Chapter III

3. Transaction Audit Observations

Government companies

Orissa Hydro Power Corporation Limited

3.1 Abnormal delay in renovation and modernisation

Failure of the Company to award the work to the Original Equipment Manufacturer as per Government directive led to avoidable loss of Rs. 21.06 crore besides laxity in recovery of liquidated damages of Rs. 48.43 lakh from Bharat Heavy Electricals Limited.

The Unit-II of Chipilima Power House of the Company went into shut down in November 2000. For Supply, Renovation and Modernisation (R&M) of the unit, Bharat Heavy Electricals Limited (BHEL) and Voith Siemens (VS), Germany, the Original Equipment Manufacturer (OEM) submitted their offers in June 2001 and November 2001 respectively. Considering the fact that VS had the original drawings and templates of the power plant and they were the OEM, the State Government directed (November 2002) the Company to award the work to VS. Further, VS also intimated (January 2003) that the replacement of parts during R&M work was required to be checked and adopted by the OEM according to the original design and any attempt by a non-OEM to reuse the critical components would lead to technical problems and loss of time. The Company, however, awarded the work (June to September 2003) to BHEL at a price of Rs. 9.69 crore (exclusive of taxes, duties, freight, transit insurances, etc.) on the ground of lowest price, elimination of foreign exchange variation and co-ordination problems. The work was scheduled to be completed by January 2005.

BHEL commissioned the unit only in March 2008 i.e. after a delay of 38 months. The unit was again under forced shut down since 16 April 2008 and started functioning from 8 May 2008. In the meantime, the Company paid a total amount of Rs. 10.04 crore up to December 2007 and only Rs. 1.96 crore was the balance payable. Due to delay in commissioning, the Company incurred avoidable loss of Rs. 21.06 crore towards non-generation of 389 MU electricity from the unit during February 2005 to February 2008.

Audit observed that the disadvantage of not being the OEM and lack of required expertise, made it difficult for BHEL to complete the work in time; nor the operational stability could be brought for which the unit had to be shut down even after its commissioning. Thus, awarding the work to BHEL disregarding the advice of the State Government was injudicious. Further, BHEL was allowed extension of time for completion of the work periodically without holding them accountable for the delay. The Company, however, did

not claim and recover Liquidated Damages of Rs. 48.43 lakh as per the terms of the work orders.

Government stated (November 2008) that it made every effort in pursuing BHEL to complete the work as early as possible. The fact remained that the failure of the Company to award the work to the OEM led to avoidable loss of Rs. 21.06 crore despite fund outflow of Rs. 10.04 crore on R&M.

3.2 Avoidable expenditure towards Guarantee Commission

Failure of the Company to reduce the Government guarantee against the loan repaid from time to time would result in avoidable expenditure of Rs. 7.46 crore towards Guarantee Commission.

The Company was liable to pay Guarantee Commission (GC) at the rate of 0.5 *per cent* per annum to the State Government on the entire amount of guarantee outstanding as on 1 April of each year till liquidation of the loan as per the guidelines (November 2002) of Government of Orissa. For reduction of guarantee due to repayment of loan, the Finance Department (FD) clarified (June 2003) that concurrence of the FD should be obtained by the concerned Administrative Department on production of proof of payment of up-to-date GC, letter of the lending institution certifying repayment of the loan and other concerned supporting papers. In that case, GC would be paid on the reduced guarantee amount.

The State Government sanctioned (between July 1994 and May 2001) guarantee of Rs. 615.04 crore to the Company for availing loans from Power Finance Corporation Limited as against which, the Company availed (1994-2008) loans of Rs. 557.18 crore and the balance guarantee of Rs. 57.86 crore remained unutilised as on 31 March 2008.

Audit observed that though the Company repaid Rs. 353.51 crore during 1997-2008, it did not take action for reduction of the amount of guarantee outstanding to the extent of repaid amount of loan. It belatedly requested (August 2007) the FD to reduce the guarantee by Rs. 78.80 crore only in respect of complete repayment of one loan. The FD, however, opined (January 2008) that since the Company did not initiate action to reduce the guarantee in the relevant years of repayment as per the instructions of June 2003, GC on the full guaranteed amount would be payable by the Company.

The Company accounted for Rs. 15.56 crore towards GC for 2002-03 to 2006-07 in its accounts on the full amount of guarantee availed. In addition to this, the Company would pay GC of Rs. 5.76 crore for 2007-09. Had the Company taken steps as per the instructions of the FD to reduce the guarantee against the amount of loan repaid in the relevant years, it would have paid Rs. 13.86 crore towards GC for the period 2002-09. As a result, the Company would incur avoidable expenditure of Rs. 7.46 crore[*].

[*] Rs. 15.56 crore (2002-07) + Rs. 5.76 crore (2007-09) – Rs. 13.86 crore (actually paid Rs. 11.25 crore upto June 2008).

The Management stated (May 2008) that they had requested (between January 2003 and October 2007) the Department of Energy to reduce the guarantee amount to the extent the loans were repaid, which was pending with the Finance Department. Audit, however, observed that the Company made request in respect of one out of four loan cases which was not accepted by FD. Besides, the Company did not submit the surrender proposal in line with the instruction of FD of June 2003.

The matter was reported to the Government (March 2008); their reply was awaited (November 2008).

3.3 Undue favour to a contractor

Failure of the Management to impose liquidated damages timely resulted in non-realisation of Rs. 5.46 crore.

The Company executed an agreement (October 2003) with JSC Leningradsky Metallichesky Zavod (JSC LMZ), Russia for design, manufacture and supply of turbine and other associated equipment for Balimela extension project (Unit-7 and 8) of the Company at a price of US$ 24,953,216 CIF, Visakhapatnam Port (exclusive of taxes and duties). As per terms of the contract, supply was to be made between October 2004 and December 2005 and in case of delay, liquidated damages (LD) equivalent to 0.5 *per cent* of the price of the delayed goods for each week of delay subject to a maximum deduction up to 10 *per cent* of the contract price was to be levied. The Company paid 15 *per cent* of the contract price prior to signing the contract and agreed to pay 35 *per cent* on presentation of documents and balance 50 *per cent* on completion of delivery.

Audit scrutiny revealed that the contractor supplied the material between November 2004 and March 2006 with a delay ranging from 1 to 38 weeks. In spite of delay in supply, the Company released (December 2004 to May 2006) the full contract price without recovering the LD. It, however, belatedly claimed (March 2008) LD of US$ 13.65 lakh equivalent to Rs. 5.46 crore, but could not recover it since the full contract price had already been released.

While accepting the views of audit, the Government stated (November 2008) that though the Company claimed LD for US$ 13.65 lakh in March 2008 as per the provision of the contract, the same was disputed by the contractor, which would be resolved shortly. The fact, however, remains that the LD was not imposed before release of payment to the contractor.

Thus, failure of the Management to impose LD in time resulted in non-realisation of Rs. 5.46 crore.

3.4 Excess reimbursement of Service Tax

Wrong computation of service tax resulted in excess expenditure of Rs. 1.41 crore.

