

## Chapter IV

### 4. Transaction Audit Observations

Important audit findings noticed as a result of test check of transactions made by the State Government Companies and Corporations are included in this chapter.

#### Government companies

#### Jaipur Vidyut Vitran Nigam Limited, Ajmer Vidyut Vitran Nigam Limited and Jodhpur Vidyut Vitran Nigam Limited

#### Relief to Agricultural consumers

**Grant of relief to agricultural consumers without firm commitment from the Government for reimbursement resulted in loss of revenue of Rs.110.38 crore.**

**4.1** The commercial wings of the three Vidyut Vitran Nigams (Discoms)\* issued orders (October 2002) for giving relief by way of recovering actual consumption charges instead of minimum charges from the agriculture metered supply consumers (general category tariff code 4000) from the billing month November 2002. The relief was further extended (February 2003) to special category agriculture metered supply consumers (tariff code 4200 & 4400) from the billing month March 2003. These orders were stated to have been issued as per the direction of the State Government due to severe drought/famine in the State and it was also stated that Government had agreed to reimburse the difference of minimum charges and actual charges to Discoms.

It was, however, observed during audit that neither such direction to provide relief nor any commitment by the State Government for reimbursement of such claims to Discoms was on record. When the claims (December 2002) by the three Discoms for reimbursement of difference of actual consumption charges and minimum charges for the month of November 2002, the State Energy department asked the Discoms (February 2003 and April 2004) to furnish a copy of the Government direction for reimbursement of such claims and relevant correspondence papers with the State Budget department for

\* Jaipur Vidyut Vitran Nigam Limited (JVVNL), Ajmer Vidyut Vitran Nigam Limited (AVVNL) and Jodhpur Vidyut Vitran Nigam Limited (Jd.VVNL).

onward transmission to the Finance Department. The Chairmen of all the three Discoms clarified (March 2003) that relief for payment of minimum charges was allowed on the direction of the Government. It was further clarified that the minimum charges were part of tariff, hence the companies mentioned difference of minimum charges and actual consumption in the bills as payable by the State Government.

The matter continued to be pursued with the State Government through the Energy department till 16 April 2004, when in a meeting, the Principal Secretary Finance expressed his inability to reimburse the amount in the absence of a formal decision at the appropriate time and level.

Minimum charges are statutory part of tariff determined by Rajasthan Electricity Regulatory Commission (RERC). Thus, without any decision/commitment of the State Government in writing to reimburse the difference of minimum charge and actual charges, non levy of minimum charges resulted in loss of Rs.110.38 crore to Discoms during November 2002 to July 2004.

Government of Rajasthan, Department of Energy stated (August 2005) that the matter for adjustment of loss to Discoms was being taken up with the Finance Department.

## **Rajasthan Rajya Vidyut Prasaran Nigam Limited**

### **Short recovery of rebate**

#### **Refund of the allowable rebate of Rs.47.16 lakh to National Thermal Power Corporation resulted in short recovery of rebate.**

**4.2** The erstwhile Rajasthan State Electricity Board (RSEB<sup>\*</sup>) entered (January 1994) into bulk power supply agreement with the National Thermal Power Corporation (NTPC) for purchase of power from its various generating stations. In terms of the agreement, GOI would determine the tariff for supply of the power. After unbundling of RSEB, the Rajasthan Rajya Vidyut Prasaran Nigam Limited was entrusted the work of purchase of power and the agreement by RSEB was continued. The tariff notification issued by GOI provided that NTPC would allow rebate ranging from 2.5 *per cent* to 1 *per cent* on payment of monthly energy bills within the specified period *viz.* 2.5 *per cent* rebate on the amount paid through letter of credit on presentation of energy bill; 1.5 *per cent* on the amount paid up to 20 days of the bill and one *per cent* on the amount paid up to the end of the month of the bill. No rebate was payable on payment of statutory levies, taxes, cess *etc.*

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<sup>\*</sup> Now Rajasthan Rajya Vidyut Prasaran Nigam Limited (RRVPNL), on unbundling of RSEB from 19 July 2000.

RSEB/RRVNL paid monthly energy bills including advance Income Tax after deducting amount of admissible rebate. Similarly NTPC also passed the amount of refund of Income Tax to RSEB/RRVNL through monthly energy bills.

During October 1999 to August 2002, NTPC refunded Rs.14.93 crore (4 October 1999), Rs.5.71 crore (29 October 2001) and Rs.3.93 crore (5 August 2002) on account of Income Tax refund through adjustment of energy charges payable by RSEB/RRVNL. The Company, however, made the payment of monthly bills without claiming/deducting rebate of Rs.61.44 lakh on the total amount refunded by NTPC despite the fact that the amount of Income Tax refund was available with NTPC on the date of adjustment of energy charges bills.

On this being pointing out by Audit (March 2003) the Company deducted (May 2003) Rs.61.44 lakh while making payment of energy bills to NTPC for the month of April 2003. In March 2004, however, the Company refunded Rs.47.16 lakh of the deducted rebate to NTPC on the ground that when there were dues outstanding towards NTPC, rebate on such refund was logically not admissible.

It was seen during audit that neither RRVNL nor NTPC accounted for the amount of Income Tax refund towards old outstanding dues. Moreover, rebates were allowed to RRVNL on the payments made against current monthly bills despite having outstanding dues. Thus, refund of already deducted rebate of Rs.47.16 lakh to NTPC was unjustified and resulted in short recovery of rebate.

Government stated (June 2005) that during the period from May 2003 to December 2003, dues of Rs.51.25 crore payable to NTPC were accumulated and NTPC insisted for payment of Delayed Payments Surcharge (DPS) on these dues. The matter was discussed in March 2004 with NTPC where it was agreed that rebate deducted on amount of Income Tax refunds shall be paid to NTPC and NTPC would not insist for DPS on dues of Rs.51.25 crore.

The reply is not tenable in view of the fact that supplementary bills of Rs.51.25 crore were received in November/December 2002 and were paid in installments between December 2002 to March 2003 as per mutual consent of NTPC and the Company. Thus there was no delay in payment of supplementary bills on the part of the Company and hence there was no reason of paying DPS thereon. The refund of rebate lacked justification.

#### **Extra expenditure on purchase of tower material**

**Company incurred an avoidable extra expenditure of Rs.36.93 lakh due to non-operation of the risk and cost clause of purchase order.**

**4.3** Rajasthan Rajya Vidyut Prasaran Nigam Limited (Company) invited tenders (April 2001) for procurement of 863 towers of 220 KV S/C (Type A-

801, Type B-47 and Type C-15) and 951 towers of 132 KV S/C (Type A-842, Type B-52, Type C-39 and Type D-18). As per qualifying requirement clause of the tender document, the bidder should be a manufacturer who had designed, fabricated, galvanised, tested and supplied at least 3000 MT of transmission line towers for 132 KV and above in any one year during the last five years. The tenders were opened on 15 June 2001 and offers of three firms\* were accepted. The ex-works rate offered by L-1 firm was Rs.21499.50\*\* per MT for both 220 and 132 KV towers, the rates of L-2 firm were Rs.22757.64 per MT for 220 KV towers and Rs.22594.30 per MT for 132 KV towers and rates of L-3 firm were Rs.23288.18 per MT for 220 KV towers and Rs.23125.31 for 132 KV towers.

The Company placed order for 464.160 MT (Type-A) 100 numbers towers each of 220/132 KV on L-1. The orders for remaining quantity (3284.190 MTs) were placed on L-2 and L-3.

In terms of clause-11 of the agreement, delivery of material and installation of towers was to be completed in 15 months *i.e.* upto December 2002. Despite pursuance, L-1 firm did not commence supply up to the delivery period prescribed in the purchase order. Finally the Company cancelled (December 2002) the purchase order of L-1 due to non-commencement of supply and imposed a penalty (as per clause 1.24 of general condition of the contract) of Rs.2.99 lakh at the rate of three *per cent* of total value of contract.

It was seen during audit that due to non-supply of the ordered quantities by the firm, the Company had to purchase the 456.594 MT at increased rates of a total adjusted FOR destination price of Rs.35995 per MT and incur an extra expenditure of Rs.36.93<sup>§</sup> lakh. Had the Company invoked the risk and cost clause of the purchase order in the contract (clause 29), the Company could have avoided extra expenditure of Rs.36.93 lakh on purchase of the above material. There was nothing on record to show why the company did not invoke this clause.

