CHAPTER – VII
GOVERNMENT COMMERCIAL AND TRADING ACTIVITIES

Overview of Government companies and Statutory corporations

7.1 Introduction

As on 31 March 2008, there were 12 Government companies (nine working companies and three non-working[1] companies) and three working Statutory corporations under the control of the State Government, and there was no change in position from that of 31 March 2007. The Companies Act, 1956 is not extended to the State of Sikkim. The Government Companies in Sikkim are registered under the 'Registration of Companies Act, Sikkim 1961'. The accounts of these companies are audited by the Auditors (Chartered Accountants) who are directly appointed by the Board of Directors (BOD) of the respective companies. Over and above this statutory audit, audit of these companies had also been taken up by the Comptroller and Auditor General of India (CAG) on the request of the Governor of the State under Section 20(1)/20(2) of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

There are three Statutory corporations in the State *viz*. Sikkim Mining Corporation (SMC), State Bank of Sikkim (SBS) and State Trading Corporation of Sikkim (STCS) established in February 1960, June 1968 and March 1972 respectively under the proclamations of the erstwhile Chogyal (King) of Sikkim. The accounts of these corporations are audited by the Chartered Accountants, directly appointed by the BOD of the respective corporations. The Audit arrangements of these corporations are detailed below:

Table-7.1

Name of the Statutory Corporation	Audit arrangement	Authority for Audit by CAG
1. Sikkim Mining Corporation (SMC)	Statutory audit by the Chartered Accountants and Supplementary audit by CAG.	Section 19(3) of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.
2. State Bank of Sikkim (SBS)		
3. State Trading Corporation of Sikkim (STCS)		

There are two departmentally managed undertakings *viz.* Sikkim Tea Board and Government Fruit Preservation Factory under the Commerce and Industries Department. The accounts of these undertakings are also audited by the Chartered Accountants who are directly appointed by the Commerce and Industries Department, Government of Sikkim. The Audit of these undertakings has also been taken up by the CAG.

[1] *Non-working companies are those which are under the process of liquidation/closure/merger etc.*

7.2 Working Public Sector Undertakings (PSUs)

7.2.1 Investment in working PSUs

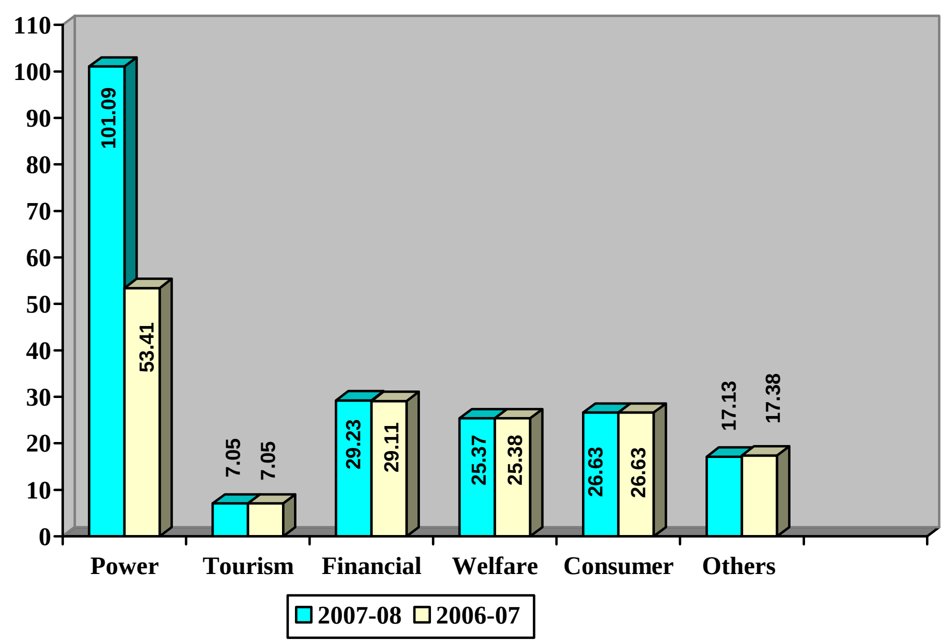
As on 31 March 2008, the total investment in 12 PSUs (nine Government companies and three Statutory corporations) was Rs. 206.50[2] crore (equity: Rs. 81.89 crore and long-term loans: Rs. 124.61 crore) against the total investment of Rs. 158.96 crore (equity: Rs. 81.89 crore and long term loans[3]: Rs. 77.07 crore) in the same number of working PSUs as on 31 March 2007. The analysis of investment in working PSUs is given in the following paragraphs:

7.2.2 Sector-wise investment in working Government companies and Statutory corporations

The investments (equity including share application money and long term loans) of Rs. 206.50 crore and Rs. 158.96 crore in various sectors for the years ended 31 March 2008 and 31 March 2007 respectively are indicated in the bar chart below:

Chart-7.1

Sector wise investments in working Government PSUs for the year ended 31 March 2008 and March 2007



7.2.3 Working Government companies

The total investment in working Government companies at the end of March 2007 and March 2008 was as follows:

[2] *State Government investment was Rs. 65.85 crore (Others: Rs. 140.65 crore). Figure as per Finance Accounts is Rs. 63.82 crore. The difference of Rs. 2.03 crore is under reconciliation.*

[3] *Long term loans mentioned in para 7.2.1, 7.2.2 and 7.2.3 are excluding interest accrued and due on such loans.*

Table-7.2

(Rupees in crore)

Year	Number of companies	Equity	Loans	Total
2006-07	9	65.18	73.39	138.57
2007-08	9	65.18	120.93	186.11

Investment in the current year has increased over the previous year due to increase in loans in the PSUs in the power and finance sectors.