The Company entered into (24 October 2003) a turnkey contract with LMZ Energy (India) Limited (LMZIL), New Delhi for installation of Unit-7 and 8 under Balimela Extension Project at a consolidated price of Rs. 33.36 crore inclusive of all taxes and duties, which was a split contract of the earlier contract executed (31 January 1996) with LMZIL. As per the terms of the contract the price was to be adjusted to take into effect any change in law, increase or decrease in rates of indirect taxes or imposition of any new taxes coming into effect after 1 February 1996. LMZIL was, however, required to submit the variation in cost in execution of the works and services rendered due to subsequent change in law after 1 February 1996 with proper documents. The scope of work included fabrication, erection, testing and commissioning besides procurement and supply of material required for executing the contract.

The services like commissioning, installation and overhauling were made taxable under service tax from 1 July 2003 by the Government of India. The value of supplies towards material was, however, excluded from the purview of service tax. As per the notification of August 2003 of Government of India, in the absence of price break-up of value of material and services rendered in the contract, service tax at the rate of 10.2 to 12.24 *per cent* would be computed on 33 *per cent* of the gross value of the contract. This abatement could be availed of if no credit of duty paid on inputs or capital goods had been taken under the CENVAT Credit Rules, 2004.

LMZIL submitted (October 2005 and October 2006) two invoices for reimbursement of service tax including cess for Rs. 2.29 crore based on 65 *per cent* of value of work done for Rs. 21.68 crore. The Company accepted the Rs. 20.14 crore as value of work done for service tax and paid (January 2006 and June 2007) Rs. 2.18 crore to LMZIL.

Audit scrutiny revealed that the Company had not obtained the details of CENVAT credit availed by LMZIL before reimbursement of service tax. Therefore, the Company should have considered taxable service as 33 *per cent* of the value of work done (Rs. 21.68 crore) which worked out to Rs. 7.15 crore on which service tax amounting to Rs. 77.45 lakh was payable. The Company, however, reimbursed the service tax though LMZIL did not submit the variation in cost in execution of the works due to subsequent change in law after 1 February 1996 with proper documents. As a result, there was excess reimbursement of Rs. 1.41 crore to the contractor.

Government stated (November 2008) that abatement was not available since two separate contracts for supply of plant and machinery and erection and commissioning of the project were executed in this work. The reply is contrary to the fact that the contract with LMZIL was a separate contract with specific scope of work which included procurement and supply of local materials as

well as erection and commissioning in which case the abatement was applicable.

Thus, wrong computation of service tax resulted in excess expenditure of Rs. 1.41 crore.

3.5 Idle investment

Delay in procurement of cables led to non-compliance with statutory requirements besides blockage of fund leading to loss of interest of Rs. 44.71 lakh as well as cost overrun of Rs. 91 lakh.

The Eastern Region Electricity Board (EREB) decided (November 2003) that all hydel and thermal power generating stations would operate in Free Governor Mode of Operation* (FGMO) with effect from 20 November 2003 as required under the provisions of the Indian Electricity Grid Code. In pursuance of this, the Company decided (September 2004) to replace the existing governors of Unit-I and II of its Rengali Hydro Electric Project (RHEP) with microprocessor-based governors capable of being operated in FGMO mode. Further, the Company had decided (August 2004) to replace Automatic Voltage Regulators in Unit-I and II with microprocessor based Static Excitation Equipment (SEE) due to obsolescence. The Bharat Heavy Electricals Limited (BHEL) estimated (August-September 2004) the cost of required cables for installation of SEE and governors at Rs. 68 lakh.

The Company placed (November 2004) purchase order on BHEL for two sets each of SEEs and governors at a total cost of Rs. 2.85 crore. It received the equipments in April 2005-April 2007 and paid (November 2004-June 2007) Rs. 2.06 crore. It, however, did not place the Purchase Orders for cables on BHEL.

The open tenders floated (March 2005 and September 2006) by the Company for procurement of cables could not be finalised either due to disqualification of samples or change in specification. Subsequently, on an offer received (November 2007) from BHEL, the Company placed (July 2008) order for the cables at Rs. 1.59 crore.

Government stated (November 2008) that due to changes in specification of cable by BHEL, there was delay in procurement of cables which was beyond their control. It was also added that there was net saving of Rs. 75.11 lakh considering the present procurement cost of SEE and governor vis-à-vis loss of interest. The fact is that the Company was not certain about the specification of the cables and as it was depending upon the advice of BHEL, it should have placed order on BHEL for procurement of cables along with orders of SEE and governors in order to arrest the delay arising due to uncertainty of specification. Further, the assertion of saving in cost due to delay in procurement is devoid of logic since the benefit it would have derived by earlier commissioning of the equipments had been ignored.

* FGMO is a defence mechanism against grid disturbances.

Thus, abnormal time (43 months[β]) taken by the Management in placement of order for cables led to non-compliance with the statutory requirements, blockage of fund of Rs. 2.06 crore with consequent interest loss of Rs. 44.71[*] lakh and cost overrun of Rs. 91[Ψ] lakh.

GRIDCO Limited

3.6 Avoidable payment of compensation

Injudicious decision of the Company to resume power supply in violation of the decision of the Board of Directors coupled with acceptance of penal clause for short supply led to avoidable expenditure and non-realisation of Rs. 6.55 crore.

The Company entered into an agreement (5 October 2006) with Adani Enterprise Limited (AEL), New Delhi for sale of 200 MW power round the clock (00.00 to 24.00 hrs) and 100 MW additional power during evening peak hours (17.00 to 23.00 hrs) for a period of three months from 1 October to 31 December 2006. The contract envisaged that in case the Company failed to supply 80 *per cent* of the contracted power, it would pay compensation of 50 paise per kwh to AEL for the quantum of power that fell short of 80 *per cent* of the contracted power. On the other hand, if AEL failed to draw 80 *per cent* of the contracted power, it would pay compensation of 48 paise per kwh to the Company for the quantum of shortfall in drawing of power.

The Company commenced supply of power to AEL from the first week of October 2006 and supplied 388.04 Million Units (MU) upto 28 November 2006 as per the agreement. The Board of Directors decided (27 November 2006) to suspend the supply of power from 29 November 2006 in compliance with the judgement (16 November 2006) of the Appellate Tribunal for Electricity (ATE) which stated that the Company could not sell surplus power at a margin higher than what was allowed under Regulation-2 of Central Electricity Regulatory Commission (Fixation of Trading Margin) Regulations, 2006 pending decision from the appropriate court. In view of the judgement (16 November 2006) of ATE, the agreed price was not enforceable for which the agreement was mutually terminated (16 December 2006). However, at the request of AEL and as a gesture of goodwill, the Company agreed (16 December 2006) to supply through Orissa Hydro Power Corporation Limited (OHPC) the minimum contractual quantum of 134 MU, which was not supplied in December 2006. The Company also agreed to pay compensation as per the terms of the agreement of October 2006 in the event of short supply of power by OHPC. The prior approval of the BoD was, however, not taken for this arrangement. OHPC, on the other hand, signed an agreement (15 December 2006) with AEL for sale of power during

[β] From November 2004 to June 2008.

[*] Interest calculated at 9.8 *per cent* per annum i.e. rate at which interest was paid by the Company on the Government loan.

[Ψ] Offered price of BHEL in 24 September 2007 – Rs. 1.59 crore *less* estimated cost of cables in 2004- Rs. 68 lakh.