Government stated (August 2005) that it is not binding to operate the risk and cost clause. Furthermore, it may not be reasonable to presume that the quantity not supplied by the firm was purchased in the subsequent tender. The reply is incorrect and not tenable in view of the fact that by operating the risk clause, the extra expenditure could have been avoided. The non-operation of the clause defeated the very purpose of having it in the contract and lacked justification. Further, the non-supplied quantity was purchased in the subsequent tender.

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\* Triveni Structural Limited (L-1), KEC International Limited (L-2) and Man Structural Limited (L-3)

\*\* FOR destination price was Rs.27437.60 per MT

§ 456.594 (Rs.35995 – Rs.27437.60) – Rs.214584 (adjusted from security deposit towards Liquidated Damages) = 3692673.50

**Extra expenditure due to placing the order on second lowest firm**

**Placing of order on second lowest firm without putting a clause in the agreement for recovery of additional cost in case of delay in supply resulted in extra expenditure of Rs.47.85 lakh.**

**4.4** Rajasthan Rajya Vidyut Prasaran Nigam Limited (Company) invited pre-qualification tenders (February 2002) for design, fabrication, galvanising, testing and supply of 220 KV double circuit towers and special circuit towers for transmission lines for supply of power at Ratangarh-Khetri, Jodhpur-Beawar and Jodhpur-Tinwari. Tenders were opened (15 May 2002) where in seven offers (out of eight offers) fulfilled the pre-qualification criteria. After evaluation of technical bids, the price bids of the qualified bidders were opened on 9 July 2002. The offers were valid for 90 days from the date of opening of price bids and the supply was to be made within 12 months.

Offer of Man Structural Limited (MSL) was found to be the lowest (quoted price Rs.8.02 crore) in respect of 220 KV double circuit towers. The Company invited (5 September 2002) MSL for negotiation. MSL not only refused to reduce rates but also made it clear that they would require extension of six months to complete the delivery. The Company did not accept time extension on the ground that it would delay the schemes and placed the purchase order (October 2002) on the second lowest firm (Larsen & Toubro Ltd.) (quoted price Rs.8.50 crore) at an extra cost of Rs.47.85 lakh without including any provision in the agreement to prevent losses due to delayed supply by second lowest firm by way of recovery clause for extra cost being paid over the first lowest. The Company also did not forfeit the earnest money of MSL of Rs.10 lakh.

Larsen & Toubro (L&T) were required to supply the ordered quantity by 20 September 2003, but failed to complete supply till November 2004 *i.e.* delay of more than 12 months. This caused delay in construction of lines as well as supply of power in Ratangarh-Khetri, Jodhpur-Beawar and Jodhpur-Tinwari areas. Thus, placing the order on second lowest firm without a specific clause for recovery of extra cost, in case of delay in supply of material, caused extra financial burden of Rs.47.85 lakh.

Government stated (August 2005) that for the whole lot, comprising double circuit as well as special circuit towers, the offer of L&T was the lowest to whom orders were placed. For sub lot of double circuit towers offer of MSL was the lowest which was considered by the Purchase Committee only to assess possible reduction in prices by the lowest bidder for the whole lot.

The reply is not tenable as the price bids of both the firms were considered by the Purchase Committee sub-lot wise. MSL, however, demanded time extension of six months. But in view of the urgency of material, orders were not placed on MSL. Thus, the company, by placing the order on L&T without contractual safeguard not only lost monetarily but also the resultant delay in construction of the transmission line caused non supply of power to the consumers. Had the company accepted the request of MSL for time extension

of six months, the Company could have avoided extra final burden of Rs.47.85 lakh.

## **Jaipur Vidyut Vitran Nigam Limited**

### **Undue benefit extended to consumer**

#### **The Company extended undue benefit of Rs.36.19 lakh to a consumer violating the general condition of supply.**

**4.5** Puneet Steel and Alloys Private Limited, Bhiwadi, a high tension consumer approached (March 2000) the Corporate Level Settlement Committee (CLSC) of Jaipur Vidyut Vitran Nigam Limited (JVVNL) for settlement of their dispute relating to fuel surcharge, interest during disconnection period and late payment surcharge levied on account of non-payment of fortnightly bills. The case was considered by CLSC on 15 May 2001 and relief of Rs.26.36 lakh was extended to the consumer. The minutes of the CLSC meeting were communicated to the consumer on 11 June 2001.

In January 2002, the consumer again approached CLSC stating that the relief granted was not adequate and requested for relief under the new Amnesty Scheme (introduced on 23 August 2001). CLSC again considered the case on 15 June 2002 and granted relief of Rs.62.55 lakh under the Amnesty scheme in place of the earlier relief of Rs.26.36 lakh granted to him.

It was observed during audit that the CLSC reconsidered the case in contravention of the General conditions of supply (Commercial Notification No.422) which provide that cases once decided by the CLSC could be considered for review only if request was made within the limitation period of 60 days from the date of issue of minutes of the meeting against which review was required. Request of the consumer made after this limitation period should not have been considered.

Thus, the Company extended undue benefit of Rs.36.19 lakh despite the petition for review having been made after the limitation period of 60 days.

Government stated (June 2004/July 2005) that the case was reconsidered in view of the consumer's representation that relief provided in the settlement (15 May 2001) was not in parity with that provided to the other consumers having similar grievances.

The reply is not tenable as similar case of another consumer was rejected by the CLSC (December 2003) on the ground that review petition was not made

within 60 days from the date of communication of the minutes of the settlement decision.

## **Rajasthan State Mines & Minerals Limited**

### **Under recovery of royalty**

#### **Non-revision of rates of royalty as per revised IBM formula resulted in loss of Rs.3.93 crore.**

**4.6** As per Gazette Notification (11 April 1997) of the GOI, royalty in respect of rock phosphate was leviable at the rate of 11 *per cent ad valorem* in respect of mineral having Phosphorus Penta Oxide (P<sub>2</sub>O<sub>5</sub>), contents above 25 *per cent*, five *per cent ad valorem* in respect of rock phosphate having P<sub>2</sub>O<sub>5</sub> contents up to 25 *per cent* and 20 *per cent ad valorem* for Gypsum. The rates of royalty were revised (10 April 2003) which stipulated that royalty be calculated on the basis of bench mark price declared by the Indian Bureau of Mines (IBM) in its state wise monthly statistics of mineral production adding 20 *per cent* thereon.

It was observed in audit that the Company did not revise the rates for recovery of royalty on sale of Rock phosphate and Gypsum as required and continued to recover royalty at the old rates from its customer. The Company approached (March 2004) the Department of Mines and Geology (DMG), Government of Rajasthan with the plea that as per the above notification, calculating royalty by adding 20 *per cent* in the bench mark value was not correct. DMG, however, in its reply (March 2004) rejected the Company's plea and asked the Company to deposit royalty as per the revised rates. The Company deposited royalty of Rs.33.46 crore for the year 2003-04 as per the revised rates of royalty but recovered only Rs.29.53 crore as per old rates/formula from its customers.

Thus, non-recovery of royalty as per the revised IBM formula from customers resulted in under recovery of royalty to the extent of Rs.3.93 crore.

The Government stated (August 2005) that the benchmark price was being published by IBM in their monthly journal very late, generally after a time lag of two to three months. Under the above circumstances, it was not possible to recover royalty from the buyers on the basis of benchmark prices.

The reply is not tenable as the Gazette notification for revision in rates of royalty was effective from April 2003 and the benchmark price is based on the statistics/information provided by the Company and, hence the Company does have the basic information on the benchmarking of the price. Further, to safeguard its financial interest, the company should have put a condition in its sale terms that royalty would be charged on bench mark price as published by IBM from time to time.

**Excess payment on acquisition of land**

**The company agreed to pay additional compensation without keeping in mind the legal provisions of section 18 of the Land Acquisition Act, 1894 resulting in extra payment of Rs.1.14 crore on land acquisition.**

**4.7** The Rajasthan State Mines & Mineral Limited (Company) approached (September 1996) State Government to award land at Mata Sukh, Kasnau and Igyar villages of Nagaur Districts for its lignite project. In terms of section 4 of Land Acquisition Act 1894 (LAA), the State Government issued gazette notification (November 1997) for acquisition of 7510.06 bighas of land in favour of the Company. The land was finally acquired under Section 17(1) of the LAA.