As on 31 March 2008, the total investment in working Government companies comprised 35.02 *per cent* of equity and 64.98 *per cent* of loans as compared to 47.04 *per cent* and 52.96 *per cent* respectively as on 31 March 2007.

The summarised statement of Government investment in working Government companies in the form of equity and loans is detailed in **Appendix-7.1.**

7.2.4 Working Statutory corporations

The total investment in the three working Statutory corporations at the end of March 2007 and March 2008 was as follows:

Table-7.3

(Rupees in crore)

	2006-07			2007-08		
	Capital	**Loan**	**Total**	**Capital**	**Loan**[4]	**Total**
State Bank of Sikkim	0.58	3.14	3.72	0.58	3.14	3.72
Sikkim Mining Corporation	15.02	0.54	15.56	15.02	0.54	15.56
State Trading Corporation of Sikkim	1.11	-	1.11	1.11	-	1.11
Total	**16.71**	**3.68**	**20.39**	**16.71**	**3.68**	**20.39**

Source: As per the approved accounts of the PSUs

As on 31 March 2008, the total investment in the working Statutory corporations comprised 81.95 *per cent* of equity and 18.05 *per cent* of loans with no change in position from that of 31 March 2007.

The summarised statement of Government investment in the working Statutory corporations in the form of equity and loans is detailed in **Appendix-7.1.**

7.3 Budgetary outgo, grants/subsidies, guarantees, waiver of dues and conversion of loans into equity

The details regarding budgetary outgo, grants/subsidies, guarantees issued, waiver of dues and conversion of loans into equity by the State Government in respect of the working Government companies and working Statutory corporations are given in **Appendix-7.1** and **7.3.**

The budgetary outgo in the form of equity capital, loans and grants/subsidy from the State Government to the working Government companies and working Statutory corporations for the three years ending upto March 2008 are as follows:

[4] *Long term loans mentioned in para 7.2.4 are excluding interest accrued and due on such loans.*

Table-7.4

(Rupees in crore)

	2005-06				2006-07				2007-08			
	Companies		Corporations		Companies		Corporations		Companies		Corporations	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
Equity capital	3	4.82	-	-	1	0.30	-	-	-	-	-	-
Loans	-	-	-	-	-	-	-	-	-	-	-	-
Grants	-	-	-	-	-	-	-	-	-	-	-	-
Subsidy	-	-	-	-	-	-	-	-	-	-	-	-
Total	**3***	**4.82**	**-**	**-**	**1***	**0.30**	**-**	**-**	**-**	**-**	**-**	**-**

* *These are actual number of companies/corporations which received budgetary support in the form of equity, loans, grants and subsidy from the State Government during respective years.*

During the year 2007-08, the Government had not extended any guarantee to any PSU. At the end of the year, guarantees amounting to Rs. 75 crore were outstanding against two[5] Government companies. In case of one[6] Government company, the interest was waived off to the tune of Rs. 56 lakh. There was no case of loans having been written off, moratorium on loan repayment and conversion of loans into equity capital in any company or corporation during the year.

7.4 Finalisation of accounts by working PSUs

Accountability of PSUs to the Legislature is achieved through the submission of audited annual accounts/reports within the time schedule (30 September) to the Legislature. **Appendix-7.2** shows that none of the nine working Government companies and the three Statutory corporations had finalised their accounts for the year 2007-08 as of 30 September 2008.

During the period from October 2007 to September 2008, four working Government companies had finalised their accounts for the previous years. Similarly, during this period only one Corporation (STCS) finalised its accounts for the previous years.

The accounts of nine working Government companies and two working Statutory corporations were in arrears for the periods ranging from one to four years as on 30 September 2008 as detailed below:

[5] *Schedule Caste, Schedule Tribe and Other Backward Class Development Corporation Ltd. (Rs. 25 crore) and Sikkim Power Development Corporation Ltd. (Rs. 50 crore).*
[6] *Sikkim Industrial Development & Corporation Limited.*

Table 7.5

Sl. No.	No. of working PSUs		Years from which accounts are in arrears	Number of years for which accounts are in arrears	Reference to serial no. of Appendix 7.2	
	Government companies	Statutory corporations			Government companies	Statutory corporations
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	1	1	2004-05 to 2007-08	4	A2	B3
2	1	-	2005-06 to 2007-08	3	A3	-
3	3	1	2006-07 to 2007-08	2	A1, A5 & A6	B1
4	4	1	2007-08	1	A4, A7, A8 & A9	B2

The State Government had invested Rs. 8.62 crore as equity in four PSUs during the year for which accounts have not been finalised as detailed in **Appendix-7.4.** In the absence of accounts and their subsequent audit, it cannot be ensured whether the investments and expenditure incurred have been properly accounted for and the purpose for which the amount was invested has been achieved or not and thus the Government's investment in such PSUs remain outside the scrutiny of the State Legislature. Further, delay in finalisation of accounts may also result in risk of fraud and leakage of public money apart from violation of the provisions of the registration of the Companies Act, Sikkim 1961.