16 December 2006 to 14 January 2007 without provision for payment of compensation due to short supply.

OHPC supplied 32.45 MU of power to AEL from 19 to 28 December 2006. The power supply was again discontinued from 29 December 2006 in view of another order (22 December 2006) of the ATE and was not resumed subsequently despite the Company obtaining (8 January 2007) a stay order from the Supreme Court of India against the orders of the ATE. Due to non-supply of the balance quantity of 101.55 MU, AEL deducted (January 2007) Rs. 5.08 crore towards compensation and Rs. 0.92 crore towards open access charges[#] for non-utilisation of the booked transmission corridor for the month of December 2006 from the bills of OHPC against supply of power. In turn, such compensation and open access charges were to be borne by the Company as per the decision of 16 December 2006. The Company, however, agreed only for Rs. 5.70 crore[$] towards compensation and open access loss.

Further, AEL did not draw 45.50 MU during October and November 2006 for which it was liable to pay Rs. 2.18 crore towards open access charges. AEL, however, agreed to pay open access charges of Rs. 1.63 crore only on the ground of wavier of Late Payment Surcharge (LPS) payable by the Company.

Audit scrutiny revealed the following:

- In view of the judgement (November 2006) of the ATE, the implementation of the agreement between the Company and AEL, was not possible for which it was terminated mutually as decided by the BoD. Since subsequent supply of power was made at the request of AEL and as a gesture of goodwill, the Company should not have agreed for payment of compensation in the event of short supply of power by OHPC.

- As per terms of the agreement (October 2006), the Company was not liable to pay any LPS to AEL. Hence acceptance of the terms of AEL for receipt of open access charges of Rs. 1.63 crore resulted in non-realisation of Rs. 0.55 crore.

Government stated (November 2008) that due to contractual obligation, the Company was liable to pay compensation to AEL for non-supply of power during December 2006. The reply does not address the point that following the judgment of ATE, the contract of October 2006 was mutually terminated absolving the Company from payment of any compensation to AEL. For subsequent supply through OHPC as a gesture of goodwill the Company should not have agreed to pay compensation in case of short supply of power.

Thus, injudicious decision of the Company to resume power supply at the request of the purchaser in violation of the decision of the BoD coupled with

[#] Open Access charge: It includes Central Transmission Utility charges/ State Transmission Utility charges, Regional Level Despatch Centre and State Level Despatch Centre charges as applicable as per regulation made by appropriate Commission for utilisation of transmission corridor.

[$] Compensation claimed by AEL Rs. 5.08 crore + open access loss Rs. 0.62 crore.

acceptance of penal clause for short supply led to avoidable expenditure and non-realisation of Rs. 6.55[*] crore.

Industrial Development Corporation of Orissa Limited

3.7 Loss due to non-conversion of low grade chrome ore into concentrate

Injudicious decision of the Company to sell low grade chrome ore without beneficiation despite availability of plant capacity deprived the Company of additional revenue of Rs. 5.40 crore.

The low grade chrome ore (having chrome content less than 40 *per cent*) raised by the Company from its mines are beneficiated through the contractor by manual washing as well as in the Company's Chrome Ore Beneficiation Plant (COBP) to generate chrome concentrate (chrome content more than 48 *per cent*) for getting higher sale price. The Company installed (March 2004) a COBP having feeding capacity of 10 TPH (3,000-4,000 metric tonnes (MT) per month). The capacity was increased (June 2006) to 8,000 MT by installing an additional COBP and to 12,000 MT per month (June 2007) by increasing its capacity. The Managing Director (MD) of its subsidiary Company[#], who operated the mine, opined (November 2007) not to sell low grade chrome ore and to sell only chrome concentrates since the profit margin in the latter was very high.

During April 2007 to March 2008, as against the feeding capacity of 1.02[θ] lakh MT of low grade chrome ore in COBP, the actual feeding was 36,735 MT and the output of chrome concentrate was 19,065 MT (percentage of recovery was 52). Despite utilisation of only 36 *per cent* of the installed capacity of COBP, the Company decided (November 2007) to sell 21,314 MT of low grade ore without beneficiation on the grounds of reducing space constraint and inventory as well as to facilitate quicker lifting of materials by the buyers. It was stated that further generation of low grade ore from the mine would be beneficiated.

Audit scrutiny revealed the following:

- During 2007-08, the average additional revenue in selling chrome concentrate over low grade chrome ore was Rs. 9,738 per MT. The additional cost for conversion including cost of sale was Rs. 4,843 per MT in the corresponding period. Thus, it was a profitable proposition to sell chrome concentrate rather than sell low grade chrome ore since net additional revenue in selling chrome concentrate was Rs. 4,895 per MT.

[*] Amount deducted by AEL towards compensation of Rs. 5.08 crore and towards open access charges of Rs. 0.92 crore plus non-realisation of open access charges from AEL of Rs. 0.55 crore.

[#] IDCOL Ferro Chrome and Alloys Limited.

[θ] Considering the minimum capacity of 3000 MT per month of one COBP plant, the capacity available during April to May 2007 was 12,000 MT (2 COBP plants x 2 months x 3000 MT) and during June 2007 to March 2008 was 90,000 MT (3 COBP plants x 10 months x 3000 MT)

- The low grade ore of 21,314 MT sold by the Company would have generated 11,034[*] MT of saleable chrome concentrate. In spite of availability of installed capacity, the decision of the Company to sell low grade chrome ore without beneficiation was injudicious. As a result, the Company lost the opportunity of earning net additional revenue of Rs. 5.40[$] crore.

Government stated (August 2008) that since the actual feeding capacity and output of the COBPs per year was 66,000 MT and 24,000 MT respectively, further load of beneficiation could not have been possible for which the low grade ore was sold to avoid deterioration in quality due to accumulation. The fact remains that the budgeted feeding capacity and output of COBPs was 1.20 lakh MT and 60,000 MT respectively per year with manual beneficiation of 24,000 MT per year. Hence, the Company should have beneficiated the ore as suggested (November 2007) by the MD of the subsidiary company to earn more revenue.

Thus, injudicious decision of the Company to sell low grade chrome ore without beneficiation despite availability of plant capacity deprived the Company of additional revenue of Rs. 5.40 crore.

3.8 Undue favour to contractor

Upward revision of rate of transportation charges beyond the terms and conditions of the contract resulted in excess expenditure of Rs. 53.34 lakh which amounted to extension of undue favour to the contractor.

The Company issued (September 2004) a letter of intent followed by a work order (November 2004) to BD Mohta, a contractor, envisaging, *inter alia*, transportation of iron ore from the mines to the crusher site at a rate of Rs. 74.50 per MT subject to escalation only on account of increase in diesel price.

The contractor requested (September 2005) IKIWL[Ψ] for enhancement of the rate to Rs. 150 per MT on the ground that the district administration had reduced the loading capacity of trucks/tippers to 9 MT. The Chairman-cum-Managing Director (CMD) rejected (February 2006/ February 2007) the request stating that the reason cited was beyond the terms of the contract. The General Manager (Mines) again proposed (April 2007) for revision of rate on the ground of restriction in carrying capacity and better commercial dealings which would result in higher output and higher profit. The BoD approved (May 2007) the increase in rate to Rs. 120 per MT to be effective retrospectively from 1 December 2005.