The Land Acquisition Officer (LAO) as per provision of LAA awarded (September 2000) compensation of Rs.16.04 crore to the landowners based on the prevailing rate on the date of publication of notification under section 4 of LAA. The Government also approved the award on 12 October 2000. Subsequently, on the demand of landowners, Collector Nagaur, formed a committee (November 2000) under the chairmanship of the Additional Collector, Nagaur to re-negotiate compensation amount with landowners and the Company's authorities.

As per Section 18 of LAA, if any person interested has any objection as to the amount of compensation and has not accepted the award value, he may, by written application to the Collector request for referring of its case for determination of compensation by the Court of Law. However, the committee, disregarding the legal provision recommended an increase of Rs.1,500 per bigha for irrigated land and Rs.750 per bigha for non-irrigated land having financial impact of Rs.1.14 crore. It was noticed during audit that there was nothing on record to indicate the basis/justification for the amount of enhancement. The Company instead of protesting payment of enhanced compensation (June 2002) released it to LAO (July 2002) for disbursement to the landowners. Thus, the acceptance and payment of enhanced compensation by the Company ignoring the legal provisions of section 18 of LAA resulted in irregular/unjustified payment of Rs.1.14 crore.

The Company agreed (April 2005) that as per legal provision, the aggrieved party should approach the collector for making a reference to the competent court but the practical position was that they would not have allowed the company staff to enter the area. The fact, however, remains that the initial award declared by the LAO was legal and was based on the prevailing rate at the time of the publication of the notification under section 4 of LAA and after considering the grievances of the landowners. Hence, further revision in the rates without referring to the Court of Law as required under section 18 of LAA lacked justification.

The matter was reported to the Government (June 2005), its reply had not been received so far (August 2005).



### **Excess payment of diesel escalation**

#### **Taking a different rate of diesel for payment of escalation resulted in excess payment of Rs.33.65 lakh.**

**4.8** Rajasthan State Mines and Minerals Limited (Company) invited (December 2001) tenders for raising and mining of lignite from Matasukh and Kasnau mines separately and jointly from all the nine firms which submitted their expression of interest (June 2001). The tender document, *inter alia*, stipulated that (i) the contractor had to make suitable arrangements for procurement and storage of diesel and in that case, the Company agreed to pay escalation for diesel at the frozen rate of Rs.17959.08 per Kiloliter (KL) inclusive of all taxes ex Matasukh and Kasnau prevailing as on 20 November 2001. (ii) The payment of escalation charges/recoveries had to be made on quarterly basis. The frozen rate of diesel was arrived at after deducting bulk discount of four *per cent* on the net depot price. The total price excluding bulk discount was Rs.18542.43 per KL.

The priced bids were opened on 7 June 2002 and the Company finally issued letters of intent (11 November 2002) for mining at Kasnau mines to Sanik Transporter Private Limited (STPL) and to National Construction Company (NCC) for Matasukh mines.

It was noticed during audit that the frozen rate of diesel quoted in the tender was arrived at after deducting four *per cent* bulk discount. The amounts payable on account of price escalation on diesel were, however, calculated with reference to the current price of diesel without deducting the element of bulk discount resulting in over payment of Rs.33.65 lakh to contractors for the period 1 January 2003 to 31 March 2004.

Government stated (May 2005) that in order to check the possible loading on the quoted rates by the tenderers, a price variation clause was kept and frozen rate of diesel obtained from Indian Oil Corporation Limited was utilised for tendering purpose only. The reply is not tenable as at the time of allowing price escalation, the bulk discount should have been deducted from the current prices of diesel to make them comparable with the base rates which was net of bulk discount. Taking different rates for arriving at the price of an item at different times in a tender lacked justification.

### **Loss of revenue**

#### **Delay in depositing requisite licence fee resulted in loss of revenue of Rs.15.10 lakh.**

**4.9** The Rajasthan State Mines & Minerals Limited (Company) applied (30 December 2002) to Rajasthan Renewable Energy Corporation Limited

(RRECL) for allocation of 10 MW wind farm at Jaisalmer under Government of Rajasthan (GOR) wind policy 2000.

RRECL considered (13 February 2003) their proposal for setting up 10 MW capacity in two phases (5 MW each) subject to payment of reserve price (licence fee) of Rs. one lakh per MW and development charges of Rs. one lakh fifty thousand per MW for the pooling station. The Company agreed (18 February 2003) to pay development charges but requested for exemption from payment of the reserve price (licence fee). RRECL informed (22 February 2003) that the licence fee could be recovered from running energy bills of the Company. The Company paid (3 March 2003) development charges of Rs.7.5 lakh for 5 MW but remained silent about payment of licence fee.

On 11 June 2003 RRECL asked the company to submit fresh application under the new policy of 2003 notified by GOR (April 2003). The Company represented (26 June 2003) to consider its application under the old wind power policy 2000, which was turned down by RRECL (2 July 2003) on the plea that the Company, had neither instructed the Rajasthan Rajya Vidyut Prasaran Nigam Limited (RRVPL) to pass on Rs.10 lakh from their running bills of sale of power pending with them nor deposited the required licence fee in confirmation. Later the company paid (24 June 2003) the licence fee of Rs.10 lakh after receipt of payment from RRVPL. The Company requested (7 July 2003) the Energy Secretary, GOR to advise RRECL to consider their project under the old wind power policy 2000. The request was also turned down (18 July 2003) by GOR on the same grounds.

It was observed during audit that the rate for sale of power under the old policy was Rs.3.50 per unit for 2003-04 with five *per cent* increase every year on cumulative basis for 20 years whereas in the new policy the rate for the year 2003-04 was Rs.3.32 per unit with two *per cent* increase every year on cumulative basis up to 10 years and thereafter fixed rate of Rs.3.92 per unit for further 10 years. Had the Company confirmed the payment schedule for the licence fee or made the payment of licence fee before declaration of the new wind power policy, the Company could have availed the benefit of higher power purchase price under the old wind power policy.

Thus delayed action of depositing licence fee resulted in loss of revenue to the Company during the period (*i.e.* 20 years) of the power purchase agreement. The actual loss on the power sold during April 2004 to November 2004 works out to Rs.15.10 lakh. In addition to this, the Company would be deprived of the revenue during the period from December 2004 to March 2019 on account of sale of power based on the reduced tariff.

The Management stated (December 2004) that the Company being a State Public Sector Undertaking could not take up the matter with RRECL/GOR beyond a certain limit. The fact, however, remains that being a commercial undertaking, the Management should have been more pro active and avoided a financial decision that could impact the revenue/profit of the company in the future. Thus, failure on the part of the Company to act in time caused loss of revenue on sale of power.

The matter was reported to the Government (June 2005), its reply had not been received so far (August 2005).

## **Rajasthan State Ganganagar Sugar Mills Limited**

### **4.10 Environment Management System in Rajasthan State Ganganagar Sugar Mills Limited**

#### *Introduction*

**4.10.1** An Environment Management System (EMS) is a comprehensive approach to managing environmental issues, integrating environment-oriented thinking into every aspect of business management. An EMS ensures that environmental considerations are a priority, along with other concerns such as cost, product quality, investments, productivity and strategic planning.

An EMS generally makes a positive impact on a company's bottom line. It increases efficiency and focuses on customer needs and market place conditions, improving both the company's financial and environmental performance. By using an EMS to convert environmental problems into commercial opportunities, companies usually become more competitive.

The Rajasthan State Ganganagar Sugar Mills Limited (Company) was selected for scrutiny of EMS because it has a sugar unit, distillery unit and reduction centers which are prone to environment hazards. Moreover, the Company is engaged in the activities such as:

- production and sale of sugar in its factory at Sriganganagar, having a cane crushing capacity of 1,000 MT per day;
- production of rectified spirit in its distillery of Sriganganagar, having a capacity of 17,250 bulk liters (BL) per day; and
- manufacture and sale of country liquor through 22 reduction-cum-filling centers and 28 storage warehouses.