The administrative departments need to oversee and ensure that the accounts are finalised and adopted by the PSUs within prescribed period (30 September). The concerned administrative departments were informed every quarter by the Audit regarding arrears in finalisation of accounts.

7.5 Financial position and working results of working PSUs

The summarised financial results of working PSUs (Government companies and Statutory corporations) as per their latest finalised accounts are given in **Appendix-7.2**. Besides, statements showing the financial position and working results of individual working Statutory corporations for the last three years are given in **Appendix-7.5** and **7.6** respectively.

According to the latest finalised accounts of nine working Government companies and three working Statutory corporations, seven[7] companies and one[8] corporation had been incurring losses for varying periods and had incurred

[7] *Sikkim Jewels Ltd (2005-06), Sikkim Times Corporation Ltd (2001-02), Sikkim Precision Industries Ltd (2003-04), SC, ST & OBC Development Corporation Ltd (1996-97), Sikkim Tourism Development Corporation (2002-03), Sikkim Poultry Development Corporation Ltd (1996-97), Sikkim Hatcheries Ltd (1998-99).*

[8] *Sikkim Mining Corporation (1992-93).*

an aggregate loss[9] of Rs. 4.98 crore and Rs. 2.17 crore respectively and one company and two corporations had earned an aggregate profit[10] of Rs. 1.50 crore and Rs. 2.43 crore, respectively. One Government company, *i.e.* Sikkim Power Development Corporation (SPDC), was at the implementation stage and hence all expenditures are booked as capital work in progress.

7.5.1 Working Government Companies

(i) Profit earning working companies and dividend

As per the latest finalised accounts, Sikkim Industrial Development and Investment Corporation Limited (SIDICO), which had finalised its accounts for 2006-07, earned a profit of Rs. 1.50 crore but did not declare any dividend.

(ii) Loss incurring working companies

Of the seven loss incurring working Government Companies, Sikkim Hatcheries Limited, which had finalised its accounts for 2006-07, had accumulated losses aggregating Rs. 138.02 lakh, which exceeded its paid-up capital of Rs. 45.83 lakh.

7.5.2 Working Statutory corporations

(i) Profit earning Statutory corporations and dividend

Two Corporations (*viz*. State Bank of Sikkim and State Trading Corporation of Sikkim) which finalised their accounts for previous years (SBS: 2005-06 and STCS: 2003-04) by September 2008, earned aggregate profit of Rs. 2.43 crore but did not declare any dividend.

(ii) Loss incurring Statutory corporations

One Statutory Corporation *viz*. Sikkim Mining Corporation which finalised its accounts for 2006-07 by September 2008, suffered loss of Rs. 2.17 crore and had accumulated losses aggregating Rs. 11.88 crore wiping out 79 *per cent* of its paid up capital of Rs. 15.02 crore.

(iii) Operational performance of working Statutory corporations

The operational performance of the working Statutory corporations for the last three years is given in **Appendix-7.7.** It will be seen from **Appendix-7.7** that in case of Sikkim Mining Corporation, percentage of capacity utilisation came down from 15 in 2006-07 to nil in 2007-08 due to the closure (31 December 2006) of the production activities of the Corporation.

(iv) Return on Capital Employed

As per the latest finalised accounts (upto September 2008) of PSUs, the capital employed[11] worked out to Rs. 142.17 crore in nine working companies and the total return[12] thereon amounted to Rs. 1.90 crore which was 1.34 *per cent* as

[9] *During the year.*

[10] *During the year.*

[11] *Capital employed represents net fixed assets (including capital works-in-progress) plus working capital except in finance companies and corporations where it represents a mean of aggregate of opening and closing balances of paid- up capital, free reserves, bonds, deposits and borrowings (including refinance).*

[12] *For calculating total return on capital employed, interest on borrowed fund is added to net profit/ subtracted from the loss as disclosed in the Annual Accounts.*

compared to total return of Rs. 1.03 crore (1.53 *per cent*) in the previous year. Similarly, the capital employed and total return thereon in case of working Statutory corporations as per the latest finalised annual accounts worked out to Rs. 391.39 crore and Rs. 2.44 crore (0.62 *per cent*), respectively, with no change in position from that of 31 March 2007. The details of capital employed and total return on capital employed in case of working Government companies and Statutory corporations are given in **Appendix-7.2.**

7.6 Non-working Public Sector Undertakings (PSUs)

7.6.1 Investment in non-working PSUs

As on 31 March 2008, the total investment in three non-working PSUs (Government companies) was Rs. 3.43[13] crore (equity: Rs. 3.43 crore) and there was no change in this position since 31 March 2002.

These Government companies were under closure for seven years.

7.6.2 Budgetary outgo, grants/subsidies, guarantees, waiver of dues and conversion of loans into equity

The details regarding budgetary outgo, grants/subsidies, guarantees issued, waiver of dues and conversion of loans into equity by the State Government to non-working Government companies are given in **Appendix-7.1** and **7.3.**

The State Government had not given any budgetary support to these non-working PSUs during 2007-08.

7.6.3 Total establishment expenditure on non-working PSUs

The year-wise details of total establishment expenditure incurred by non-working Government companies and the sources of financing them during the last three years up to 2007-08 could not be analysed due to non-finalisation of accounts by these PSUs.