Audit scrutiny revealed that the District Administration had only restricted (November 2005) the carrying capacity of trucks to 16.2 MT (gross weight) as

[*] Recovery at a rate of 51.90 *per cent* and transportation loss of 0.25 *per cent*.
[$] 11,034 MT x Rs. 4895
[Ψ] IDCOL Kalinga Iron Works Limited, a subsidiary of the company which manages the Iron ore mines.

per stipulation of Motor Vehicle Rules, 1989 and the contractor was supposed to load the trucks/ tippers up to the permissible limit. Thus, enforcement of a rule, which was already in force at the time of issue of the work order, should not have been a ground for increase in rate. Since the contract period was expiring in September 2007, increase in rate in May 2007 with retrospective effect on the grounds of better commercial dealings was also not justified. Further, the contract was executed (November 2004) with the approval of the State Government. The subsequent modification in rate of transportation was, however, not got approved by the State Government, which was in violation of the orders of the State Government.

During the period 1 December 2005 to 31 March 2007, the transportation rate per MT was in the range of Rs. 74.50 to Rs. 83.58 including escalation. Thus, upward revision of rate to Rs. 120 per MT resulted in extra expenditure of Rs. 53.34 lakh on transportation of 1,27,469 MT of ore during this period.

Government stated (October 2008) that due to increase in rate of transportation by the district administration to Rs. 120 per MT and extra expenditure incurred by the contractor, the rate was increased beyond the terms of the contract with retrospective effect. However, the decision of the district administration was for enforcement of an existing law and thus the increase in the rate of transportation was not binding on the Company as the contractor was guided by a separate contract which did not have provision for enhancement of the rate.

Thus, revision of rate of transportation charges beyond the terms and conditions of the contract resulted in excess expenditure of Rs. 53.34 lakh which amounted to extension of undue favour to the contractor.

Orissa Power Transmission Corporation Limited

3.9 Non-recovery of Service Tax and interest from beneficiaries

Delay in payment of service tax and failure to claim service tax along with supervision charges from the clients resulted in avoidable payment of interest of Rs. 0.40 crore and non-recovery of service tax of Rs. 1.54 crore.

Industrial units desirous of availing power supply, construct Extra High Tension (EHT) lines, associate bays, switching stations, etc. at their own cost under the supervision of the Company (erstwhile Grid Corporation of Orissa Limited). The Company grants the technical sanction for the work which, *inter alia*, includes supervision charges (SC) to be paid by the beneficiaries prior to the execution of work.

The Service Tax Rules provide for levy of service tax on SC from 7 July 1997 and interest at 13 *per cent* per annum for delay in payment of tax. Government of Orissa also instructed (17 and 24 January 2006) all Public Sector Undertakings rendering taxable services to ensure prompt payment of service tax dues.

Despite such provision in the Act, the Company did not levy service tax in respect of service charges received during April 2005 to October 2007 from 44 beneficiaries. As such, it had to pay arrear service tax of Rs. 2.77 crore in November 2007 along with interest of Rs. 0.47 crore for delayed payment. The Board of Directors of the Company decided (October 2007) to recover the service tax and interest thereon from the beneficiaries as per the provisions of the agreement with them. In fact, there was no such term in the agreement to claim service tax from the customers. Though the Company raised (December 2007) claims on 44 customers, it could, however, recover (January to August 2008) service tax of Rs. 1.23 crore and interest of Rs. 0.07 crore from 15 customers only. The balance service tax of Rs. 1.54 crore and interest of Rs. 0.40 crore could not be recovered (August 2008) due to refusal/non-response by the clients as the agreements with the customers did not contain any specific clause for claiming service tax.

Further, the Company did not compute the amount of service tax payable on the supervision charges received during July 1997 to March 2005 though it was liable to pay service tax from the day it took over (April 2005) the assets and liabilities from the Grid Corporation of Orissa Limited (GRIDCO).

Government stated (November 2008) that the Company came into operation from 1 April 2005 and got registration for service tax thereafter in November 2007. It was added that the amount received towards supervision charges was not considered as income, for which service tax on the said amount was not paid. But subsequently, on the advice of the consultant, service tax was being recovered from the parties. Regarding payment of service tax up to March 2005, it was stated that since the Company came into operation from April 2005 it is not liable to pay service tax before April 2005. However, the operation of the Company from April 2005 was a legal formality only. The Company (including GRIDCO) should have taken prompt action for collection of service tax from the parties and deposited the same with the concerned authorities after the service tax rules became applicable.

Thus, non-incorporation of a suitable clause in the agreement for recovery of service tax along with supervision charges received from the beneficiaries resulted in avoidable payment of interest of Rs. 0.40 crore and non-recovery of arrear service tax of Rs. 1.54 crore.

3.10 Non-realisation of rent

Inaction on the part of the Company resulted in non-realisation of rent and holding tax of Rs. 1.95 crore from Orissa Electricity Regulatory Commission.

The Company (erstwhile Orissa State Electricity Board) gave its premises on the second and third floors in the Kalyani Market Complex, Bhubaneswar to Orissa Electricity Regulatory Commission (OERC) since its inception (August 1996) without any formal agreement. The Company requested (December 1997) OERC for payment of rent at the rate of Rs. 1.37 lakh per month. OERC, instead of making any payment, suggested (December 2000) the State Government either to purchase the space or to take it on rent from the

Company for their accommodation. The Company neither took any action for realisation of rent from OERC nor for transfer of the building to OERC against receipt of market value of the building. The Company, however, asked (March 2007) OERC for payment of rent for the period from August 1996 to February 2007 amounting to Rs. 1.84 crore (including holding tax of Rs. 0.11 crore). It was also intimated that the market value of the space occupied by OERC was Rs. 5.39 crore which was to be taken into consideration for transfer of the building to OERC.

OERC intimated (January 2008) the Company that its expenditure was met through budgetary provision of Government of Orissa till 31 March 2006. The Company should therefore claim the rent from Government of Orissa up to March 2006 and OERC would thereafter pay the rent fixed as per OPWD Code. Accordingly OERC paid (February 2008) Rs. 7 lakh towards rent.

Audit scrutiny revealed that the Company not only failed to enter into a rent agreement but also did not effectively pursue the matter with OERC/ Government of Orissa resulting in non-recovery of rent amounting to Rs. 1.95 crore.

Government, while accepting the fact, stated (November 2008) that steps were being taken to collect the receivables from OERC.

Thus, in the absence of any agreement with OERC coupled with inaction on the part of the Company, rent of Rs. 1.95 crore could not be realised (April 2008) even after lapse of more than 11 years.

3.11 Undue favour to parties due to non-availing cheaper loan

Waiver of stipulation (in three cases) to avail interest free/ low interest loan was an act of extension of undue favour to these private parties besides interest loss of Rs. 1.85 crore.