## **Environment Protection Policy**

**4.10.2** In order to provide for prevention and control of Water and Air Pollution and to restore wholesomeness of water and air, GOI enacted the Water (Prevention & Control of Pollution) Act, 1974 effective from March 1974 and the Air (Prevention and control of Pollution) Act, 1981 effective from May 1981. GOI further notified the Environment Act, 1986 (EP Act) covering all major attributes effecting the environment. In exercise of powers conferred under Section 4 of the Water and the Air Act, the State Government

constituted (February 1975) Rajasthan State Pollution Control Board (RSPCB) as a regulatory body to prevent and control environmental pollution.

The RSPCB under its policy and procedure divided industrial units into three categories namely: Red, Orange and Others. The Sugar and Distillery being highly polluting are categorized as Red industrial units. Under Section 25 and 26 of Water Act and Section 21 of Air Act, industrial units under Red category are required to obtain prior consent of RSPCB to operate the unit. In case of operation of any unit without such consent, the RSPCB has power to impose penalties under Section 43 and 44 of the Water Act and 37 of the Air Act.

Section 277 of Indian Penal Code provides that “whoever voluntarily corrupts or fouls the water of any spring or reservoir so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment upto to three months or with fine upto Rs.500 or with both”.

Under provisions of EP Act, the RSPCB has prescribed the general standards for emission or discharge of environment pollutants from sugar as well as distillery units.

As per the general conditions of the Water Act, 1974, Red category Industries shall submit monthly analysis reports for the required parameters of the treated/untreated effluent to the RSPCB. Further, the RSPCB has power to inspect Red category Industries once in a month and to take samples of the trade effluents once in two months. It was, however, observed that the company had not submitted the required monthly reports and RSPCB had neither monitored receipt of monthly reports nor conducted periodic inspections.

#### **4.10.3 Environment Audit**

The GOI had notified Rule 14 issued under EP Act under which the statutory Environment Audit of sugar and distillery units have been made mandatory from 1 April 1992. The Company, however, has not got Environment Audit of the sugar factory and distillery unit conducted since April 1992.

**Environment audit of sugar factory and distillery was not conducted since April 1992.**

### **Audit findings**

#### **4.10.4 Sources of pollution and control measures**

Sugar and distillery units are highly polluting industries. Water is polluted by discharge of trade effluents containing excess organic and inorganic effluents. The organic matter contains excess BOD\* and COD\*\* particles which decompose by utilizing the available dissolved oxygen and thus endangering aquatic life and proliferation of aquatic weeds. The air is polluted by emission

\* BOD (Biological Oxygen Demand) Particles means organic particles, which consume dissolved oxygen of water to be de-composed.

\*\* COD (Chemical Oxygen Demand) Particles means chemical compounds which exert an oxygen demand in the receiving water. (BOD & COD cause depletion of oxygen in water).

of flue gases containing excess Suspended Particulate Matter (SPM) from the boilers. The norms prescribed by RSPCB for BOD, COD, TSS<sup>\*\*\*</sup> and SPM<sup>§</sup> are as follows:-

Sl. No.	Parameters	Limit
1.	BOD	Not to exceed 30 mg/lit
2.	COD	Not to exceed 250 mg/lit
3.	TSS	Not to exceed 100 mg/lit
4.	SPM-Stack	Not to exceed 150 mg/NM <sup>3</sup>
5.	SPM Ambient Air	Not to exceed 200 µg/m <sup>3</sup>

#### 4.10.5 Emission of excessive air pollutants

The sugar factory and distillery unit at Sri Ganganagar have two sets of boilers. One boiler of 25 MT/ hour capacity is of spreader stroke type installed in 1983. The other two boilers have capacity of 8 MT/hour each and are of natural draught type. Both sets of boilers are bagasse/coal fired and emit flue gases containing excess SPM in stack and ambient air than the prescribed limit.

Due to burning of coal and bagasse, small solid particles, known as 'particulates' are emitted which contaminate air and could cause health hazards. In addition lethal gases such as sulphur di-oxide and carbon di-oxide are also produced which adversely affect the health of factory workers and nearby inhabitants. The adverse impact could not be assessed in audit due to lack of information/records.

**Company did not have arrangement for measuring emission level of Air.**

The Company did not have any arrangement for measuring the emission level of air in the sugar factory. The RSPCB observed (22 September 2000) that SPM in ambient air was 980 µg/m<sup>3</sup> against the standard norm of 200 µg/m<sup>3</sup>

To Control air pollution, the Company installed Air Pollution Control (APC) equipment on 15 January 2002, at the sugar factory at a total cost of Rs.32.08 lakh.

The APC equipment stopped working on 30 January 2002 due to bursting of boiler tubes. The sugar factory was run without APC equipment for the remaining cane season of 2001-02 upto 18 March 2002 causing high air pollution. The APC equipment was modified and started working on 8 March

\*\*\* TSS (Total suspended Solid) particles.

§ SPM (Suspended Particulate Matter) means very small fragments of solid material or liquid droplets suspended in air.

2003. The level of pollution was also not checked by RSPCB during failure of APC equipment.

The actual emission levels measured by RSPCB after working of APC equipment on different dates against standard norms are given below:-

Parameters	Standard Norm	2 April 2003	31 January 2004	26 February 2004	23 March 2004	25 February 2005
SPM - Stack	150 mg/ Nm <sup>3</sup>	165	148	138	128	118
SPM Ambient air	200 µg/m <sup>3</sup>	471	268	240	255	221

**Emission level of other Air pollutants were not measured.**

The SPM in ambient air was still in excess of the norm. Thus, the higher emission of SPM in ambient air than the permissible limit caused air pollution in the near by area of the sugar factory. It was noticed during audit that the Company did not take or consider action to bring down the emission within permissible limits. The RSPCB also did not impose any penalty as prescribed under section 37 of the Air (Prevention and control pollution) Act 1981. Further, the emission level of other air pollutants like SO<sub>2</sub><sup>\*</sup>, NO<sub>x</sub><sup>\*\*</sup>, CO<sup>\*\*\*</sup> were not measured either by RSPCB or the Company to evaluate quality of air. The adverse health impact as a result of SO<sub>2</sub> which is a strong allergen can not be ruled out as it causes mucosa infection.

#### **4.10.6 Effluence of excessive water pollutants**

Water is used in the sugar factory for the production of steam and in imbibition<sup>@</sup> process. Though most of the water is re-circulated after cooling it by sprinkling method, yet some quantity of water containing excess BOD, COD and TSS particles is discharged by mixing with the discharged effluent of distillery.

In the process of manufacture of rectified spirit, the distillery discharges red coloured spent wash which is a highly polluting effluent containing excess BOD and COD and highly acidic in nature. To lower down its BOD and COD particles and to neutralize its acidity, it is treated in the Effluent Treatment Plant (ETP) Phase-I, by anaerobic oxidation process wherein BOD and COD particles are reduced by 90 *per cent* and 70 *per cent* respectively and effluent is also made neutral by increasing its pH<sup>§</sup> value. BOD and COD of treated effluent is further reduced by keeping it in open lagoons before pumping it into nearby farm of the factory. Before 1996 the company supplied the treated

\* Sulphur dioxide

\*\* Nitrogen oxide

\*\*\* Carbon monoxide

@ It is process to extract maximum sugar from the bagasse by pouring water on the bagasse and then crushing the drenched bagasse.

§ pH value is a measure of alkalinity/acidity.

effluent to the farmers for ferti<sup>ss</sup> irrigation. As this discharged water still contains excess BOD and COD, it causes water pollution.

The alcohol vapours in the distillery along with other poisonous gases can cause detrimental effect on various vital parts of human body. The impact, however, could not be quantified in audit.

To control the water pollution, Effluent Treatment Plant (ETP) Phase I was installed at the Sugar factory and the distillery at Sri Ganganagar in December 1993 at a total cost of Rs.1.40 crore.