7.6.4 Finalisation of accounts by non-working PSUs

The accounts of all the non-working Companies were in arrears for the periods ranging from five to 13 years as on 30 September 2008 as could be seen from **Appendix-7.2.**

7.6.5 Financial position and working results of non-working PSUs

The summarised financial results of non-working Government companies as per their latest finalised accounts are given in **Appendix-7.2.**

The summarised details of paid-up capital, net-worth, cash loss/profit and accumulated loss/profit of non-working PSUs as per their latest finalised accounts are given below:

[13] *State Government investment was Rs. 309.16 lakh (others: Rs. 34 lakh).*

Table-7.6

(Rupees in crore)

Name of the Company *(Year of Accounts)*	Paid-up capital	Net-worth[14]	Cash loss (-)/ profit (+)[15]	Accumulated loss (-)/ profit (+)
1. Sikkim Flour Mills Limited (1994-95)	0.60	0.47	-	(+) 0.13
2. Sikkim Livestock Processing and Development Corporation Limited (2002-03)	0.69	0.04	(+) 0.01	(-) 0.65
3. Chandmari Workshop and Automobiles Limited (1994-95)	0.002	(-) 0.02	(-) 0.14	(-) 0.02

7.7 Status of placement of Separate Audit Reports of Statutory Corporations in the Legislature

The following table indicates the status of placement in the State Legislature of various Separate Audit Reports (SARs) issued by the CAG on the accounts of the Statutory corporations:

Table-7.7

Sl. No.	Corporation	Years for which SARs placed in Legislature	Years for which SARs not placed in Legislature		
			Year of SAR	Date of issue to the Government	Reasons for delay in placement in Legislature
1.	Sikkim Mining Corporation (SMC)	2002-03	2003-04	19.12.2007	Under printing.
			2004-05	15.01.2008	
			2005-06	15.01.2008	
			2006-07	15.01.2008	
2.	State Bank of Sikkim (SBS)	2003-04	2004-05	17.08.2007	Under printing.
3.	State Trading Corporation of Sikkim (STCS)	2001-02	2002-03	19.12.2007	Under printing.
			2003-04	26.06.2008	Under printing.

7.8 Disinvestment, privatisation and restructuring[16] of Public Sector Undertakings

During the year 2007-08, there had been no privatisation of any activity of these companies or corporations and the Government had also not contemplated for disinvestments of shares in any company/corporation.

7.9 Results of Audit by the Statutory Auditors and the Comptroller and Auditor General of India

During the period from October 2007 to September 2008, the accounts of five working companies and two working Statutory corporations were selected for Audit. The net impact of the important Audit observations as a result of audit of

[14] *Net worth represents paid up capital plus free reserves less accumulated loss.*
[15] *Cash profit represents profit for the year plus depreciation for the year.*
[16] *Restructuring includes merger and closure of PSUs.*

the accounts of these PSUs was an increase in loss by Rs. 174.02[17] lakh in two working companies & one Statutory corporation and a decrease in profit by Rs. 67.93[18] lakh in one working company and one Statutory corporation.

7.9.1 Errors and omissions noticed in course of audit of annual accounts of a few companies and corporations

(A) Errors and omissions noticed in the case of working Government companies

(i) Comments by Statutory auditors

Sikkim Power Development Corporation Limited (2006-07)

- In terms of Clause – 2 of Revised agreement dated 21 December 2002, Amalgamated Transpower (India) Limited (ATPL) shall take over the responsibilities of the payment of Bond of Rs. 50.01 crore together with interest liability and had to submit Bank Guarantee from any Nationalised Bank for the above amount as well as guarantee for payments of interest within 12 months from the date of signing of the agreement. However, till 31.03.2007 above terms and conditions were not complied with by ATPL.

Sikkim Industrial Development & Investment Corporation Limited (2006-07)

- Non-ascertainment of the value of securities against the loans due to non reconciliation of the subsidiary loan ledger.

(ii) Errors and omissions noticed in Supplementary audit

Sikkim Hatcheries Limited (2006-07)

- Reserves & Surplus do not include an amount of Rs. 20 lakh received as grants-in-aid by SHL from the State Government. Non-accountal of the same resulted in understatement of Reserves & Surplus by Rs. 20 lakh with consequent overstatement of loss for the year by the same amount.

Sikkim Industrial Development & Investment Corporation Limited (2006-07)

- The Corporation had invested the funds received from the GOI for the assistance to State for Development and Infrastructure and Allied Activities (ASIDE) scheme in Term Deposits and the interest earned was booked as Corporation's own income. However, the guidelines of the ASIDE scheme stipulated that the interest earned from the funds had to be utilised for the scheme itself. Thus, the Corporation had to make cent *per cent* provision for the same. By not doing so, the current liabilities & provisions were understated by Rs. 4.57 lakh. Consequently the profit for the year was also overstated by the same amount.

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[17] Increase in loss Rs. 174.02 lakh (Sikkim Hatcheries Limited [2002-07]- Rs. 22.96 lakh), (Sikkim Poultry Development Corporation Limited [2002-07]- Rs. 79.26 lakh) and (Sikkim Mining Corporation [2003-07]- Rs. 71.80 lakh).

[18] Decrease in profit Rs. 67.93 lakh (State Trading Corporation of Sikkim [2002-04]- Rs. 61.70 lakh) and (Sikkim Industrial Development & Investment Corporation Limited [2005-07]- Rs. 6.23 lakh).