In order to mobilise funds for creating infrastructure for providing power in Duburi region, the Government of Orissa decided (16 April 2004) that the upcoming industries would extend loan of Rs. 10 lakh per MW on maximum demand to the Company. The Board of Directors (BoD) of the Company decided (August 2004) that interest at the rate of six *per cent* per annum would be paid on the loan and the loan would be adjusted in 60 monthly instalments from the monthly energy bills of the lenders. Further, the Managing Director was authorised to raise loans from the upcoming industries of other substations. Subsequently, the Government extended (19 October 2004) the decision of securing loan to all upcoming industries in the State having demand of above one MW at 33 KV.

The Company granted power supply permission to Beekay Steels and Power Limited, MSP Metallics Limited and Maheshwary Ispat Private Limited between 23 September 2004 and 15 October 2004. Accordingly it raised (March 2005 to June 2006) demands aggregating Rs. 3.32 crore from Beekay Steels and Power Limited, MSP Metallics Limited but did not raise demand against Maheshwary Ispat Private Limited. However, on the basis of the

requests of these three industries and without approval of the BoD, the Company waived (between January 2006 and February 2007) the stipulation to receive loans on the ground that permission to avail power was granted before taking the decision to deposit the loans. The power connection to Maheshwary Ispat Private Limited and MSP Metallics Limited was granted in March 2006 and January 2008 respectively and Beekay Steels and Power Limited had not availed power till date (May 2008).

Audit scrutiny revealed that in respect of supply of new power connection, the "order of technical sanction and estimates" constitutes an offer and deposit of the supervision charges by customers forms a valid contract and also a "permission". The orders of technical sanctions were communicated to these industries between November 2004 and May 2005. Hence, waiver of deposit of loan amount on the contention that permission was granted prior to taking decision was not justified. Further, the scheme for availing loan from upcoming industries had no provision for waiver of deposit and approval of neither the BoD nor the State Government was obtained for waiving the loan stipulation.

Considering the rate of interest of 13 *per cent* on the loan being availed by the Company from the State Government, there was loss of Rs. 1.85 crore due to waiver of deposit from these three industries.

Government stated (November 2008) that infrastructure loan amount was not collected from the three industries owing to the fact that the condition to collect such loan came into force much after power supply permission was accorded to these industries. The fact remains that the permission for power supply was granted to these industries after the decision of BoD to raise such loans. The Memorandum of Understanding with the Government regarding their actual requirement of power was not signed by the time the Government level meeting in October 2004 was held.

Thus, waiver of the stipulation to deposit the loan contravening the decision of the Government as well as the BoD was an act of extension of undue favour to the industries besides resulting in loss of Rs. 1.85 crore.

3.12 Short recovery of supervision charges and infrastructure cost

Deficiency in preparation of the estimate and permitting the beneficiary to execute the work inside the sub-station in violation of the decision of the BoD resulted in loss of Rs. 29.74 lakh to the Company besides loss of opportunity to earn revenue of Rs. 31.71 lakh.

The Board of Directors (BoD) while approving the revised norms of estimated cost of deposit works directed (March 1997) that if any party would wish to construct transmission systems by themselves permission might be given for construction of transmission lines only and 16 *per cent* supervision charges (SC) were to be collected from them. The work relating to construction of bays inside the sub-station of the Company, however, should be constructed by the Company only with collection of SC at a rate of 22 *per cent* from the

party. The BoD also decided that 10 *per cent* of the material cost was to be collected from the party towards use of existing infrastructure of the Company.

The Company accorded (November 2002) technical sanction to Bhushan Steel Limited (BSL) for construction of a 220 KV DC line from Budhipadar to Thelkuli with two 220 KV feeder bays inside Budhipadar sub-station to provide power supply to their proposed steel plant.

The Company instead of executing the works itself, permitted (May 2003) BSL to execute both the works under its supervision. The reason for this, however, was not on record. The Company estimated (June 2004) the cost of material at site including erection charges at Rs. 3.81 crore and estimated cost of the work at Rs. 3.66 crore relating to the feeder bay work. Accordingly, it claimed (June 2004) Rs. 61.01 lakh (at the rate of 16 *per cent*) towards SC and Rs. 36.57 lakh (at the rate of 10 *per cent*) towards proportionate cost of infrastructure from BSL which was deposited by them in March 2005.

Audit scrutiny revealed the following:

- The Company allowed BSL to execute the bay work inside the sub-station in violation of the decision of the BoD. As a result, the Company lost an opportunity of earning additional revenue of Rs. 31.71 lakh towards differential amount of SC.

- As per the standard practice of the Company, two distinct Power Line Carrier Communication[#] (PLCC) equipments are essential for making voice and data communication independently. The Company, however, prepared estimated cost considering only one PLCC equipment and claimed SC of Rs. 16 lakh as against the claim amount of Rs. 39.55 lakh. As a result, the Company claimed less amount of Rs. 23.55 lakh towards SC. Further, the Company ignored the cost of PLCC equipments while working out the estimated cost to compute proportionate cost of infrastructure of the Company resulting in short recovery of Rs. 6.19 lakh towards proportionate infrastructure cost.

The Government stated (August 2008) that in view of inadequate staff due to ban on recruitment and continuous retirement it was not possible for the Company to execute the works of the beneficiaries in addition to the transmission system works for which permission was granted to the beneficiaries to execute the work for expeditious completion. The Government further stated that the Company was in the process of preparation of the final estimate and the beneficiary would be asked to deposit the differential amount. However, the initial decision (August 2002) to execute the work departmentally was subsequently (February 2003) changed in favour of the beneficiary without approval of the BoD.

[#] PLCC is a reliable and efficient speech as well as data communication system for supervision and control of Grid.

Thus, deficiency in preparation of estimate and permitting BSL to execute work inside the sub-station of the Company in violation of the decision of the BoD resulted in loss of Rs. 29.74 lakh to the Company.

3.13 Undue favour to a client

Lack of pursuance for realisation of supervision charges led to non-recovery of Rs. 39.57 lakh.

Aarti Steels Limited (ASL) requested (November 2003) the Company to allow drawal of 7 MW power from Chainpal-Choudwar 132 KV single circuit (S/C) line for their proposed steel and power plant at Ghantikhal, Cuttack. The Company accorded (February 2004) technical sanction for Rs. 3.41 crore for the work to be executed on turnkey basis on payment of supervision charges of Rs. 43.17 lakh by ASL. This was deposited between July 2003 and May 2005 and the line was charged through single bus arrangement in September 2005.

In order to prevent tripping of the line of the Company due to fault at the beneficiary end, the Company asked (November 2004) ASL to construct a switching station with double bus arrangement by April 2005, subsequently extended to November 2005, failing which power supply would be disconnected. The Company accorded (5 August 2005) technical sanction for construction of 132 KV switching station with double bus arrangement at an estimated cost of Rs. 5.41 crore and requested (5 August 2005) ASL to deposit supervision charges of Rs. 69.57 lakh. ASL deposited (9 August 2005) Rs. 30 lakh and gave an undertaking to deposit the balance amount of Rs. 39.57 lakh before completion of the switching station with double bus arrangement.

ASL used sub-standard material and did not make double bus arrangement in the switching station. The balance supervision charges of Rs. 39.57 lakh was also not deposited by ASL. Thus, the Company not only failed to recover the supervision charges of Rs. 39.57 lakh but also compromised with safety requirements by using sub-standard material and exposed the system to the risk of tripping by not insisting on double bus arrangement in the switching station of ASL. Thus, allowing the drawal of electricity without receipt of supervision charges was tantamount to extension of undue favour to ASL, resulting in non-realisation of Rs. 39.57 lakh.