The first phase ETP reduced the BOD and COD by 90 *per cent* and 71.5 *per cent* as envisaged in the performance guarantee schedule. The Company did not have effluent level measuring arrangements. The officers of RSPCB, however, visited the factory from time to time and observed the effluent level as under:-

(In mg/litre)

Parameter	Standard Norms	Actual as on 22 July 99	Actual as on 24 February 2000	Actual as on 22 September 2000	Actual as on 17 April 2002	Actual as on February 2004
<b>TSS</b>	100mg/litre	364	617	1000-1500	1304	2492
<b>BOD</b>	30 mg/litre	280	196	5000-5500	2200	3600
<b>COD</b>	250 mg/litre	832	1600	10000-25000	10400	11200

Since the actual effluent levels were much higher than the standard norms, the RSPCB issued show cause notices on 21 January 1999, 4 March 2003 and 17 December 2003 to bring the parameters within permissible limits. The Company, however, did not make any efforts to bring the parameters within permissible limit by installing the II phase of ETP plant after 1993.

The sugar factory/distillery has been discharging highly polluted waste water and polluting the environment. This has also resulted in non availment of 25 *per cent* rebate in water cess under the Water Cess Act 1977.

#### **4.10.7 Performance of Liquor Reduction Centers**

After washing of empties and floor of the unit, the water which contains excess BOD and COD is discharged and causes pollution of water. Reduction centers have been categorized in Orange category as they cause less pollution.

<sup>ss</sup> Ferti irrigation means nutritious matter supplied with water irrigating the fields.

**Reduction centers not applied for consent to operate.**

During the test check of 13 reduction centres (out of 22) in audit, it was noticed that except Jaipur centre, none of the other 12 reduction centres had applied for the consent to operate nor had the RSPCB officers inspected these reduction centres to ascertain whether the pollutants discharged by these reduction centres were within the prescribed parameters. RSPCB inspected the Jaipur centre on 6 April 1998, 31 October 2003 and 16 February 2004. The table below indicates the polluted particles observed in waste water discharged by the Jaipur reduction centre.

Parameter	Standard	Actual as on 6 April 98	Actual as on 16 February 04
TSS mg/litre	100	76	137
COD mg/litre	250	64	305
BOD mg/litre	30	20	87

The samples were not drawn during inspection on 31 October 2003 due to non discharge of waste water at the reduction centre. The pollutants which were within norms in April 1998 increased beyond norms in the test on 16 February 2004. The Company, however, did not make any effort to bring the pollutants within standard norms.

#### **4.10.8 Impact of Environmental Pollution**

The sugar factory and distillery units at Sri Ganganagar emitted and discharged air and water effluents respectively containing excess pollutants than the prescribed standards and continued polluting the environment since 1984 to date (March 2005).

A Research work of University of Rajasthan done in 2001 showed that polluted air discharged by the Company unit at Sri Ganganagar was injurious to human, animal and plant life and affected the health of the workers and staff of the factory. Polluted water stored in the factory caused growth of pathogenic microorganisms, which caused diseases like jaundice, cholera, typhoid, skin infection, amoebiosis, anemia and poliomyelitis etc. High BOD and COD in water is harmful for growth of plants due to decomposition of organic material under anaerobic conditions (stagnant water). The research study also observed that salinity patches were found on land, deficiency symptoms like stunted growth, yellow leaves, inverted rolling of leaves and spots on leaves and toxicity symptoms like spotting and dead tissues were also observed in the plants.



**Company neither ascertained impact of pollution on human health nor took steps to control.**

The Company, however, neither conducted any study/survey to ascertain the impact of environment pollution on the human health on the plant life in area nor took steps to control the pollutants in discharged wastewater. The impact cannot be quantified but this certainly has a deleterious effect in all spheres of life.

### Corporate Social Responsibility

**4.10.9** Under EP Act, the Central Pollution Control Board issued (July 2003) Charter of Corporate Responsibility for Environment Protection (CREP) in respect of 17 highly polluting industries including sugar factory and distillery industry. Under CREP directions, distillery is to achieve Zero discharge of spent wash by December 2005, for which a time bound action plan by upgradation technology and plant process was to be submitted to RSPCB along with Bank Guarantee of an amount equal to of 10 *per cent* of cost of equipment to be installed in future for achieving CREP standard. This bank guarantee was to be forfeited in case of non-installation of the equipment.

**Company did not frame time bound action plan for upgradation technology and plant process.**

The Company, however, did not frame a time bound action plan for upgradation of technology and plant process as required in the CREP.

The Company stated (June 2005) that APC equipment had been installed in the factory and the emission from the stack was found within the prescribed limits. The Company further stated that a provision of Rupees three crore had been made in the capital budget of 2005-06 for installation of second phase of ETP.

The reply is not tenable as even after installation of APC equipment, the SPM in ambient air was in excess of the norm and the Company did not take any action to bring down the level of pollution. Further, the Company made a provision in the capital budget at the fag end of the period prescribed by RSPCB.

## Statutory corporations

### Rajasthan State Road Transport Corporation

#### 4.11 Computerisation of Ticket Booking/Reservation System

##### *Introduction*

**4.11.1** Rajasthan State Road Transport Corporation (Corporation) was established (1 October 1964) under Road Transport Corporations Act, 1950. The Corporation is generating revenue of Rs.710 crores per annum (2004-05) through operation of buses. The Corporation decided to computerize its major booking stations from time to time and at present the computerized ticket reservation /booking system is in place at 29 stations for advance, onward, current and return as well online ticketing facilities (only at Jaipur). The works of ticket booking/reservation including application software and installation of hardware at all the stations were being awarded to various outside parties at a commission.

The work of ticket booking/reservation system at Central Bus Stand (Ordinary and Deluxe), Jaipur was awarded to Polytech Computer Education on 1 January 2004 for six months at a commission rate of 0.09 *per cent* on total sale value of the tickets (Excluding Insurance and Toll Tax) generated through computer, which was further extended up to 31 August 2005. The contractor was to provide hardware and furnish Daily Sale Account, Reservation chart and weekly backup of the database to the Corporation. The Deputy General Manger (Statistics) is responsible for monitoring the implementation and maintenance of ticket booking/reservation system.

The Information Technology (IT) Audit conducted at Central Bus Stand (Deluxe) at Jaipur covered issues like general IT controls, application controls, security and the operation of the IT system. The data pertaining to the period from January 2004 to June 2005 were analysed through **IDEA**<sup>1</sup> to examine the effectiveness of ticket booking/reservation system. Audit findings are discussed in the succeeding paragraphs.

##### *Analysis of Data*

##### *Lack of Validation Controls*

**4.11.2** Daily Sale Account (DSA) is the main document available with the depot for accounting its total revenue generated from the sale of tickets. It also contains details like the destination, fare, PNR numbers, number of persons traveled and the total receipts *etc.* Each passenger is allotted separate PNR number (unique). Scrutiny of DSA revealed that:

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<sup>1</sup> Interactive Data Extraction and Analysis software.

- the system did not have validation controls to avoid entry of duplicate PNR numbers. Duplicate PNR numbers were allotted (187 cases) resulting in non-accounting of revenue amounting to Rs.0.51 lakh.
- the system did not have continuity in PNR numbers. 1,284 of PNRs were found missing from the database. Out of these, in 15 cases, PNR numbers, though not available in DSA, were found in the database from which the bus charts were generated for the journeys.

Absence of the desired validation checks posed a risk to the system with revenue leakage.

The Corporation stated (August 2005) that one duplicate PNR case was noticed in February 2005 but revenue had since been brought into account. The reply is, however, silent about the cases pointed out by Audit.

#### ***Discrepancies in the procedure of Ticket cancellation***

**4.11.3** The Corporation issued (November 1999) an office order for 'cancellation of ticket' which provided that:

- If a ticket is cancelled before 24 hours of the bus departure then five *per cent* amount will be deducted from the ticket amount and balance 95 *per cent* will be refunded;
- If a ticket is cancelled within 24 hours and before one hour of the bus departure then 20 *per cent* amount will be deducted from the ticket amount and balance 80 *per cent* will be refunded.
- If a ticket is cancelled within one hour and before 30 minutes of the bus departure then 50 *per cent* amount will be deducted from the ticket amount and balance 50 *per cent* will be refunded.
- If a ticket is cancelled within less than 30 minutes before the bus departure or after the bus departure then no amount of the ticket will be refunded.
- In case a passenger who had already reserved his ticket and wanted to re-schedule his journeys date, Rupees five would be charged for the rescheduling.

It was observed during audit that the system allowed full refund amount without deducting cancellation charges as mentioned above in respect of cancellation of tickets within five minutes from the time of issue of ticket (8967 cases) during the period, which resulted in loss of revenue of Rs.5.98 lakh.