(B) Errors and omissions noticed in case of Statutory Corporations

(i) Comments by the Statutory Auditors

State Bank of Sikkim (2005-06)

- The Bank has gone through One Time Settlement and Recovery Scheme during the year under which 54 chronic and time barred cases were undertaken realising a total sum of Rs. 84.20 lakh. The bank has to allow a total interest rebate of Rs. 1.57 crore under the scheme during the year.
- No provision has been made against the sum of Rs. 2.77 lakh involved in fraud and robbery.
- Provision for the Branch Manager's liability and the shortfall of Rs. 2.69 crore (including Rs. 2.56 crore being misappropriated at Sombaria branch) has not been made in the accounts for the year.

State Trading Corporation of Sikkim (2003-04)

- Claims receivable amounting to Rs. 17.22 lakh were very old and recovery was doubtful, but no provision or adjustment had been made in the books of the Corporation.

(ii) Comments by the Comptroller and Auditor General of India

Sikkim Mining Corporation (2004-05)

- Loans and advances include an amount of Rs. 15 lakh paid as an advance for installing the Commercial Column Flotation Unit. Since the load test was not done, the unit was not commissioned. A mention has also been made in Schedule 24 (Notes to the Accounts) that the advance appeared to be a loss asset. Hence the loss should have been written off and charged to the Profit and Loss Account. By not doing this, the Loans and Advances was overstated by Rs. 15 lakh and consequently the loss for the year was understated by the same amount.
- Current Liabilities & Provisions do not include an amount of Rs. 11.37 lakh being the penalty payable to the Employee Provident Fund (EPF) authorities on EPF contributions which were retained by the Corporation. This has resulted in understatement of Current Liabilities as well as loss for the year by Rs. 11.37 lakh.

Non-provision of Income tax liability in the Accounts

As per notification issued (21 April 1970) by the Income and Sales Tax Department of the Government of Sikkim, all the Government companies and corporations were liable to pay income tax on their turnover at the prescribed rate. It was, however, noticed in Audit that none of the companies/corporations made provisions for this liability in their accounts. This not only resulted in overstatement of profit/understatement of loss of the respective companies/ corporations but also resulted in loss of revenue to the Government. The amount of such liability for the latest year for which Audit was completed worked out to Rs. 61.21 lakh in respect of three companies and two statutory corporations.

7.10 Position of discussion of Commercial Chapter of Audit Reports by the Public Accounts Committee (PAC)

Out of 18 paragraphs and three performance review reports of the commercial chapter of Audit Reports for the years 2001-02 to 2006-07, six paragraphs were discussed by the PAC as at the end of September 2008. The year-wise position of reviews/paragraphs discussed by the PAC is given below:

Table 7.8

Period of Audit Report	Number of reviews and paragraphs appeared in the Audit Report (Commercial Chapter)		Number of reviews and paragraphs discussed by the PAC upto September 2008	
	Reviews	Paragraphs	Reviews	Paragraphs
2001-02	-	03	-	02
2002-03	-	03	-	02
2003-04	-	01	-	01
2004-05	01	02	-	01
2005-06	01	03	-	-
2006-07	01	06	-	-
	03	**18**	**-**	**06**

7.11 Response to inspection reports, draft paragraphs and reviews

Audit observations noticed during Audit and not settled on the spot are communicated to the Heads of PSUs and concerned departments of the State Government through inspection reports (IRs). The Heads of the PSUs are required to furnish replies to the inspection reports within four weeks of the issue of IR. Inspection reports issued up to March 2008 pertaining to 15 PSUs (including two departmental undertakings and one non working company) disclosed that 182 paragraphs relating to 58 inspection reports of 10 companies, three statutory corporations and two departmentally managed undertakings remained outstanding at the end of September 2008. Department-wise details of inspection reports and paragraphs outstanding as of September 2008 are given in **Appendix-7.8.**

Similarly, draft paragraphs and performance reviews on the working of PSUs are forwarded to the Principal Secretary of the administrative departments 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 six draft paragraphs issued to various departments during August 2008 as per details in **Appendix-7.9,** replies to the draft paragraphs were awaited (September 2008) from the administrative departments.

It is recommended that (a) the Government should ensure that procedure exists for action against the officials who fail to send replies to inspection reports/ draft paragraphs/performance review reports within 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.

SIKKIM MINING CORPORATION

7.12 Avoidable payment of penalty on EPF contributions

Delay in remittance of EPF contributions recovered from employees' salaries resulted in avoidable payment of penalty of Rs. 18.41 lakh.

As per the provisions of Employees Provident Fund & Miscellaneous Provisions Act 1952 every employer shall be required to deposit the EPF deducted from the employees' salaries along with employer contribution within 15 days of the close of every month. The Act further laid down that failure to remit the contributions deducted from the employees' salaries would attract penal provisions (penal interest @ 12 *per cent* to 32 *per cent*) under Section 7Q, 14B and 32 (A) of the said Act, besides attachments of bank accounts of the defaulting organisations.

Audit scrutiny (October 2007) revealed that though Sikkim Mining Corporation (SMC) had been deducting Employee Provident Fund, from the employees' salaries on a monthly basis, it was not remitting the same to the concerned authorities in compliance with the statutory provisions of the Act. The failure to remit the EPF contributions deducted from the employees' salaries within the due dates had resulted in payment of avoidable penalty (March 2004/October 2005) of Rs. 18.41 lakh for the period from March 2000 to February 2004 on the retained contributions.