While accepting the fact of non-realisation, the Government stated (August 2008) that appropriate action would be taken for realisation of supervision charges and rectification of defects/deficiencies, if any.

Orissa Power Generation Corporation Limited

3.14 Extra expenditure on water cess

Non-compliance of the statutory provisions of environment and water pollution control laws resulted in excess expenditure of Rs. 45.76 lakh towards water cess at higher rate.

The Company draws water from Hirakud Reservoir for use in its Ib thermal power station and is required to pay water cess to the Orissa State Pollution Control Board (OSPCB) as per provisions of the Water (Prevention and Control of Pollution) Cess Act, 1977 (WPCPC Act). The WPCPC Act provides, *inter alia*, for a rebate of 25 *per cent* of the cess payable if the industry installs a plant for the treatment of sewage or trade effluent. In case the industry fails to comply with any of the provisions of Section 25 of Water (Prevention and Control of Pollution) Act, 1974 or any of the standards laid down by the Central Government under the Environment (Protection) Act, 1986, besides disallowance of the rebate of 25 *per cent* of the cess payable, the industry would also be liable to pay higher amount of water cess.

Audit scrutiny revealed that the Company did not comply with the statutory requirements like fixation of a separate water meter for discharging effluent to the reservoir and various provisions of the Fly Ash Notification, 1999. The Company used 465.33 lakh kilo litre of water during April 2004 to March 2008 and paid water cess amounting to Rs. 73.34 lakh, which was computed at higher rate resulting in excess payment of Rs. 36.56 lakh. Further, due to non-compliance with Section 25 of the Water (Prevention and Control of Pollution) Act, 1974, the Company could not avail rebate amounting to Rs. 9.20 lakh.

Government while admitting the fact stated (November 2008) that the Company had now complied with zero effluent discharge and it would explore the advanced type water flow meter suitable for the exposed pipeline. It was also stated that they would try to convince OSPCB on the efforts taken by them to comply with all statutory provisions for allowing rebate on cess. The fact, however, remained that the Company failed to comply with the provisions of the WPCPC Act and paid water cess at higher rate.

Thus, due to non-compliance of the statutory provisions of environment and water pollution control laws, the Company sustained avoidable loss of Rs. 45.76 lakh towards payment of higher rate of water cess.

Orissa Rural Housing and Development Corporation Limited

3.15 Non-realisation of investment

Investment of funds in violation of the guidelines of the Government and lack of effective pursuance by the Company resulted in non-realisation of Rs. 2.63 crore.

The Company subscribed (10 April 1999) to 300 numbers of 14.90 *per cent* non-convertible, secured, redeemable debenture bonds of face value of Rupees one lakh each issued by UP State Yarn Company Limited[*] (UPSYCL) for a sum of Rs. 3 crore. The Company received (February 2000) a letter of allotment for 300 bonds bearing Nos. 671 to 970 but the bond certificates were not received. As per the allotment letter, the bonds were stated to be secured by the unconditional and irrevocable guarantee of the Government of Uttar Pradesh (UP) and were redeemable on 10 February 2004 (33 *per cent*), 10 August 2004 (33 *per cent*) and 10 February 2005 (34 *per cent*). The interest was payable annually up to the date of redemption.

Audit scrutiny revealed that the bonds issued by UPSYCL were not backed by the Government guarantee and had no approval of Government of UP. On instruction of Government of UP, UPSYCL remitted (August 2000) interest of Rs. 37.47 lakh for the period 10 April 1999 (date of subscription) to 10 February 2000 (date of allotment). It also remitted (August 2000) Rs. 1.90 crore towards repayment of the principal amount. Subsequently, UPSYCL neither paid any interest nor refunded the remaining principal amount (Rs. 1.10 crore) till date (August 2008).

The Company subscribed to the bonds of non-SLR (Statutory Liquidity Ratio) category without prior approval of the Board of Directors violating the guidelines of the Department of Public Enterprises, Government of Orissa (November 1996) and only obtained (January 2000) their retrospective approval showing the investment under SLR category. Further, as per the guidelines, no investments other than term deposits in banks could be made for a tenure exceeding one year. The investment was, thus, in violation of the above directive to the extent that the maturity period of the bonds was five years.

Though UPSYCL did not pay interest on the remaining portion of the bonds, the Company did not pursue the matter effectively even after knowing (July 2003) that the bonds were not guaranteed by Government of UP and only issued letters as late as February 2005, December 2006 and July 2007, which were not responded to. This indicates laxity on the part of the Company in initiating steps for realisation of its dues. Since UPSYCL was in the process of winding up as per orders (June 2006) of BIFR the chances of realisation of

[*] A working company of Government of Uttar Pradesh.

Rs. 2.63 crore (principal: Rs. 1.10 crore and interest: Rs. 1.53[§] crore) are bleak.

Government while accepting the fact that there was deviation from the guidelines of the Government, stated (July 2008) that the investment had been made on the basis of guarantee given (February 1999) by the Government of UP which was withdrawn (July 2003) later on making the investors unsecured. It was also added that UPSYCL had been instructed by the Government of UP to redeem the bonds after disposal of their assets. The reply is indicative of the lack of financial assessment of UPSYCL before investment of funds. As a result, the Company has to wait for realisation of its dues till liquidation of assets of UPSYCL, which is uncertain. Further, there was no guarantee from the Government of UP to the bonds, thus, withdrawal of guarantee afterwards was not a fact.

Thus, investment in the bonds of a Company without verifying the financial antecedents as well as in violation of the guidelines of the State Government coupled with laxity in pursuance resulted in non-realisation of Rs. 2.63 crore. The responsibility needs to be fixed against the concerned officials of the Company.

Orissa State Civil Supplies Corporation Limited

3.16 Undue favour to Custom Millers

Non-recovery of holding charges resulted in loss to the Company and undue favour to the custom millers for Rs. 70.71 lakh.

The Company procured paddy for Kharif Marketing Season (KMS) 2005-06[*] under the Decentralised Procurement Scheme (DPS) to ensure payment of the Minimum Support Price (MSP) to the farmers. The paddy procured under the Scheme was to be milled through the Custom Millers (CMs) appointed by the Company and the resultant rice was to be distributed through the Public Distribution System (PDS) channel. The CMs were required to supply the parboiled rice within 20 days of delivery of paddy. Failure to supply within the stipulated period would render them liable to pay holding charges at the rate of 20 paise per quintal of rice per day.

The Company procured 13.38 lakh quintals[Ω] of paddy valued at Rs. 77.02 crore during the period 12 November 2005 to 26 August 2006 which was handed over to 90 CMs in Bolangir and Bargarh district. Out of 8.84 lakh quintals of resultant rice (66 *per cent* for URS and 68 *per cent* for FAQ paddy), the CMs supplied only 1.80 lakh quintals of parboiled rice within the scheduled date of delivery. The balance quantity of 7.04 lakh quintals was

[§] Interest was calculated at a rate of 14.90 *per cent* on Rs.3 crore from 11 February 2000 to 7 August 2000 (179 days) and on Rs. 1.10 crore from 8 August 2000 to 31 July 2008 (2,915 days).