Countersignatures of the passengers were not obtained on the refund vouchers and as such the actual refunds made to the passengers also could not be ensured.

The system did not have facility to charge for re-scheduling of the journey ticket, from the passengers, though the Board had decided (1999) to charge rupees five for rescheduling of the journey.

The Corporation stated (August 2005) that a provision to allow the cancellation within five minutes without any deduction was incorporated in the system even though no such orders exist and the provision for rescheduling of journey date would be introduced in future.

***Change management controls***

**4.11.4** Audit scrutiny revealed that the Corporation had no documented formal policy relating to change management controls, testing standards, quality assurance standards and documentation standards. All the changes in the programme were being made by the contractor and not documented by the Corporation. Scrutiny of the records during audit revealed that:

- the starting PNR Numbers in the Server had been changed in seven cases without the knowledge of the competent authority.
- the toll tax in respect of three stations to be recovered from the passengers was not included in the bus fare.
- there was no formal segregation of duties among the personnel operating the system.
- documentation of the system control and process, user manual was not made available to the Corporation by the contractor even though agreement provided for that.
- there was no policy regarding Risk Analysis, Risk Mitigation Methodology and well-defined password policy.
- the Corporation did not have a proper documented 'Disaster Recovery and Business Continuity Plan'. In the month of March 2003, an outsider had un-authorisedly entered the main server through the net and corrupted the whole database of the ticket system. The database prior to April 2003 was lost and the ticket reservation system remained closed for 5 days (9.4.03 to 11.04.03 and 29.03.03 to 31.03.03). Despite this the Corporation did not take any corrective step. The Corporation though assessed an expected loss at Rs.10 lakh, had not taken any action to recover the same from the contractor.
- the contractor did not provide any back up of the database to the Corporation as per the agreement and the same was also not insisted upon.

The Corporation stated (August 2005) that these issues would be taken care of in the new contract.

### **Summary**

The Corporation failed to ensure reliability of computerized ticket booking/reservation system due to :

- absence of a well laid down IT Policy, password policy and logical access control mechanism.
- access to the users of out side agencies to Server, Database, Application Software, operating system and associated utilities system made the system highly vulnerable to the threats of unauthorized modifications, deletions *etc.*, in the database as well as the programme.
- lack of segregation of duties resulting in ineffective control on the system by the management of the Corporation.
- non adoption of a foolproof system to prevent failure caused by various reasons, the probability of occurrence of problems like data loss encountered by the organization during the initial years of computerization still exist.

#### **Extra Expenditure in purchase of re-treading material**

**The corporation did not follow the Committee's recommendation and placed the purchase order at a higher rate resulting in an extra expenditure of Rs.17.19 lakh.**

**4.12** Rajasthan State Road Transport Corporation (Corporation) invited open tenders on 2 June 2003 for purchase of re-treading material, which were opened on 10 July 2003. Out of 13 tenders received, 12 firms were considered as acceptable. The Purchase Board, while considering the issue on 9 September 2003 decided to obtain good sample size and performance for a longer span, in view of the erratic performance of the firms during the past three years and deferred the decision of purchase to the subsequent meeting.

In view of this decision, the Corporation constituted a Committee consisting of Financial Advisor, Executive Director (Engineering) and General Manager (Tyre) on 17 September 2003 to compare the procedure and formulae for purchases being adopted in other State Transport Undertakings.

The Committee, *inter alia*, recommended on 15 October 2003 that duration of performance of tyres should be kept the same as done earlier i.e. for 18 months. In case, however, any firm was ignored for placement of order in previous purchases due to higher cost per tyre per hundred kilometer (CPTK) and later on, its performance in respect of remaining tyres improved than the duration of such firms be considered for the previous period also so as to ascertain their total performance.

It was observed in audit that while placing the purchase order on Midas, the Corporation ignored the fact that its performance was required to be analysed based on 36 months performance as it was ignored for placement of order in the previous purchase (September 2002 to August 2003) due to higher CPTK. The CPTK performance of Midas for 125<sup>0</sup>C and 100<sup>0</sup>C tread rubber on the basis of 36 months was more as compared to 18 months' basis, hence no purchase order could have been placed on it and the purchase orders should have been placed on MRF and Elgi, which had lower CPTK as compared to Midas. The Corporation, however, ignoring the committee's recommendation placed the purchase order on Midas instead of on MRF and Elgi resulting in extra expenditure of Rs.17.19 lakh.

Government stated (July 2005) that clause no.5\* of the committee's recommendation was for the trial firms and Midas was a regular firm at that time and its sample size was more than 1000 numbers and hence clause no.5 was not considered in respect of this firm. The reply is not tenable, as the action of the Corporation violated the recommendation of the committee constituted for the purpose.

#### **Loss due to delay in Appointment of sole licensee**

#### **Delayed action for re-tendering resulted in loss of Rs.13.16 lakh.**

**4.13** Rajasthan State Road Transport Corporation (Corporation) invited (October 2003) open tenders for appointment of sole licensee to display advertisement on its 4200 buses. The earlier contract period was expiring on 5 January 2004.

Clause 30 of the tender conditions provided that the successful tenderers were required to deposit security deposit equivalent to three months license fee within 15 days of receipt of intimation and to sign the agreement. The successful tenderer was also required to provide bank guarantee (BG) equivalent to one-year license fee before signing the agreement.

Among the six offers received, the highest valid offer of Rs.306/- per bus per month was received from M/s Par 4 Films, Mumbai (firm). The Corporation informed (15 December 2003) acceptance of their offer and asked the firm to deposit security as required. The firm neither signed the agreement nor paid security deposit or bank guarantee within the stipulated period of 15 days. On 14 January 2004, the firm expressed its inability to submit BG equivalent to 12 months license fee, and proposed to submit BG equivalent to three months license fee. The Corporation again urged (23 January 2004) the firm to deposit the stipulated BG by 31 January 2004; otherwise the firm would be black

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\* In case, any firm was ignored for placement of order due to higher cost per tyre km. and later on if its performance in respect of the remaining tyres improved, the duration of such firms be considered for the previous period also, so as to ascertain the total performance.

listed after canceling the order as well as forfeiting the earnest money. But the firm did not deposit the same by 31 January 2004.

The Corporation re-invited (April 2004) the tender after forfeiting the earnest money deposit (Rs. one lakh) of the firm. In the revised tender, six offers were received. After evaluation of the revised tender, Chowrangee Marketing Pvt. Ltd. Kolkata was appointed (28 April 2004) as sole licensee for three years at the rate of Rs.270/- per bus per month with an increase of 10 *per cent* after each year. The contract started from 26 May 2004 after allowing 20 days grace period.

Had the Corporation initiated timely action for cancelling the earlier tender and re-invited the new tender, the Corporation could have avoided the vacancy period of 43\* days, which resulted in revenue loss of Rs.13.16 lakh.

Government stated (August 2005) that the time taken for the re-tendering process was obvious. The fact, however, remains that the Corporation should have initiated timely action for re-inviting the tender in order to avoid revenue loss during the vacancy period.

### **Rajasthan State Warehousing Corporation**

#### **Extra expenditure on handling and transportation**

#### **Extra expenditure of Rs.24.34 lakh incurred on handling and transportation due to allowance of higher rates.**

**4.14** Rajasthan State Warehousing Corporation (Corporation) appointed service agents for handling and transportation of food grains, fertilizers *etc.* for its warehousing centres, for a block period of two years (2002-04). As per clause 12 of the tender document, Managing Director could extend the contract on for a further period of one year.

Tenders for the subsequent block period of two years (2004-06) were invited on 1 February 2004. Test check of relevant records of 23 out of 86 warehousing centres, revealed that the rates received were higher by 7 to 60 *per cent* as compared to the rates for the block period 2002-04. Despite the availability of the option for extending existing work orders for a further period of one year at the rates and terms for the block period 2002-04, work orders for the period 2004-06 were awarded (March, April and May 2004) at higher rates to eight existing service agents and 15 new service agents. This

\* The period from 6.1.2004 to 25.02.2004 has been allowed as one month for finalizing tender and 20 days as grace period. Temporary arrangement was made between 15.3.04 to 30.04.04. Hence the vacancy period of 43 days has been worked out from 26.2.2004 to 14.03 .2004 and 1.05.2004 to 25.05.2004.

resulted in extra expenditure of Rs.24.34 lakh on handling and transportation of food grains etc.

