplier. Further, no penal action has been taken by the Company so far (October 2008) against the supplier for short supply of material.

The Company stated (May 2008) that the action would be initiated for non-supplying of balance quantity as per the provisions of the contract. It was also stated that delivery period was extended due to non-availability of aluminum raw material in the market because of scarcity. However, extension of delivery period with price escalation was unwarranted.

General

Follow-up action on Audit Reports

Explanatory notes outstanding

4.9.1 The Comptroller and Auditor General of India's Audit Reports represent the culmination of the process of scrutiny starting with initial inspection of accounts and records maintained in the various offices of Public

Sector Undertakings and Departments of Government. It is, therefore, necessary that they elicit appropriate and timely response from the Executive. Chief Secretary, Government of Madhya Pradesh had issued instructions (November 1994) to all Administrative Departments to submit explanatory notes indicating corrective/remedial action taken or proposed to be taken on the paragraphs and reviews included in the Audit Reports within three months of their presentation to the Legislature, without waiting for any notice or call from the Committee on Public Undertaking (COPU).

The Audit Report for the year 2006-07 was presented to the State Legislature in March 2008. The position of paragraphs for which explanatory notes were not received up to September 2008 is indicated in the table below:

Year of Audit Report (Commercial)	Total number of paragraphs/reviews in the Audit Report	Number of paragraphs/reviews for which explanatory notes were not received
2006-07	21	16

Department-wise analysis is given in the *Annexure-13*.

Compliance to the Reports of Committee on Public Undertakings (COPU)

4.9.2 The replies to recommendations of the Committee on Public Undertakings (COPU), as contained in its Reports, are required to be furnished within six months from the date of presentation of the Report by the COPU to the State Legislature.

On the basis of recommendations of the COPU, Action Taken Notes (ATNs) for 94 paragraphs relating to the period for 1983-84 to 2004-05 were received during 2007-08. The COPU had verified and settled 85 ATNs.

Response to Inspection Reports, Draft Paragraphs and Reviews

4.10 Audit observations noticed during audit and not settled on the spot are communicated to the heads of the PSUs and the administrative departments concerned of the State Government through inspection reports. The heads of PSUs are required to furnish replies to the inspection reports through the respective heads of administrative departments within a period of six weeks. Inspection reports issued up to March 2008 pertaining to 35 PSUs showed that 4,954 paragraphs relating to 2,009 inspection reports remained outstanding at the end of September 2008. Of these, 1890 inspection reports containing 4,525 paragraphs had not been replied to for one to 22 years. Department-wise breakup of inspection reports and audit observations outstanding as on 30 September 2008 is given in *Annexure-14*.

Similarly, draft paragraphs and reviews on the working of PSUs are forwarded to the Principal Secretary/Secretary of the administrative department concerned demi-officially seeking confirmation of facts and figures and their comments thereon within a period of six weeks. It was, however, noticed that

replies to one review and nine draft paragraphs forwarded to various departments between May 2008 to September 2008 as detailed in *Annexure-15*, had not been received (October 2008).

It is recommended that the Government should ensure that: (a) procedure exists for action against the officials who fail to send replies to inspection Reports/ draft paragraphs/reviews as per the prescribed time schedule; (b) action is taken to recover loss/outstanding advances/overpayments in a time bound schedule; and (c) the system of responding to audit observations is revamped.

Gwalior
The

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