Audit observed that the contributions recovered from employees' salaries towards EPF were retained by the Corporation to meet its day-to-day expenditure. This was mainly due to continuous poor performance of the Corporation. As the Corporation had not been remitting the EPF contributions within the due dates, the EPF authorities issued several reminders (October/December 2000, June 2002 and April 2005) to remit the EPF contributions along with the penalty under the provisions of the EPF and Miscellaneous Provisions Act 1952. The Corporation failed to respond to the reminders/notices issued against it. The Corporation apprised the Board of Directors (BOD) (April 2006) about its liabilities including the EPF penalty and obtained post facto approval of the BOD approval for discharging all the liabilities.

The Management stated (October 2007) that the EPF contributions recovered from employees could not be remitted to the EPF authorities due to financial crunch of the Corporation. However, remittance towards EPF contribution to the authorities is a statutory requirement. Thus, delay in remittance of EPF contributions recovered from employee salaries resulted in avoidable payment of Rs. 18.41 lakh towards EPF penalty.

The matter was referred to the State Government in November 2007; their reply had not been received (June 2008).

STATE BANK OF SIKKIM

7.13 Failure to claim enhanced agency commission

Failure to claim enhanced agency commission on the banking services as per revised instruction of RBI resulted in loss of Rs. 7.99 crore.

The State Bank of Sikkim (SBS) acts as the banker of the Government of Sikkim. As per the agreement entered into (October 2001) by the bank and the State Government, the bank was authorised to claim agency commission from the State Government, for rendering banking services, which was based on the instruction issued by the Reserve Bank of India (RBI) in July 1999 to all the Nationalised Banks. Accordingly, the bank has been claiming its agency commission @ 0.118 *per cent* on the transaction turnover with effect from April 2000 onwards.

Audit observed (March 2008) that the above instructions of RBI issued (July 1999) were subsequently superseded by instruction issued during July 2005. These instructions, *inter-alia*, revised the method of calculation of agency commission from turnover basis to transaction basis and accordingly the rates of agency commission under two heads (receipts and pensions) were revised as follows:

a) For receipts - Rs. 45 per transaction
b) For pension - Rs. 60 per transaction

Audit observed that though the revised rates were made applicable with effect from first day of July 2005, the SBS continued to claim its agency commission at the old rates (0.118 *per cent* on turnover basis). This resulted in loss due to short-realisation of agency commission to the extent of Rs. 7.99 crore (Rs. 7.15 crore under receipts and Rs. 0.84 crore under pension) for the period from July 2005 to February 2008[19]. The Board directed (June 2006) the Management to take up the matter with the State Finance Department for revision effective from 1 April 2006 onwards and enhancement of commission by 25 *per cent* of the existing/approved rate after every three financial years. Accordingly, the Management submitted (May 2007) the proposal to the State Government and decision in the matter was awaited (June 2008). Pending decision from the State Government, the bank continued to claim its agency commission at the pre-revised rate of July 1999. Failure of the bank to claim agency commission as per the revised rate of RBI had resulted in loss of Rs. 7.99 crore to the Bank.

The Bank stated (June 2008) that it did not come under the RBI purview as it was governed by the proclamation issued by the then Chogyal of Sikkim in June 1968. It further stated that the bank being not governed by the Banking Regulation Act, is not following guidelines and directives issued by the RBI for which it did not insist for the revised enhanced rates of commission. As the agreement (Clause 12) entered into with the State Government (October 2001) enabled the bank to claim its agency commission at such rate as was made applicable from time to time by the RBI for Nationalised Banks, the bank should have revised its claim for agency commission. Further, the Statutory Auditors

[19] *March 2008 figure of agency commission could not be provided by the Bank.*

had qualified in their report relating to the Annual Accounts that the bank had been following the RBI guidelines in certain aspects[20] of the bank transactions.

The matter was referred to the Management/State Government in March 2008; their reply was awaited (September 2008).

7.14 Misappropriation of Rs. 11.65 lakh

Non-adherence to the existing rules and failure to initiate action against the officials to recover the money fraudulently drawn by them resulted in a loss of Rs. 11.65 lakh.

As per the Banking Operating Manual[21] of State Bank of Sikkim, the Branch Manager is the controlling officer, who holds master key of cash vault and the man-hole door without which the cash Assistant shall not open or close the cash vault. At the time of closure of the vault, the Branch manager shall be required to close the vault only after verifying the correctness of the physical cash balance with the figures shown as per Cash Book. Once the Branch manager verifies the correctness of the physical cash with the Cashier's Summary Register, the physical cash is kept in the cash vault which is closed with the security keys of the Cash Assistant and the Branch Manager. The same exercise is applicable at the time of opening the strong room and the cash vault.

Audit scrutiny (February 2008) revealed that an enquiry team consisting of General Manager and Law Officer of the Bank detected a case of misappropriation (November 2007) at the Dentam branch in West District and noticed that as against the closing balance of Rs. 12.15 lakh on 17 November 2007 as per the Cashier's Summary Book, the actual physical balance was Rs. 0.50 lakh only, thereby resulting in a shortfall of Rs. 11.65 lakh. The Management issued Show-Cause notices (December 2007) to the delinquent officers (Branch Manager, Cashier and Peon) who accepted the charges and furnished explanations which were not accepted by the Management.