Management stated (April 2005) that considering the rates of minimum wages and inflation rate, it was natural to have higher rates for the block period 2004-06 compared to the block period 2002-04. Further, the Corporation did not incur any loss on appointment of agents for handling and transportation. The reply is not tenable as at 32 centres, the rates offered by the tenderers were lower than the existing rates proving that the existing rates were workable/justified. Further, the Management decision for awarding the new contract was also not based on the prevailing inflation rate and minimum wages.

Thus, due to acceptance of higher rates of the service agents, the Corporation, besides incurring extra expenditure of Rs.24.34 lakh on handling and transportation, also continued to put unnecessary burden on the depositors from whom these charges are finally recovered.

The Corporation did not take any step to avoid recurrence of such expenditure, despite the fact that similar issues were pointed out in the Audit Report (Commercial) for the year 2002.



## GENERAL

### 4.15 Corporate Governance in State Government companies

#### *Introduction*

**4.15.1** Corporate Governance is the system by which companies are directed and controlled by the management in the best interest of the shareholders and others ensuring greater transparency and better and timely financial reporting. The Board of Directors is responsible for governance of companies.

**4.15.2** The Companies Act, 1956 was amended in December 2000 by providing, *inter alia*, Directors' Responsibility Statement (Section 217) to be attached to the Director's Report to the Shareholders. According to Section 217 (2AA) of the Act, the Board of Directors has to report to the shareholders that they have taken proper and sufficient care for the maintenance of accounting records; for safeguarding the assets of the company and for preventing and detecting fraud and other irregularities.

Further, according to Section 292A of the Companies Act, 1956, notified in December 2000, every public limited company having paid up capital of not less than rupees five crore shall constitute an Audit Committee, at the Board level. The Act also provides that the Statutory Auditors, Internal Auditors, if any, and the Director in charge of Finance should attend and participate in the meetings of the Audit Committee.

**4.15.3** The main components of the Corporate Governance are:

- matters relating to the Board of Directors;
- Directors' Report; and
- constitution of the Audit Committee.

**4.15.4** Out of 21 State Government Companies, Audit reviewed 16 working companies (all unlisted) as detailed in the **Annexure-16**.

#### *Board of Directors*

**4.15.5** The responsibility for good governance rests on the Corporate Board which has the primary duty of ensuring that principles of Corporate Governance both as imbibed in law and regulation and those expected by stakeholders are religiously and voluntarily complied with and the stakeholders' interests are kept at utmost high level. For this purpose, every company should hold the meetings of the Board of Directors at regular intervals. Every Director should attend these Board meetings to share the expertise and knowledge and to guide the affairs of the company.

### ***Delay in appointment of Directors***

**4.15.6** In terms of Section 252 (1) of Companies Act, 1956 every public company shall have at least three Directors at their Board. In case of RTDC and RSHCL, as per provisions in their Articles of Associations, all directors including Chairman and Managing Director were appointed with a condition that they will hold office till the next Annual General Meeting or 31 December of each year which ever is earlier and all directors were retired accordingly each year. It was observed during audit that there were delays in appointment of directors by the State Government after retirement of earlier Directors and consequently there was no Board for periods ranging from 10 days to 27 days in respect of RTDC and RSHCL during 2002-04.

### ***Meeting of Board of Directors***

**4.15.7** Section 285 of the Companies Act, 1956, provides that “in the case of every company, a meeting of its Board of Directors shall be held at least once in every three months and at least four such meetings shall be held every year.”

It was observed that in RTDC and RRECL, the Board of Directors held only three meetings during the financial year 2001-02 and the Board of RSSC held only three meetings in financial year 2002-03.

RRECL and RSSCL replied (October 2005) that the board meeting in the quarter ending June 2001 and June 2002 respectively could not be held due to unavoidable reasons. The Government also endorsed (October 2005) the reply of the RRECL. The reply is not tenable as the companies failed to comply with the provisions of the Act.

### ***Attendance of Directors in the meetings of the Board***

**4.15.8** The Board has two types of directors in its composition i.e. Executive and Non-Executive Directors. The Non-Executive Directors are independent directors bringing an independent judgment on issues of strategies, performance and standards of conduct. The Chairman of the Board is to ensure effective participation of all Directors to make an effective contribution in guidance and control over the affairs of the company.

The details of the attendance of Non-Executive Directors in the Board meeting of 11 companies was not regular as is evident from **Annexure-17**.

Thus the Directors who remained absent in the meetings failed in fulfilling their fiduciary duty and companies were deprived of their independent views on issues of strategy, performance and standards of conducts. The companies replied (May/June 2005) that the directors being senior officers in the State Government, could not attend meetings regularly and the leave of absence was duly granted.

**The attendance of non-executive Directors in the Board meetings was not regular.**

RJVNL further stated (October 2005) that the business in the meetings were transact with valid quorum, however, company would make more efforts to ensure the attendance of maximum directors.

The reply is not tenable, as the Board of Directors influence and enacts policies and decisions concerning public life and social development, their absence defeats the purpose of their appointment in the Board. This also deprives top Management of the benefit of their views which often adversely impacts the commercial activities of the companies.

### ***Directors' Report to shareholders***

**4.15.9** The Directors' report annexed to annual accounts of RSHC did not contain DRS in all the three years ending 31 march 2004 as required under Section 217-(2AA) of the Companies Act, 1956. In RJVNL and RSMM, the Directors' report annexed to annual accounts for the year 2001-02 did not contain DRS. In RSGSML, the Directors' report annexed to annual accounts for the year ended 31 March 2003 did not contain DRS.

The DRS shall also include statement that in the preparation of annual accounts, the applicable accounting standards had been followed along with proper explanation relating to material departures. Audit, however, noticed that in JVVNL, RRVUNL, AVVNL, Jd.VVNL, RSRDCC, the DRS in the Directors' report annexed to annual accounts for the years 2001-02 to 2003-04 did not contain explanation statement for deviations made in respect of Accounting Standard-15. In RJVNL, DRS did not contain explanation statement for the deviation made in respect of Accounting Standard-15 in the years 2002-03 and 2003-04.

The Companies (RRVUNL, JVVNL, Jd.VVNL) in their replies stated that it was not practicable to include detailed explanation for the deviations in the DRS.

The reply is not acceptable as DRS is required to be prepared in complete form as per the Companies Act and ensures transparency.

RJVNL stated (October 2005) that due to some misunderstanding DRS was not included and in these years provisions for gratuity and leave encashment were not made due to financial position, however, now the company is complying with the provisions.

### ***Audit Committee***

#### ***Role and functions***

**4.15.10** The main functions of the Audit Committee are to assess and review the financial reporting system, to ensure that the financial statements are correct, sufficient and credible. It follows up on all issues and interacts with the statutory auditors before finalisation of annual accounts. The Committee also reviews the adequacy of Internal Control System and holds discussion with Internal Auditors on any significant finding and follow

up action thereon. It also reviews the financial and risk management and evaluates the findings of internal investigation where there is any suspected fraud or irregularities or failure of Internal Control System of material nature and reports to the Board.

**Constitution of Audit Committee**

**4.15.11** The amendment in the Companies Act providing for constitution and functions of the Audit Committee was made with effect from 13 December 2000, but the Audit Committee was not constituted immediately by the State Public Sector Enterprises as indicated below:

Name of the company	Formation
RSSCL	March 2001
RSIC	March 2001
RIICO	March 2001
RSRDCC	July 2001
RSHDC	December 2001
RSMM	June 2001
RRECL	June 2004
RRVUNL	September 2001
JVVNL	May 2001
Jd.VVNL	May 2001
RRVPNL	May 2001
AVVNL	May 2001
RTDC	March 2001

The Government stated (October 2005) in respect of RRECL that the formation was delayed due to time taken for completion of formalities of merger of Rajasthan Energy Development Agency with erstwhile Rajasthan Power Corporation Ltd. and delay in finalization of accounts for the year 2002-03. The fact however, remains that the capital of the Company was increased in March 2003 and Committee should have been constituted at that time itself irrespective of finalization of the accounts and merger formalities.