[*] From October 2005 to September 2006.

[Ω] 5.51 lakh quintals of URS paddy worth Rs. 31.63 crore and FAQ paddy 7.87 lakh quintals valued at Rs. 45.39 crore.

delivered with a delay of one to 217 days resulting in blockage of Rs. 61.28 crore during this period. The Company did not levy and recover holding charges for the inordinate delay in delivery of rice resulting in non-realisation of holding charges of Rs. 70.71 lakh.

The Government stated (May 2008) that as the Company did not have adequate storage space for storing the voluminous paddy purchased, it delivered this to the millers in a phased manner irrespective of their milling capacity and thus, non-imposition of penalty for deliveries beyond 20 days was not supported by circumstantial realities. The fact is that due to non-receipt of rice from the CMs the Company had to procure rice from Food Corporation of India during October 2005 to September 2006 despite blockage of its funds with them. Hence the Company should have claimed holding charges from the CMs as per terms of the agreement as there was delay in delivery of rice by them upto 217 days.

Thus, due to non-recovery of holding charges, the Company extended undue favour to the tune of Rs. 70.71 lakh to the CMs resulting in loss to the Company.

Orissa Film Development Corporation Limited

3.17 Non-realisation of loans

Due to inadequate documentation and post-disbursement follow up action the Company failed to realise Rs. 2.45 crore.

The Company was established as a nodal agency to promote the growth of film industries in Orissa by providing financial assistance to private entrepreneurs for construction of low cost cinema houses in semi urban/rural areas, renovation of existing cinema houses and production of Oriya feature films. As the Company could not recover the loans and interest thereon from a large number of loanees through the normal course of realisation, it filed Certificate Cases (CCs) during 1986 to 2005 under the Orissa Public Demands Recovery (OPDR) Act, 1962 in the courts of Certificate Officers (CO) and obtained decrees during 1986 to 2005 in its favour in respect of 80 cases for total requisition amount[*] of Rs. 2.57 crore up to 2005. Of this, the Company received only Rs. 0.98 crore up to September 2005, leaving the balance of Rs. 1.59 crore unrealised (September 2005).

Scrutiny of records relating to CCs filed revealed that despite obtaining certificate on huge requisition amount in these cases, the Company could realise a meager amount of only Rs. 7.81 lakh upto 31 March 2007 in respect of 13 out of 21[#] cases involving requisition amount of Rs. 1.41 crore and interest thereon of Rs. 1.12 crore at the rate of 12.5 *per cent* recoverable under Section 14 of the OPDR since filing of the CCs. Audit scrutiny revealed that:

[*] The requisition amount consists of outstanding loan *plus* interest up-to-date of certificate case *plus* court fee for filing CCs.
[#] Files relating to these 21 cases were made available to audit.

- Out of 21 cases for attachment/auction checked by audit, the titles to the properties mortgaged were not absolute in two cases. The property details of the assets mortgaged and sureties/guarantors in four cases were not properly documented at the time of execution of the agreements resulting in difficulties during issue of the warrant of arrest/attachment. The Company also did not keep track of change in addresses and location of the mortgaged property of the certificate debtors which led to filing of cases at wrong places in six cases.

- The Company did not maintain registers regarding orders and proceedings of the Court for effective monitoring of the certificate cases.

- Out of 21 cases examined in audit, the loanees in respect of six cases were women and therefore warrant of arrest could not be issued against them under Section 41 of the OPDR Act. The Company did not take any alternative step to recover the loan amount.

- The Company was not sending its representatives to the courts during proceedings of the certificate cases.

Thus, due to inadequate documentation and poor follow up action in 21 cases, the Company failed to realise Rs. 2.45 crore including interest from the loanees.

The above matter was reported to the Management/Government (May/ June 2008); their replies were awaited (November 2008).

Orissa Mining Corporation Limited

3.18 Loss due to improper loading of wagons

Failure of the Company to appeal against the punitive charges levied by the Railway authorities despite malfunctioning of the weighbridge and improper loading of wagons coupled with ineffective supervision resulted in loss of Rs. 83.61 lakh.

The Company awarded (May 2005) the work of loading of iron ore into wagons to Jai Jawan Coal Carriers (JJCC) for the period 1 April 2005 to 31 March 2008[*] and the work of supervision of wagon loading (October 2005) to Superintendence Company of India (Private) Limited (SUPCO) for a period upto March 2008. The agreement with JJCC provided loading of wagons up to the load line marked by SUPCO.

As per the Railway Tariff Rules, punitive charges at 2 to 5 times of normal tariff would be imposed for loading beyond 2 MT of Carrying Capacity[#]. The Railway authorities claimed punitive charges for overloading based on the

[*] With periodic extensions in May 2006 and June 2007.
[#] In respect of iron ore, the carrying capacity was 67 MT per wagon, which was increased to 75 MT in June 2007.

weighment taken at the weighbridge (WB) at Sukinda Station. Though the Company complained (August 2006) against the accuracy of the WB disputing the weighments, the railway officials did not take remedial measures and the State Government seized the WB in September 2006. The WB started functioning from 30 October 2006 after rectification. The Company paid Rs. 16.66 lakh towards punitive charges for the period April to October 2006.

Audit scrutiny revealed that though the punitive charges recovered by the railway authorities were based on the weighments taken in a malfunctioning WB, the Company, however, did not move the Railway Claims Tribunal for getting refund of the amount despite the fact that the railway officials had also acknowledged (June and August 2006) the erroneous functioning of the WB.

Further, a committee formed by the Company to oversee the performance of the contractors noticed (June 2006) improper marking of the load line and loading by SUPCO and JJCC respectively. The Company neither took remedial measures nor imposed penalty on the contractors as per the terms of the agreements. As a result, the improper loading of wagons persisted and the Company paid punitive charges of Rs. 42.72 lakh for the period November 2006 to March 2008 for overloading of 4,506 MT of ore. Besides, during this period, there was under loading of 7,462 MT resulting in loss of Rs. 24.23 lakh.

JJCC did not accept the weighments made by the Railway at Sukinda WB citing the terms of the agreement that weighment should have been done at Daitari Railway Siding (DRS) and, thus, got absolved of the responsibility of over/ under loading. Since there was no WB at DRS nor had the Railways permitted the Company to install the same there, such provision in the agreement lacked justification. The Company, while renewing the agreements, also did not modify the provision.

The Government stated (July 2008) that steps were being taken to appeal before the Railway Claims Tribunal (RCT). It further stated that due to absence of penal clauses in the agreements, penalty could not be imposed upon the contractors. The reply is contrary to the fact that the agreements with the contractors envisaged indemnification of losses by them in the event of losses arising in course of their performance. Further, the Company would not be able to prefer the claims in the RCT since it did not serve the notice under Section 78 (B) of the Indian Railways Act to the Railway Administration.

Thus, failure of the Company in appealing against the punitive charges levied by the Railway authorities despite malfunctioning of the WB and improper loading coupled with ineffective supervision resulted in loss of Rs. 83.61 lakh.

3.19 Reimbursement of service tax without verifying the proof of deposit

The Company did not have a system to verify proof of deposit of tax before reimbursement of the amount resulting in overpayment of Rs. 50.41 lakh which was recovered on being pointed out by audit.