Audit observed that the Management neither filed any F.I.R. with the concerned Police Station nor initiated any Departmental Inquiry to fix responsibility and recover the amount. The Management allowed the Branch Manager and the other officials to continue at the same branch. Management's indifference towards misappropriation cases was also evident from the fact that in violation of Management's decision (August 2005) to complete all the pending departmental enquires within the scheduled time period, the bank failed to finalise other two misappropriation cases (detected in April 2001 and November 1999) involving Rs. 2.72 crore at Sombaria and Chunthang branches.

Thus, due to non-adherence to the existing rules and regulations, and non-initiation of any action against delinquent officials to recover the money, the bank sustained a financial loss of Rs. 11.65 lakh at Dentam branch.

The matter was referred (August 2008) to the Management and the State Government; their replies were awaited (September 2008).

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[20] *Auditors Report, format for presentation of accounts, provision for doubtful advances, Capital to Risk Weighted Assets Ratio and Capital Adequacy Ratio*

[21] *Clause 3.2.1 of Chapter 3 of the Operation Manual of SBS*

7.15 Loss of Rs. 3.91 crore

Lackadaisical approach of the bank towards recovery of loan coupled with absence of co-ordination and monitoring resulted in loss of Rs. 3.91 crore.

As per the prescribed procedure, documents required to be obtained before sanction of overdraft and loans by the Bank were the photograph of the applicant, Work Order, Contractors Enlistment Original Parcha, non- encumbrance certificate, Search Report from Revenue Officer of the proprieties hypothecated/mortgaged, NOC from the family duly confirmed by Area Panchaytas/MLA along with seal and signature etc.

Audit observed (February 2008) that out of 30 loanees who availed overdraft /cash credit from the bank and expired, 23 loanees had not settled their overdraft/cash credit as of 31 March 2008. The total amount of outstanding dues against those 23 loanees stood at Rs. 4.12 crore. Audit further observed that the bank did not obtain any mortgage of property against the loans sanctioned to 23 loanees; as a result, the bank could not recover its dues. The Management failed to maintain any individual loan records and other required data to ensure proper recovery.

As per the bank policy, all the irregular outstanding loans and advances of above 10 years were treated as Non-Performance Assets (NPAs). The Management neither filed any recovery suits against the defaulters nor issued reminders/notices to the legal heirs till date, though time limitation period had already expired in these cases. Thus, due to lack of collateral securities against the loans disbursed to the borrowers and failure to file recovery suits before the limitation period, the Bank suffered a loss of Rs. 4.12 crore. Audit observation was corroborated by the fact that in the status paper placed in the 145th Board meeting (November 2004) the Management pointed out that there was absolutely no chance for recovery of the loan amounts.

Further, Sikkim Service (Pension) Rule stipulated that the Government dues including loans, advances, overpayment etc. if any, outstanding against the Government employees shall be ascertained and prominently mentioned in the concerned pension files. Audit Scrutiny of loan ledgers revealed (February 2008) that 15 employees of the bank availed loans of Rs. 5.54 lakh and subsequently expired /retired without clearing the dues and the outstanding balance against them stood at Rs. 14.33 lakh (including interest) as of 31 March 2008. The bank did not maintain any individual loan files and settled the death-cum-retirement benefits without adjusting the outstanding dues. This was indicative of the lackadaisical approach of the Management towards recovery of loans coupled with the absence of co-ordination between the administrative and loan sections and non adherence to the procedure of Service Rules prior to the settlement of retirement benefits. Moreover, the loans were not secured by mortgage/ hypothecation of land, building or third party surety /undertaking by a Government employee.

Thus, due to lack of coordination within the Organisation and non maintenance of proper records, the Bank sustained a loss of Rs. 3.91 crore[22] in the above cases.

[22] *Excluding Rs. 34.53 lakh recovered by the bank.*

The Management accepted (February 2008) the fact that as no mortgage documents were kept by the bank, the loanees/ defaulters were not forthcoming for settlement of their dues. However, steps were initiated to recover the dues under One Time Settlement scheme and the bank had recovered only an amount of Rs. 34.53 lakh from three loanees.

The matter was referred to the State Government (March 2008); their reply was awaited (August 2008).

SCHEDULE CASTE, SCHEDULE TRIBE AND OTHER BACKWARD CLASS DEVELOPMENT CORPORATION LIMITED

7.16 Loss due to levy of penal interest to the tune of Rs. 39.90 lakh

Ineffective monitoring and supervisory mechanism led to payment of avoidable penal interest of Rs. 39.90 lakh.

The Schedule Caste/Schedule Tribe and Other Backward Class Development Corporation (SABCCO) provides financial assistance to the weaker sections of the society who are living below the poverty line, by obtaining low cost (one *per cent* to three *per cent*) refinance support from three central apex bodies, namely, National Backward Classes Finance & Development Corporation (NBCFDC), National Schedule Tribe Financial Development Corporation (NSTFDC) and National Scheduled Caste Financial Development Corporation (NSCFDC). SABCCO availed financial assistance in the form of term loans from the above three apex bodies for disbursement of different kinds of loans to SC/ST & OBC beneficiaries under various schemes. As per the terms and conditions of the loan agreements, the repayment schedules were to be adhered to, while making repayment of loan amounts including the interest thereon by keeping aside margin money of 2.5 *per cent* for its administrative expenses. Further, SABCCO was liable to pay penal interest at the rate of one *per cent* on dues of principal and interest, apart from the applicable simple interest on delayed principal repayments under various schemes approved by the National Backward Classes Finance & Development Corporation (NBCFDC). Since, the only source of income for the Corporation was the interest earned from the disbursement of the loan, it was all the more important for the SABCCO to recover the loans from the beneficiaries in order to be able to repay the loans to the Apex bodies in time.