**Composition of the Audit Committee:**

**4.15.12** In RSSCL, RRVPNL, RSIC, RIICO, AVVNL and RSRDCC, the 'Chairmen' of the Audit Committees were nominated by the Boards of respective companies in contravention of the provisions to elect the Chairman by the members of the committee itself.

RSIC stated (May 2005) that the committee members had confirmed the nomination of the Chairman. The reply is not tenable, in view of the fact that the committee itself should elect the Chairman of the Audit Committee instead of confirmation of the nomination made by the Board.

***Meetings of Audit Committee***

**4.15.13** As per the terms of reference, the Audit Committee of RSIC was to meet three times in a year. The Committee, however, met only twice during the year 2002-03 and only once during 2003-04.

***Attendance of Auditors in meetings***

**4.15.14** As per section 292A(5) of the Act, *ibid* the external auditor and internal auditor, if any, shall attend and participate in every Audit Committee meeting.

It was, however, seen during audit that the external auditors of RSIC, RSRDCC, JVVNL, RSMML, AVVNL, RRVPNL, Jd.VVNL, RRVUNL, RIICO and RSSCL attended less than half of the meetings.

**External auditors  
attended less than half  
of the meetings.**

The companies (JVVNL, RRVPNL, Jd.VVNL, RSIC, RSRDCC, and RSMML) stated that the auditors attended meetings where draft annual accounts were placed and could not attend other meetings. The replies are not tenable in view of the fact that the Act requires that the auditors shall attend all the meetings of the Committee.

RSSC had entrusted the internal audit work to a firm of Chartered Accountants. It was noticed in audit that though in each meeting, observations of internal auditors and their compliance were discussed but the internal auditors had not attended any of the Audit Committee meetings. The absence of the internal auditor in these meetings defeated the very purpose of discussion and strengthening of internal audit.

***Discussion by the Audit Committee:***

**4.15.15** In terms of section 292A (6), the Audit Committee should have discussions with the auditors periodically about the internal control system, the scope of audit including the observations of auditors and also ensure compliance of internal control systems.

Audit analysis revealed that during 2003-04, the Internal Audit wing of RRVUNL did not review 57 work orders of Rs.68.27 crore at Suratgarh Thermal Power Station and 37 work orders of Rs.414 crore at Kota Thermal Power Station. The internal audit wing did not conduct the audit of the thermal designing unit of the Company entrusted with the finalization of the work orders. This indicates that the Audit Committee of RRVUNL did not review the scope of the internal audit wing.

**Issues of strengthening internal control system and non-maintenance of proper records of fixed assets not discussed by Audit Committee.**

The statutory auditors of RRVUNL, RRVPNL, JVVNL, AVVNL and Jd.VVNL repeatedly commented on non maintenance of proper records of their fixed assets, inadequate system of physical verification of fixed assets and inventories and suggested strengthening of the internal audit system commensurate with size of the company and nature of business, but the Audit Committees of these companies did not discuss these issues in any of their meetings held so far (January 2005). The Audit Committee of RIICO, did not discuss specifically the weak Internal Control Procedure, *inter alia*, the ineffective internal audit system of infrastructure activities in spite of repeated comments by statutory auditors to make suggestions to overcome deficiencies. The Board of Directors of these Companies did not issue any directions to their Audit Committees to discuss the required matters.

### **General**

**Lesser nomination of Directors in Board caused limited participation on the issues.**

**4.15.16** The number of Directors on the board of the companies ranged from 3 to 15 as per articles of association of the respective companies. Out of 16 working companies, 13 companies did not have a full Board. It was observed that in case of RJVNL which did not have much activity and RSHDCL which was on the verge of closure, the companies had almost full strength of directors whereas in five power sector companies where schemes were being executed involving huge funds, the Boards had only 5 to 7 Directors against maximum of 12 Directors. Similarly in RSMM the Board had only 5 Directors as against a maximum of 12 from December 2003 to 2004 in RSIC against 12 there were 5 Directors during February 2003 to September 2003 and 6 Directors during October 2003 to March 2004. The lesser nomination of Directors in the Board often causes limited professional inputs on Strategic issues, performance and standards of conducts.

### **Attendance in Annual General Meetings**

**Attendance of Directors in Annual General Meetings was not satisfactory.**

**4.15.17** The attendance of Directors in Annual General of Meetings (AGMs) of the companies was also not satisfactory. Out of total numbers of Directors on the Board the attendance was less than 50 *per cent* in RTDC (two AGMs), RJVNL (three AGMs) and RSHDCL (one AGM), less than 40 *per cent* in RSHCL (one AGM) and less than 30 *per cent* in RSHDCL (two AGMs), RIICO (two AGMs), RSIC (three AGMs) and RSGSML (three AGMs). The poor attendance indicates non seriousness on the part of Directors.

### **Summary**

- Non-executive Directors were not regular in attending the Board meetings.
- Attendance of Directors in Annual General meetings was not satisfactory.
- Audit Committees did not have discussions with the Statutory / internal auditors on important issues of internal control / internal audits in a number of PSUs.

- The external auditors attended less than half of the meetings of Audit Committees in a number of PSUs.
- Adequate steps were not taken to maintain proper records of fixed assets and to strengthen the internal audit and internal control system by power sector companies.

The matter was referred to the Government / companies (September 2005); their replies had not been received (September 2005).

#### **4.16 Follow-up action on Audit Reports**

##### ***Explanatory Notes Outstanding***

**4.16.1** Audit Reports of the Comptroller and Auditor General of India represent culmination of the process of scrutiny, starting with initial inspection of accounts and records maintained in various offices and departments of the Government. It is, therefore, necessary that they elicit appropriate and timely response from the executive. Finance Department, Government of Rajasthan issued instructions to all Administrative Departments to submit detailed notes, duly vetted by Audit indicating the 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.

Though the Audit Report for the year 2003-04 was presented to State Legislature on 19 April 2005, yet in respect of 78 paras out of 145 paras, which were commented in the Audit Report, the respective departments did not submit explanatory notes up to September 2005.

##### ***Outstanding action taken notes***

**4.16.2** Reports of the Committee on Public Undertakings presented to the Legislature contain recommendations and observations on which administrative departments are required to submit Action Taken Notes (ATNs) on recommendations of the COPU within six months from the presentation of the Reports which have to be duly vetted by audit.

ATNs in respect of 89 paragraphs pertaining to 99 recommendations of the COPU presented to State Legislature between August 2002 and March 2005

had not been received as on September 2005 as indicated below:

Year of Audit Report	Total number of Recommendations involved	Month & Year of COPU Report	Number of paragraphs where ATNs not received
1991-92	13	March 2005	16
1991-92	5	March 2005	6
1992-93	14	March 2005	18
1992-93	2	March 2005	1
1994-95	3	August 2004	2
1994-95	16	March 2005	11
1994-95	1	March 2005	1
1995-96	7	July 2004	4
1996-97	4	August 2002	2
1996-97	16	July 2004	11
1999-2000	18	March 2005	17
<b>Total</b>	<b>99</b>		<b>89</b>

### **Response to Inspection Reports, Draft Paras and Reviews**

**4.17** Audit observations noticed during audit and not settled on the spot are communicated through Inspection Reports (IRs) to heads of PSUs and concerned departments of the State Government. The heads of PSUs are required to furnish replies to the IRs through respective heads of the department within a period of six weeks. A half yearly report is sent to Principal Secretary/Secretary of the department in respect of pending IRs to facilitate monitoring of the audit observations of those IRs.

Inspection Reports issued up to March 2005 pertaining to 20 PSUs disclosed that 3,221 paragraphs relating to 1,022 IRs involving monetary value of Rs.1,522.87 crore remained outstanding at the end of September 2005, of which three IRs containing four paragraphs had not been replied to though more than two years had elapsed. Even initial replies were not received in respect of 172 paragraphs of 10 PSUs. Department-wise break up of IRs and audit observations as on September 2005 is given in **Annexure-18**. In order to expedite settlement of outstanding paragraphs, Audit Committees were constituted in 13 out of 24 departments. 47 Audit Committee meetings were held during 1999-2005 wherein position of outstanding paragraphs were discussed with executive/administrative departments to ensure accountability and responsiveness.



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 six draft paragraphs forwarded to the various departments during April to September 2005, as detailed in **Annexure-19** had not been replied to so far (September 2005).

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

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