The Company entered into an agreement (June 2006) with Kalinga Commercial Corporation (KCC) for raising and transportation of Calibrated Iron Ore (CLO) for one year from Gandhamardan Iron Ore Mines of the Company for a contractual amount of Rs. 10.02 crore. The agreement, *inter alia*, stipulated that service tax, if applicable, would be reimbursed upon registration of the agency and payment of service tax by them.

The Finance Act, 2007 brought mining operations into the service tax net with the stipulation that services provided or to be provided on or after 1 June 2007 were liable to service tax leviable at the rate of 12.36 *per cent*[*] of the taxable services. The Board of Directors of the Company decided (June 2007) to reimburse service tax to the mining contractors with effect from 1 June 2007. KCC demanded (20 November 2007) service tax of Rs. 83.25 lakh against the total value of work executed from 16 February 2007 up to the unsettled sixth Running Account Bill for Rs. 6.74 crore. The Company without verifying the actual payment made by the contractor, reimbursed (December 2007) Rs. 50.41 lakh towards service tax for the work done before 1 June 2007 as the Company did not have a system of verifying the statutory payments made by the contractor.

On this being pointed out by audit (December 2007), the Management recovered (July 2008) excess amount of service tax amounting to Rs. 50.41 lakh. The fact, however, remains that the Company is still continuing to reimburse service tax to the contractors without obtaining proof of deposit.

3.20 Avoidable loss on sale of ore

Due to sale of high-grade minerals as low-grade, the Company sustained avoidable loss of Rs. 48.98 lakh.

The sale price of the minerals of the Company is determined on the basis of grade analysis through Government laboratories as well as private laboratories engaged by the Company. The Director of Mines, Orissa issued instructions (August/November 2005) to insist on mine owners for getting the samples for ore/mineral removal permission analysed in Government laboratories. In case the application for permission for removal of mineral stack was enclosed with analysis certificate from a private laboratory, the lessee should submit two sample packets of the mineral stack for which such analysis report was furnished. These would be analysed in Government laboratories for checking the grade of the mineral for calculation of royalty. The third sample, known as

[*] 12 *per cent* Service Tax, 0.24 *per cent* Education Cess and 0.12 *per cent* Secondary and Higher Education Cess.

umpire's sample, which was kept with the security in-charge of the Company would be analysed in the Government laboratory in case of dispute.

For sampling and analysis of iron and chrome ore from all mines of the Company for the period from October 2005 onwards the Company executed (December 2005 and January 2006) agreements with Mitra S.K. (P) Limited (MSKPL) and Superintendence Company of India Limited (SUPCO) respectively. The agreement, *inter alia*, envisaged that in the event of failure of grade or loss due to incorrect analysis, the actual loss would be recovered from the bills of MSKPL and SUPCO.

It was observed in audit that the Company sold 17,194 MT of chrome ore at lower rates ranging from Rs. 3,206 to Rs. 5,125 per MT from J.K. Road region and 6,239.50 MT of iron ore at lower rates ranging from Rs. 645 to Rs. 1,225 per MT from Barbil/Gandhamardan regions during October 2005 to March 2007 on the basis of certificates of private laboratories despite high contents of chromium and iron respectively as per analysis report of Government laboratories which resulted in loss of revenue of Rs. 46.51 lakh. Though excess royalty of Rs. 2.47 lakh was paid by the Company due to upgrading from lower grade ore, the same was not recovered from the buyers.

Despite confirmed higher percentage of ore in the umpire's sample, the Company did not take any action for recovery of loss of Rs. 48.98 lakh from the private agencies as per the terms of the agreement with them.

Government stated (September 2008) that sample collection by Mining Department from stacks/trucks was not done on a scientific basis for which the higher chrome/iron contents in these ores was not accepted. It was added that the loss of revenue because of invoicing at lower rate as pointed out by audit had been derived considering the analysis result of the Government laboratory which was not as per the terms of the sales contract. The testing report of Government laboratory cannot be said to be unscientific as the testing was done as per the terms of the agreement/Government instruction. Hence the Company should have recovered the loss sustained by it from the agencies as per terms of the agreement.

Thus, due to sale of high-grade minerals as low-grade, the Company sustained avoidable loss of Rs. 48.98 lakh.

General

3.21 Follow-up action on Audit Reports

Explanatory Notes outstanding

3.21.1 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 and departments of Government. It is, therefore, necessary that they elicit appropriate and timely response from the Executive. Finance Department,

Government of Orissa issued instructions (December 1993) to all Administrative Departments to submit explanatory notes indicating corrective/remedial action taken or proposed to be taken on 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 Undertakings (COPU).

Though the Audit Reports for the years 1999-2000 to 2006-07 were presented to the State Legislature, eight out of 15 departments which were commented upon did not submit explanatory notes on 21 out of 185 paragraphs/reviews as on 30 September 2008, as indicated in the following table.

Year of the Audit Report (Commercial)	Date of presentation	Total Paragraphs/ Reviews in Audit Report	No. of paragraphs/ reviews for which explanatory notes were not received
1999-00	August 2001	29	1
2000-01	March 2002	25	Nil
2001-02	March 2003	17	1
2002-03	December 2003	24	Nil
2003-04	March 2005	27	2
2004-05	February 2006	17	2
2005-06	March 2007	21	3
2006-07	March 2008	25	12
Total		**185**	**21**

Department-wise analysis is given in **Annexure 18**. PSUs under the Energy, Industries and Public Enterprises were largely responsible for non-submission of explanatory notes. The Government did not respond to even reviews highlighting important issues like system failures, mismanagement and non-adherence to extant provisions.

Compliance with Reports of Committee on Public Undertakings (COPU) outstanding

3.21.2 Action Taken Notes (ATNs) to 96 recommendations pertaining to nine Reports of the COPU presented to the State Legislature between April 1999 and August 2008 had not been received as on 30 September 2008 as indicated below:

Year of the COPU Report	Total number of Reports involved	No. of recommendations where ATNs not received
1999-2000	2	34
2001-02	1	8
2007-08	1	1
2008-09	5	53
Total	**9**	**96**

The replies to the recommendations were required to be furnished within six months from the date of presentation of the Reports.

Response to Inspection Reports, Draft Paragraphs and Reviews

3.21.3 Audit observations noticed during audit and not settled on the spot are communicated to the heads of PSUs and the concerned administrative

departments of State Government through Inspection Reports. The heads of PSUs are required to furnish replies to the Inspection Reports through the respective heads of departments within a period of six weeks. Inspection Reports issued up to March 2008 pertaining to 32 PSUs disclosed that 2,245 paragraphs relating to 500 Inspection Reports remained outstanding at the end of 30 September 2008. Department-wise break-up of Inspection Reports and Audit observations outstanding at the end of September 2008 is given in **Annexure 19**. 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, observed that out of 21 draft paragraphs and five draft performance reviews forwarded to various departments between March and October 2008, as detailed in **Annexure 20**, replies to two draft paragraphs and one draft performance review were awaited (November 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/performance reviews and ATNs to recommendations of COPU 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.

Bhubaneswar
The

(Atreyee Das)
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New Delhi
The

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