Audit scrutiny of records (February 2008) revealed that SABCCO failed to make the repayment of loans to NBCFDC as per the prescribed time schedule, due to which NBCFDC recovered an amount of Rs. 38.70 lakh[23] towards penal interest from the re-payments made by the SABCCO for the period 1996-2006. The Apex Body also levied penal interest of Rs. 1.20 lakh for the subsequent two year period (2006-07 and 2007-08) which was yet to be adjusted.

Audit observed that as against the total loan amount of Rs. 13.47 crore to be recovered from the beneficiaries (1996-2008), SABCCO could recover only an amount of Rs. 7.48 crore[24]. This was due to ineffective monitoring and

[23] *Out of this amount, an amount of Rs.12.70 lakh pertained to 2003-04 to 2005-06.*
[24] *Being 55.52 per cent of the total demand*

supervisory mechanism in the Corporation. The Corporation failed to obtain a proper documentation, such as, mortgage/hypothecation of land, building and a third party surety/undertaking by a Government employee etc. to make the loan fully secured. The Corporation failed to verify the genuineness of the address given by the loanees at the time of sanction of loans.

The Management stated (June 2008) that it had requested (2004) NBCFDC to waive the penal interest and also stated that in case the same was not accepted by NBCFDC, the Corporation would recover the same from the beneficiaries. The fact remained that NBCFDC had not accepted the request of the Corporation for waiver and the Corporation failed to take appropriate steps for recovery of the outstanding loans (including penal interest) from the beneficiaries.

The matter was referred to the State Government (February 2008); their reply was awaited (August 2008).

GOVERNMENT FRUIT PRESERVATION FACTORY

7.17 Loss due to non levy/ non-payment of Sales Tax/VAT

Failure to levy and remit the Sales Tax/VAT to the State Government resulted in loss of revenue of Rs. 79.81 lakh to the State Exchequer.

As per the Sikkim Sales Tax Act 1983, every dealer who sells goods, manufactured or imported by him in the State, shall be liable to pay a tax (Section 4) on sales made on and from the date of commencement of the Act. The tax payable by a dealer under the Act shall be levied on taxable turnover at the rates specified in the schedules to the Act. The State Government may exempt any person/dealer from paying the sales tax (Section 8) subject to certain conditions and by issue of a relevant notification. The Sales Tax Act was superseded by the Sikkim Value Added Tax Rules (VAT) 2005 with effect from April 2005. The VAT Rules also prescribed the procedure for registration, incidence and levy of tax (Chapter III), payment of tax and interest (Chapter IV), etc.

The Government Fruit Preservation Factory (GFPF)[25] at Singtam (East District) was established during 1965 to carry on the business of manufacture and sale of various food products. The undertaking did not pay the sales tax/VAT, though it was liable to pay such tax under the above provisions.

Audit scrutiny of the records revealed that the total turnover of the unit from 2000-01 to 2007-08 was Rs. 10.24 crore. However, it was seen that the undertaking did not include sales tax/VAT component on the sale prices of its products during the aforesaid period assuming that the unit will be exempted from the payment of Sales tax/VAT. On the basis of this assumption, the GFPF made a representation (September 2003) to the Sales Tax Department/Industries Department with a request to exempt the factory from paying sales tax by treating it as a new unit[26] so that a tax holiday of five years under the Industrial Policy of the State Government could be availed. While making requests to the Income Tax

[25] *A departmentally managed undertaking under the Commerce and Industries Department*
[26] *In lieu of recommence of business under the Government control wef January 2000 onwards.*

& Commercial Tax Division of the Finance, Revenue and Expenditure Department, GFPF confirmed that it would pay the tax if the Government so directed. Subsequently, the Sales Tax Department did not consider the various requests made by the undertaking (July 2001, August 2003 and January 2004) for tax exemption and issued a notice (February 2008) under Rule 24[2] of VAT Rules 2005 for failure to furnish quarterly returns for the years 2005-07. The total sales tax liability from April 2000 to March 2008 was Rs. 79.81 lakh.

Thus, failure to include the tax component in the sale prices and incorrect assumption as to the fact that the unit would become eligible for tax exemption, would result in loss to the GFPF to the extent of Rs. 79.81 lakh[27].

The Management stated (July 2008), that the unit was entitled for Tax holiday as per the policy of the State Government and they had applied for the same through the Department of Industries. The fact remained that the Department of Commerce & Industries had, however, directed (September 2008) the Management to levy & remit the Sales Tax/VAT to the Commercial Tax Division on regular basis as per the rules since no exemption was extended by the State Government to this Unit.

Gangtok **(Dinesh Bhagata)**
The **Accountant General, (Audit), Sikkim**

Countersigned

New Delhi **(Vinod Rai)**
The **Comptroller and Auditor General of India**

[27] *Total liability of Rs. 79.81 lakh includes an amount of Rs. 9.20 lakh being the unauthorised retention of VAT collected during 2005-06.*